



Minutes

Planning Committee

Wednesday 5 October 2022 6pm



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1. Official opening, welcome and acknowledgement

The Presiding Member declared the meeting open at 6.00pm.

2.1. Attendance

Cr Bryn Jones	Presiding Member/North Ward
Cr Geoff Graham	Deputy Presiding Member/Beaconsfield Ward
Cr Andrew Sullivan	South Ward
Cr Su Groome	East Ward
Cr Adin Lang	City Ward
Cr Frank Mofflin	Hilton Ward

Mr Glen Dougall	Chief Executive Officer
Mr Russell Kingdom	Acting Director Strategic Planning and Projects
Ms Chloe Johnston	Manager Development Approvals
Ms Michelle Gibson	Meeting Support Officer

There were approximately 7 members of the public and no members of the press in attendance.

2.2. Apologies

Ms Hannah Fitzhardinge

Cr Ben Lawver

2.3. Leave of absence

Nil

3. Disclosures of interests

Nil

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 PC2210-1:

Susan Green

Pierre Horwitz

The following member of the public spoke in favour of the Officer's Recommendation for item PC2210-1:

Mike Beer

The following members of the public spoke against the Officer's Recommendation for item PC2210-2:

Jeff & Louise Warren (a statement was read out on their behalf)

The following member of the public spoke in favour of the Officer's Recommendation for item PC2210-3:

Michael Smith

The following member of the public spoke in favour of the Officer's Recommendation for item PC2210-4:

Sam Martin

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 Geoff Graham

The Planning Committee confirm the minutes of the Planning Committee meeting dated 7 September 2022.

Carried: 6/0

Cr Bryn Jones, Cr Geoff Graham, Cr Frank Mofflin

Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang

9. Elected member communication

Nil

10. Reports and recommendations



10.1 Committee delegation

PC2210-1 SWANBOURNE STREET, NO.59 (LOT 6), FREMANTLE - ADDITIONS AND ALTERATIONS (TWO STOREY) TO EXISTING SINGLE HOUSE (JL DA0244/22)

Meeting Date: 5 October 2022
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 an existing Single house at 59 Swanbourne 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:

- **Open Space**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for additions and alterations to an existing single storey Single House at 59 Swanbourne Street, Fremantle. The proposed works include:



- New double garage entering from Swanbourne Street.
- Ground floor alterations and additions including:
 - Removal of existing roof and northern additions including
 - Living room,
 - Bedroom 2 and bathroom,
 - Laundry and staircase.
- Second storey addition consisting of:
 - Master bedroom with WIR, Ensuite and balcony,
 - Study,
 - Kitchen and scullery,
 - Family room, and
 - Roof deck.

The applicant submitted amended plans on 12 September 2022 following a review of comments received during the notification period that included the following amendments:

- A 1.6m high screen to the south and western elevations of the proposed roof deck,
- Privacy screening added the western elevation Family room window,
- Increase of the secondary street (Swanbourne Street) setback from 545mm to 1.045m on the ground floor,
- Reduced building external wall height from 7.3m to 7m,
- Increased western ground floor wall (Laundry, stairs, powder and linen room) setback from 1.034m to 1.524m,
- Reduced overshadowing from 69.80m² (11.13%) to 68.15m² (10.86%)

On 27 September 2022, the applicant submitted another set of amended plans which included

- Deletion of the Swanbourne Street original doorway,
- Primary and secondary street infill fence amendments.

Amended development plans are included as attachment 1.

Site/application information

Date received: 13 July 2022
Owner name: Jennifer Bruce
Submitted by: Mike Beer
Scheme: Residential R30
Heritage listing: Nil
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 sought to vary a number of elements of Council Policy, LPS4 or deemed-to-comply elements of the R-Codes. The advertising period concluded on 24 August 2022, and three submissions were received. The following issues were raised (summarised):

Submitter 1	1) Bulk and Scale / Compatibility with areas built form - The proposed building appears out of keeping with the nature of the corner of both Stevens Street and Swanbourne Street. The footprint and height of the proposed building would disrupt the character and rhythm of this location. - The proposed building would block our visual amenity to the northeast. - The proposed building would compromise future possible uses of our front yard and reduce our flexibility in that regard. This reduction exacerbates the compromises we were required to make in our 2015-16 renovations where we were required by the Council to have a setback, in particular for heritage purposes. - The plans for the proposed building do not show the shading to the west and southwest, which would affect the northeast corner of our house and garden from morning sun in winter. The plans do show the shading to the south of the proposed building, affecting the eastern part of our block at midday, and we regard this to be a significant and detrimental increase in the shading from the situation we have at present. 2) Concerned with Construction stage and impact to neighbouring properties
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Submitter 2	1) Bulk and Scale - The size of the proposed building is too large, given the corner position of the block. - The bulk of the structure is not in keeping with the current streetscape.
Submitter 3	1) Visual privacy - Key issue of people overlooking the back area of our adjoining properties from the proposed Roof Deck, 2) Boundary wall - If the proposed boundary wall is not to abut the existing boundary wall of neighbouring property there is concern in view of its height and the fact that, along with a number of other areas of non-compliance, this boundary wall contributes to the general over-building of the site contrary to the general character of the area. 3) Building height - The proposal does not meet the Deemed-to-Comply requirements for top of the wall – at 6.007 m, and top of roof – at 9.167 m. The R Code requirements are 6 m and 9 m respectively. These areas of non-compliance are not major; however, in conjunction with all the other areas of non-compliance, are another manifestation of the application’s general over-building of the site. 4) Secondary Street Setback - The secondary street setback does not reflect the general over-development of the site leading to over-bulky development uncharacteristic of this part of Fremantle.

In response to the above, the applicant submitted revised plans providing:

- Added 1.6m high privacy screening to the south and western elevations of the proposed roof deck/ terrace,
- Added privacy screening to the upper floor western elevation Family room window,
- Increase the secondary street (Swanbourne Street) setback from 545mm to 1.045m
- Reduced building external wall height from 7.3m to 7m,



- Increased western ground floor wall (Laundry, stairs, powder and linen room) setback from 1.034m to 1.524m,
- Reduced overshadowing from 69.80m² (11.13%) to 68.15m² (10.86%) to comply with the Deemed to comply criteria of DE5.4.2 of the R-Codes.

The remaining comments regarding building bulk and the open space discretionary matter 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:

- Open Space

The above matters are discussed below.

Background

The subject site is located on the south western corner of Swanbourne and Stevens Street, Fremantle. The site has a land area of approximately 395m² and is currently occupied by a Single house. The site is zoned Residential and has a density coding of R30. The site is not individually heritage listed nor is it located within a prescribed Heritage Area. The site is currently improved by a Single storey brick and tile dwelling located to the south portion of the property.

Open Space

Element	Requirement	Proposed	Extent of Variation
Open Space	45% (177.5m ²)	38.7% (152.9m ²)	6.3% (24.6m ²)

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

- The provision of an outdoor living area greater than that specified by the deemed to comply criteria is located on the upper floor, located on the south western side of the dwelling which will ensure suitable, useable outdoor space being available to residents of the dwellings.
- The front setback area (Stevens Street) is being retained as front garden, with the reduced open space occurring to the rear of the property. The scale of development is generally consistent with other dwellings in the immediate locality. Below in image 1 is an aerial image showing the greater immediate built form.
- The greater locality surrounding the subject site consists of an eclectic mix of younger and older style dwellings which have a mixed character of development of smaller lots with minimal open space and older larger lots with sufficient open space.



Image 1 – Immediate locality of subject site (shown in light blue above)

CONCLUSION



In accordance with the above considerations, the proposed additions and alterations are considered to be worthy of support, subject to the recommended conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICERS RECOMMENDATION

Moved: Cr Bryn Jones

Seconded: Cr Su Groome

Council:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Additions and Alterations (Two Storey) to existing Single House at No. 59 (Lot 6) Swanbourne Street, Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 12 September 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.



2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
3. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
4. Prior to occupation/ use of the development hereby approved, the boundary wall located on the western boundary shall be of a clean finish in any of the following materials:
 - coloured sand render,
 - face brick,
 - painted surface,

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

5. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the roof deck and family room window located on the southern and western 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.

6. 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.



7. 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.
8. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

Advice notes:

- i) 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 3.7.2 of the Building Code of Australia.
- 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>

COUNCIL DECISION ITEM PC22210-1

AMENDMENT

Moved: Cr Bryn Jones

Seconded: Cr Adin Lang

Add a condition 9 to read as follows:

Condition 9: The planter on the western side of the upper floor shall remain as non-accessible garden space to the satisfaction of the City of Fremantle.

Amendment carried: 6/0

Cr Bryn Jones, Cr Geoff Graham, Cr Frank Mofflin

Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang

Reason for change

To protect the visual privacy of adjoining properties.



COMMITTEE RECOMMENDATION ITEM PC2210-1

Moved: Cr Bryn Jones Seconded: Cr Su Groome

Council:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Additions and Alterations (Two Storey) to existing Single House at No. 59 (Lot 6) Swanbourne Street, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 12 September 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 4. Prior to occupation/ use of the development hereby approved, the boundary wall located on the western boundary shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,**

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



- 5. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the roof deck and family room window located on the southern and western 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.

- 6. 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.**
- 7. 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.**
- 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.**
- 9. *The planter on the western side of the upper floor shall remain as non-accessible garden space 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 3.7.2 of the Building Code of Australia.**
- 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>

Carried: 4/2

For:

Cr Bryn Jones, Cr Geoff Graham, Cr Frank Mofflin, Cr Su Groome

Against:

Cr Andrew Sullivan, Cr Adin Lang



The above item is referred to the Ordinary Meeting of Council for determination in accordance with the City of Fremantle Delegated Authority Register which requires that at least 5 members of the committee vote in favour of the Committee Recommendation in order to exercise its delegation.



**PC2210-2 SIMPER CRESCENT, NO. 29 (LOT 16), WHITE GUM VALLEY -
OUTBUILDING ADDITION TO EXISTING SINGLE HOUSE (JCL
DA0240/22)**

Meeting Date: 5 October 2022
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 an outbuilding addition to an existing Single house at No. 29 (Lot 16) Simper Crescent, White Gum Valley.

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

- **Outbuilding (external wall height and setback)**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for an outbuilding addition to an existing Single house at No. 29 (Lot 16) Simper Crescent, White Gum Valley. The outbuilding is proposed on the southeast corner of the site and is intended to house vehicles.

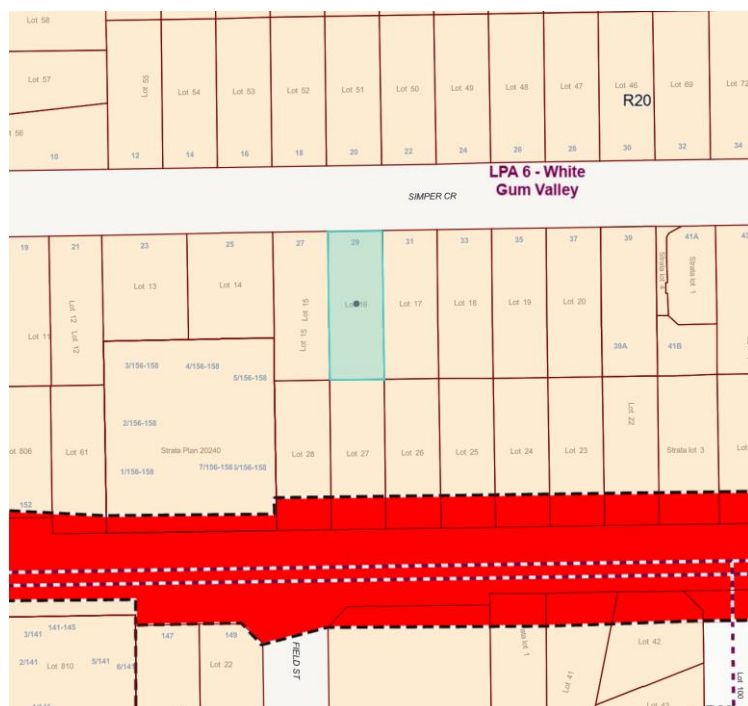
It is noted that the plans show a rear addition comprising the Main Bedroom and Ensuite to the western portion of the subject site. On lodgement, the

addition was seeking a lot boundary setback discretion which was advertised. The applicant submitted amended plans on 11 August 2022 to amend this, and the addition no longer requires planning approval. The demolition of the outbuilding formerly on site was also exempt from needing approval.

Development plans are included as attachment 1.

Site/application information

Date received:	7 July 2022
Owner name:	Michael Smith and Tammy Rhodes
Submitted by:	Anthony Pillinger
Scheme:	Residential R20
Heritage listing:	Not Listed
Existing land use:	Single house
Use class:	Single house
Use permissibility:	P





CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, given the initially identified variations:

- Side setback (west)
- Outbuilding (wall height and boundary wall)

The advertising period concluded on 16 August 2022, and 1 submission was received. The following issues were raised (summarised):

- Outbuilding boundary wall would negatively impact on our skyline, constricting our outdoor living area in our backyard and blocking afternoon sun;
- We would lose ownership of our dividing fence;
- The front of the outbuilding is approximately 3m from bedroom;
- Boundary wall will look unattractive as viewed from the backyard outdoor living area; and,
- Footings of building will impact root structure of trees on our boundary.

The applicant opted to not amend the plans in relation to the outbuilding to address the above concern, but did provide the following summarised comment:

- The proposed outbuilding is 0.2m further south than the previous shed, and is 0.6m lower;
- The neighbour wouldn't lose ownership of the dividing fence and the proposed eastern boundary wall would form the dividing fence;
- The proposed outbuilding is 4.4m from the rear wall of the eastern neighbours dwelling;
- 20% of the proposed outbuilding will be visible from the neighbours property, given 80% of it will abut the neighbours existing outbuilding. Additionally, the proposed boundary wall will be appropriately finished;
- The proposed outbuilding is 1.8m longer than the previous outbuilding (not 3m);



- The proposed outbuilding will block less summer sun than the previous outbuilding given its repositioning and location behind the neighbours outbuilding;
- The footings will be contained wholly within the subject site with no encroachment to the neighbours property, and will be approximately 1m from the base of the aforementioned tree; and
- The proposed location of the outbuilding is the only suitable location on-site for this proposal for the following reasons:
 - Locating the outbuilding further north would adversely impact the eastern neighbours access to sunlight and ventilation;
 - Locating the outbuilding further north would pose an adverse impact on the streetscape; and,
 - Setting the outbuilding 1m from the eastern lot boundary worsens vehicle access issues, potentially adversely impacting safety.

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

- Dividing fencing matters are not typically considered by the Local Government, rather they are Civil matters between adjoining property owners governed by the *Dividing Fences Act* 1961. It is noted that the dividing fence is proposed to be removed where it abuts the outbuildings eastern boundary wall; and,
- The City recommends a condition requiring all development, including footings, be contained wholly within the boundaries of the subject site. Notwithstanding, the impact of footings on roots is not a planning consideration.
- Other matters relating to the proposed outbuilding are included in the Officer Comment section of the report.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

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



- Side setback (west)
- Outbuilding (wall height and boundary wall)

The above matters are discussed below.

Background

The subject site is located on the south side of Simper Crescent. The site has a land area of approximately 759m² and is currently occupied by a Single house. The site is zoned Residential and has a density coding of R20. The site is not individually heritage listed nor located within a Heritage Area.

The subject site is flat and conventionally shaped with minimal vegetation. The site comprises a single storey dwelling with a recent rear addition (as noted above) with a rear outbuilding.

Outbuilding

Element	Requirement	Proposed	Extent of Variation
Height (external wall height)	2.4m	3.6m	1.2m
Boundary setback	1m	0-0.1m	0.9m-1m

The outbuilding is considered to meet the Design principles of the R-Codes as follows:

- The outbuilding will not be highly visual from the primary street and will not alter the existing streetscape character;
- The boundary wall does not result in a loss of access to daylight or direct sunlight to existing openings or outdoor living areas on the adjoining site owing to its location on the eastern boundary and its height;
- The boundary wall of the outbuilding is not considered to contribute to a sense of confinement or building bulk at it affects a modest portion of the boundary.

- Per Figure 1 below, 2.2m of wall will be readily visible from the adjoining property, with the rest abutting an outbuilding on the boundary of the adjoining site. by the existing outbuilding. and,
- The boundary wall does not impact on any views of significance or existing significant vegetation.



Figure 1: Impact of outbuilding to eastern neighbouring property.

CONCLUSION

It is considered that the proposal can be supported on the basis of the above. Therefore, the application is recommended for approval, subject to the conditions contained in the officer recommendation below.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil



LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2210-2 **(Officer's recommendation)**

Moved: Cr Bryn Jones Seconded: Cr Su Groome

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Outbuilding addition to existing Single house at No. 29 (Lot 16) Simper Crescent, White Gum Valley, subject to the following conditions:

- 1. This approval relates only to the Outbuilding as indicated on the approved plans, dated 11 August 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. Prior to occupation/use of the development hereby approved, the boundary wall located on the eastern side boundary shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,**

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



4. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
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 of the Building Code of Australia.
- 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 Class B asbestos removal licence holder for. All asbestos removal is to be carried out in accordance with the *Work Health and Safety Act 2020* and accompanying regulations and the requirements of the *Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)]*;

Note: Removal of any amount of friable asbestos must be done by a Class A asbestos removal licence holder and an application submitted to WorkSafe, Department of Commerce.

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

- iv. If construction works involve the emission of noise above the assigned levels in the *Environmental Protection (Noise) Regulations 1997*, they should only occur on Monday to Saturday between 7.00 am and 7.00 pm (excluding public holidays). In instances where



such construction work needs to be performed outside these hours, an *Application for Approval of a Noise Management Plan* must be submitted to the City of Fremantle Environmental Health Services for approval at least 7 days before construction can commence.

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

- v. It is recommended that the applicant liaise with the adjoining property owner (s) regarding the possible retention or replacement of the existing dividing fence along the common lot boundary. Please refer to the Dividing Fences Act 1961 for the rights and responsibilities of land owners regarding dividing fences. Information is available at the following website:
http://buildingcommission.wa.gov.au/bid/Dividing_Fences.aspx.**

Carried: 6/0

Cr Bryn Jones, Cr Geoff Graham, Cr Frank Mofflin

Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang



**PC2210-4 WALKER STREET, NO.31 (LOT 55), SOUTH FREMANTLE –
DEMOLITION OF EXISTING SINGLE HOUSE AND
OUTBUILDINGS (JL DA0243/22)**

Meeting Date:	5 October 2022
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Development Plans
Additional information:	1. City's Heritage Assessment 2. Site photos

SUMMARY

Approval is sought for demolition of the existing Single house and outbuildings at No.31 (Lot 55) Walker Street, South Fremantle.

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

The application is recommended for conditional approval.

PROPOSAL

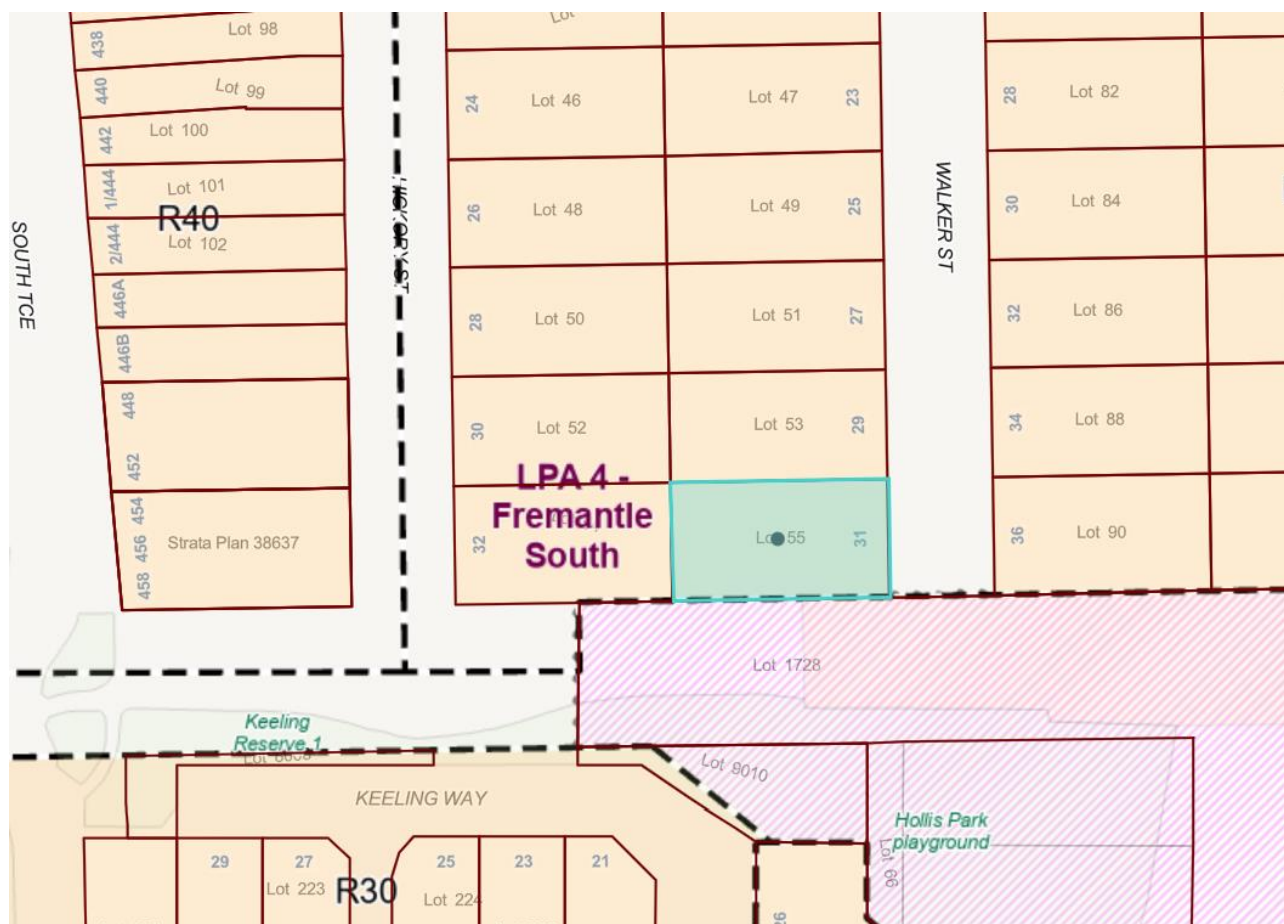
Detail

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

Development plans are included as attachment 1.

Site/application information

Date received: 4 March 2021
 Owner name: Lucien James Longley
 Submitted by: As above
 Scheme: Residential R25
 Heritage listing: South Fremantle Heritage Area
 Existing land use: Single house
 Use class: n/a
 Use permissibility: n/a





CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal included the demolition of a dwelling in a Heritage Area. The advertising period concluded on 16 August 2022, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

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

In considering this application, clause 4.14.1 of LPS4, states:

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

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

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

If both triggers of the clause are met, meaning the building or structure has been assessed to have limited or no cultural heritage significance AND does not make a significant contribution to the broader cultural heritage significance of the locality, the decision maker has the authority to grant approval. The decision maker is then obligated



to give due regard to all remaining relevant sections of the planning framework, specifically in this instance being LPP 3.6 Heritage Areas (LPP 3.6).

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

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

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

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

Background

The subject site is located on the west side of Walker Street abutting Hollis Park to the south. The site has a land area of approximately 488 m² and is currently occupied by a single storey Single house. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed but is located within the South Fremantle Heritage Area.

Heritage and demolition

31 Walker Street is a typical brick and tile Post-War era house which shows the influence of residential styles popular at the time including hipped tile roofs, boxed eaves, horizontal format windows, face brick walls with rusticated stone foundations, flat concrete roof porch and wrought iron balustrade.



Like most of South Fremantle to the west of Hampton Road, Walker Street was largely developed in the Gold Rush and Inter-War eras. This street has remained largely intact retaining most of its original houses. 31 Walker Street is a later infill house which is sympathetic with the form, massing and scale of the earlier development but does not fit with the identified heritage values of the South Fremantle Precinct Heritage Area as defined in the statement of significance included in LPP 3.6.

The mapping for the South Fremantle Heritage Area has not been completed and is currently underway. As stated above, an assessment under cl 4.14 had been undertaken and supported by City Officers as the place is not considered to be a 'Contributory Place' for the South Fremantle Heritage Area, and therefore not worthy of retention, as it has been found to be of little to no heritage significance in its own right.

The Heritage Impact Assessment prepared to assess this proposal, advises that 31 Walker Street is not considered to contribute to the significance of the South Fremantle Heritage Area or the heritage character of Walker Street and the demolition of the place will not reduce the identified significance of the South Fremantle Precinct Heritage Area.

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

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

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

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



STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2210-4 **(Officer's recommendation)**

Moved: Cr Bryn Jones

Seconded: Cr Su Groome

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the demolition of the existing Single house and outbuildings at No.31 (Lot 55) Walker Street, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 8 July 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. An archival record will be prepared and submitted to the City of Fremantle for approval before the commencement of any works. The archival record should consist of the following:**

- **Measured Drawings**

The measured drawings should be sketch standard, freehand drawings will be accepted provided they are neat and clearly presented. All drawings should be approximately to scale, with key dimensions shown.

- **Site plan (1:500 or 1:200)**
- **Floor plan/s (1:100 or 1:50)**

All documents are to be of A4 size or folded into A4 size.

- **Photographs**

Digital photographs are to be taken of the building (once vacated). Photographs are to be in colour, of a high quality, and are to show the



current state of the place. Each image should be clearly labelled, with a description of what is depicted in the photograph and the date it was taken. The photographs are to include:

- i) a general/overall photograph of the building to be demolished, showing its setting including the streetscape;
- ii) photographs of the four external facades, all rooms and any special architectural features;
- iii) the plans are to show the position, direction and number of each photograph.

ADVICE NOTES:

- i. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.
- ii. In regards to the Archival Record Brief, the documentation required for the “detailed” archival record can be found here:
<https://www.dplh.wa.gov.au/getmedia/8ffcb91d-93cf-4478-ba68-1b96de5efc6a/HER-Guide-to-Preparing-an-Archival-Record-2019>
- 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>

Carried: 6/0

Cr Bryn Jones, Cr Geoff Graham, Cr Frank Mofflin
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang



**PC2210-3 PROWSE STREET, NO. 15 (LOT 76), BEACONSFIELD –
SINGLE STOREY SINGLE HOUSE (ED DA0279/22)**

Meeting Date: 5 October 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for a single storey single house at No. 15 (Lot 76) Prowse Street in 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. The application seeks discretionary assessments against the Local Planning Policies. These discretionary assessments include the following:

- **Boundary Wall**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a single storey single house at No. 15 (Lot 76) Prowse Street, Beaconsfield. The proposed works include:

- Construction of a four-bedroom single-storey single house with a double garage.

It is noted that the demolition of the existing house is exempt from the need to obtain development approval.

Development plans are included as attachment 1.

Site/application information

Date received:	15 August 2022
Owner name:	Jody Leanne Hunt and Christopher John Hunt
Submitted by:	Oswald Homes
Scheme:	Residential (R20/25)
Heritage listing:	Not Listed nor in a Heritage Area
Existing land use:	Single House
Use class:	Single House
Use permissibility:	Permitted





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 variations to Local Planning Policies were proposed. The advertising period concluded on 9 September 2022, and one (1) submission was received. The following issues were raised (summarised):

- The proposed garage boundary wall does not meet the design principles of the R-Codes (Lot Boundary Setback) or Local Planning Policy 2.4 (Boundary Walls in Residential Development).
- Due to the natural slope of the street and the existing difference in levels between the properties, this will increase the impacts of building bulk by effectively increasing the wall height of the wall built up to the boundary.
- The boundary wall has the potential to overshadow bedroom windows, landscaped areas and outdoor living areas as well as the solar PV collectors on the roof of the adjoining dwelling.
- Concerns that any required retaining walls and the boundary wall will not be built within the subject site boundary.

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

- With respect to the garage boundary wall, detailed commentary is provided in the officer comment section of this report below.
- With respect to the location of any proposed retaining walls and the boundary wall within the subject site property boundary, a condition of approval is recommended to secure this. Please note the retained levels and wall along this boundary are as existing.

The remaining comments are addressed in the officer comment below.



OFFICER COMMENT

Statutory and policy assessment

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

- Boundary Wall

The above matters are discussed below.

Background

The subject site is located on the western side of Prowse Street in Beaconsfield. The site has a land area of approximately 797m² and is currently a Single House. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed and is not located within a Heritage Area.

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

This portion of Prowse Street slopes naturally downward from north to south. The site survey demonstrates that the existing dwelling to the north of the subject site has a floor level approximately 1.0m higher than the subject site and the floor level of the existing dwelling to the south sits approximately 1.0m below the existing subject site floor level.

A search of the property file has revealed there is not relevant or recent planning history for the subject site.



Boundary Wall

Element	Requirement	Proposed	Extent of Variation
Lot boundary setback (Garage – South)	1m	Nil	1m

The southern Garage Boundary wall is considered to meet the objectives of Local Planning Policy 2.4 (Boundary Walls in Residential Development) and the relevant Design Principles of the R-Codes in the following ways:

- The boundary wall has only a 5.08m extent and is to be located adjacent a non-habitable, non-sensitive area of the adjoining property; opposite the rear end of the existing carport and beside a bin storage area and small storage shed (refer site plan and site photos).
- The proposed boundary wall will not be located adjacent or opposite any north facing major openings or outdoor living areas of the neighbouring dwelling (refer site plan) and therefore, the proposed wall is not expected to have any adverse overshadowing or building bulk impacts upon sensitive, habitable areas of the adjoining site.
- Both the front and rear dwellings on the southern property (No. 17 Prowse), do have solar panels, but the shadow thrown from the boundary wall during midwinter, leaves these unaffected. Both the overshadowing percentage and lot boundary setbacks are otherwise deemed to comply.
- The street setback of the dwelling generally (7.0m) and the garage boundary wall beyond (8.8m) is fully compliant with LPP2.9 (Residential Streetscape) and as such, the proposed boundary wall will not have any impact upon the residential streetscape character of Prowse Street.

It should also be noted that outside of the above Garage Boundary Wall, the proposal is otherwise fully compliant with the deemed-to-comply requirements of the R-Codes and other relevant Local Planning Policies.



CONCLUSION

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

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2210-3 **(Officer's recommendation)**

Moved: Cr Bryn Jones

Seconded: Cr Frank Mofflin

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Single Storey Single House at No. 15 (Lot 76) Prowse Street, Beaconsfield, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 15 August 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Prior to the issue of a Building Permit for the development hereby approved, a detailed landscaping plan in accordance with clause**



5.3.2 of the R-Codes, including information relating to species selection of the required tree, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.

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

- 3. Prior to occupation of the development hereby approved, the boundary wall located on the southern boundary shall be of a clean finish in any of the following materials:**

- coloured sand render,**
- face brick,**
- painted surface,**

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

- 4. The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 5. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City.**
- 6. 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.**
- 7. 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.

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

Advice Notes:

- i. 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 applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site.**
- iv. The landowner/applicant is advised and encouraged to take measures further to the retention and protection of any established, mature trees on the site during the demolition and construction phase of the development with regard to the Australian Standard, *Protection of Trees on Development Sites* (AS4970/2009).**

Carried: 6/0

**Cr Bryn Jones, Cr Geoff Graham, Cr Frank Mofflin
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang**



PC2210-5 Information Report - October 2022

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

Responsible Officer: Manager Development Approvals

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

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

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

Responsible Officer: Manager Development Approvals

Agenda attachments: Nil

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

1. Application Reference
DA0440/21
Site Address and Proposal
90 Bracks Street, North Fremantle– Proposed demolition
Planning Committee Consideration/Decision
At its meeting held on 2 March 2022, the Council resolved to approve the application subject to conditions not recommended by officers.
Current Status
On 30 March 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.



- A full hearing to determine the matter was held on July 19-20 2022. SAT found in favour of the applicant, deleting the three additional conditions and allowing full site demolition.
- Consultant fees for the appeal amounted to \$37, 087.20.

1. Application Reference
DAP004/21
Site Address and Proposal
10 Henderson Street, Fremantle – Proposed six storey Hotel Development (117 Rooms) with Restaurant, Small Bar and Reception Centre uses plus a basement level Carpark
Planning Committee Consideration/Decision
• At its meeting held on 7 September 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to approve the development. • At its meeting on 23 September 2022, the Joint Development Assessment Panel (JDAP) resolved to approve the development in accordance with the Officers Recommendation.

2. Application Reference
DAP002/22
Site Address and Proposal
12-16 Queen Victoria Street and 3 Beach Street, Fremantle – Six storey Multiple dwelling and Community Purpose facility
Planning Committee Consideration/Decision
• At its meeting held on 7 September 2022, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to approve the development, with an additional condition relating to visual privacy. • At its meeting on 23 September 2022, the Joint Development Assessment Panel (JDAP) resolved to approve the development in accordance with the Committee's Recommendation.

3. Application Reference
DAP001/22
Site Address and Proposal
34-38 Amherst Street and 2-4 Stack Street, Fremantle – 56 Grouped Dwellings
Planning Committee Consideration/Decision
• At its meeting held on 23 September 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to approve the development.



- At its meeting on 19th September 2022, the Joint Development Assessment Panel (JDAP) resolved to defer the application for a period of 12 weeks and requested the applicant consider refining the proposal to address concerns.

COMMITTEE DECISION ITEM PC2210-5
(Officer's recommendation)

Moved: Cr Bryn Jones

Seconded: Cr Geoff Graham

Council receive the following information reports for October 2022:

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

Carried: 6/0

Cr Bryn Jones, Cr Geoff Graham, Cr Frank Mofflin

Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang



10.2 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 6.47pm.