



Agenda

Planning Committee

Wednesday, 5 May 2021, 6.00pm

CITY OF FREMANTLE
NOTICE OF A PLANNING COMMITTEE MEETING

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday, 5 May 2021** in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.

A handwritten signature in black ink, appearing to read 'Paul Garbett', with a long horizontal stroke extending to the right.

Paul Garbett
Director Strategic Planning and Projects

30 April 2021

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CITY OF FREMANTLE

Planning Committee

Agenda

1. Official opening, welcome and acknowledgement

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

2. Attendance, apologies and leaves of absence

Cr Bryn Jones – Leave of absence

Cr Doug Thompson – Apology

3. Disclosures of interests by members

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

4. Responses to previous questions taken on notice

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

5. Public question time

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

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

6. Petitions

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

7. Deputations

7.1 Special deputations

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

There are no special deputation requests.

7.2 Presentations

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

8. Confirmation of minutes

OFFICER'S RECOMMENDATION

The Planning Committee confirm the minutes of the Planning Committee meeting dated 7 April 2021.

9. Elected member communication

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

10. Reports and recommendations

10.1 Deferred items

Nil

10.2 Committee delegation

PC2105-1 **COMMERCIAL STREET NO.6 (LOT 27), SOUTH FREMANTLE - PARTIAL RECONSTRUCTION OF EXISTING SINGLE HOUSE AND SINGLE STOREY ADDITIONS AND ALTERATIONS – (JL DA0316/20)**

Meeting Date:	5 May 2021
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Amended development plans
Additional information:	1. Applicant supporting information 2. Refused development plans 3. Original Officers Report

SUMMARY

On 17 August 2020 the City received an application for the demolition of the existing dwelling at 6 Commercial Street, South Fremantle and the construction of a single storey Single house. At its meeting on 25 November 2021 Council resolved to:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of existing Single house and construction of a single storey Single house at No.6 (Lot 27) Commercial Street, South Fremantle, as detailed on plans dated 19 October 2020, for the following reasons:

- 1. The proposed demolition of the existing dwelling on site is not supported in accordance with clause 4.14.1 of Local Planning Scheme No. 4 (LPS4) as the existing front two rooms of the dwelling are considered to have some cultural heritage significance in its own right and the overall form of the front portion of the dwelling makes a contribution to the broader cultural heritage significance and character of the South Fremantle Locality which is a prescribed heritage area under LPS4.***
- 2. The proposal is detrimental to the amenity of the area, detrimental to the cultural heritage significance of the area, and incompatible with the objectives of the Residential Zone set out in clause 3.2.1 (a) of the Local Planning Scheme No. 4, as per clauses 67(a), (l) and (n) of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.***

On the 22 December 2020, the applicant submitted an application for review of this decision to the State Administrative Tribunal (SAT). The parties were invited to participate in two mediation sessions on 22 February and 29 March 2021, in an attempt to find a resolution to the matters in dispute.

Following the mediation the applicant was invited to submit amended plans and the City has been invited to reconsider its original decision, based on the amended plans.

The amended proposal includes the partial reconstruction of the existing dwelling to replicate the form of the front two rooms of the existing dwelling and maintain the positive contribution the existing dwelling makes to the streetscape and the South Fremantle Heritage Area.

This report outlines the details of the amended plans resulting from the SAT Mediation and invites Council to reconsider its decision.

PROPOSAL

Detail

Following the SAT Mediation, the applicant submitted amended plans on 13 April 2021, including the partial reconstruction of the original dwelling, with rear single storey additions and alterations. The amendments are:

- Repositioning the dwelling on site to be perpendicular to Commercial Street,
- Amending a hipped shape roof to front portion to reflect the roof form of the existing house and other dwellings in Commercial Street;
- Introduction of a verandah across the entire frontage of the dwelling (pitch of verandah roof reflects that existing / adjoining);
- Cladding to front façade, west side to where the garage is situated, and east side to align with the hipped roof element;
- Four vertically proportioned windows with two each side of the front entry door;
- Front setback of 2 metres, which is the same setback as the western end of the existing verandah.

Amended 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 original application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal included elements which varied deemed-to-comply criteria of the R-Codes. The original officers report (Additional Information Attachment 3) details the comments received by the City during this process. In accordance with Council Policy LPP1.3, the amended plans were not required to be advertised as no new discretion is being sought.

OFFICER COMMENT

Statutory and policy assessment

Although this report is an account of the Application for Review process with the SAT, the amended plans have also been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. The dwelling proposed in the amended plans poses similar primary street and boundary wall setback variations to the requirements of Local Planning Policies 2.4 and 2.9 and as such, officers have provided details of a design principle assessment of these elements 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.

The original application, which proposed the demolition of the existing dwelling and the construction of a single storey Single house was determined by Council at its meeting held on 25 November 2020 where it resolved to:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of existing Single house and construction of a single storey Single house at No.6 (Lot 27) Commercial Street, South Fremantle, as detailed on plans dated 19 October 2020, for the following reasons:

- 1. The proposed demolition of the existing dwelling on site is not supported in accordance with clause 4.14.1 of Local Planning Scheme No. 4 (LPS4) as the existing front two rooms of the dwelling are considered to have some cultural heritage significance in its own right and the overall form of the front portion of the dwelling makes a contribution to the broader cultural heritage significance and character of the South Fremantle Locality which is a prescribed heritage area under LPS4.*
- 2. The proposal is detrimental to the amenity of the area, detrimental to the cultural heritage significance of the area, and incompatible with the objectives of the Residential Zone set out in clause 3.2.1 (a) of the Local Planning Scheme No. 4, as per clauses 67(a), (l) and (n) of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.*

On the 22 December 2020, the applicant submitted an application for review of this decision to the State Administrative Tribunal (SAT). The parties were invited to participate in two mediation sessions on 22 February and 29 March 2021, in an attempt to find a resolution to the matters in dispute.

Following the mediation, the applicant was invited to submit amended plans and the Council has been invited to reconsider its original decision, based on the amended plans.

The amended plans (lodged on 13 April 2021) essentially involve restoration and repositioning of the existing dwelling, rather than the complete demolition as originally proposed, and rear single storey additions and alterations. These amended plans are intended to address the matters discussed during the March mediation and are the subject of the current report. The City is invited to reconsider its decision to refuse the application on or before 26 May 2021 pursuant to section 31 of the State Administrative Tribunal Act 2004.

Restoration and Repositioning

The reason for Council's decision to refuse the original application was based on the contribution that the overall form of the front portion of the cottage, which remains intact, makes to the largely intact heritage streetscape of Commercial Street and the broader South Fremantle Heritage Area. As such, Council considered the existing dwelling to have some cultural heritage significance and therefore did not support its demolition.

Council were of the view that the original structure framing and form of the front two rooms of the timber framed cottage was largely intact and it formed part of a collection of humble cottages, including the one adjacent to the site at 8 Commercial Street, which underpin and define the core cultural significance of the South Fremantle Heritage Precinct.

It was recognised that this cottage, similar to other original workers cottages in South Fremantle, had been altered significantly, including changes to its roofing and wall cladding materials, however this was not considered reason to support its demolition, as these cottages were designed to be easily modified without impacting on their core structural integrity and form.

The applicant submitted supporting information to detail the extent to which the cottage had been altered noting that very little of the original fabric of the cottage is left. The fact that very little original fabric remains is not in dispute, however the original form of the cottage is still clearly evident on site.

It is generally considered normal practice for buildings that have some cultural significance associated with the streetscape and precinct whilst having little original fabric remnant, to be conserved with an expectation that all external materials would need to be replaced with new material. The core task should be to maintain the cultural significance of the precinct by conserving the general form and streetscape contribution made by such cottages that retain their original form and structure.

Having narrowed down the Council's concerns during the SAT Mediation, the applicant agreed to consider retaining and conserving the original form of the existing cottage however requested some flexibility in its approach to retaining the form to improve the functionality of their new house, specifically in regard to straightening its alignment to the street and increasing the width of cottage slightly to better accommodate the modern spaces within the dwelling. The applicant has subsequently submitted amended plans, that involve the reconstruction of the front two rooms of the existing dwelling, in a form that replicates the form of the existing cottage, including its symmetrical façade, general room proportions, roof pitch and original materials. Some flexibility is sought in the exact footprint of the cottage, being its setback from the street and eastern boundary and its width.

The proposal to reconstruct the original cottage, including minor alterations to its siting and width has been carefully considered, having regard for the significance of the South Fremantle Heritage Area, general heritage practices and the attempt for both parties to mediate a solution.

Although the reconstruction of a heritage building is generally not considered to be good heritage practice, in this instance, given that very little of the original fabric is left for reuse, due to later intrusive replacement materials and deterioration of fabric, and the dwelling is considered to be of significance for its contribution to the South Fremantle Heritage Precinct due to its form and scale, the reconstruction of the dwelling is considered to be an acceptable compromise that will deliver an infill development that positively contributes to the significance of the South Fremantle Heritage Precinct.

In order to provide some assurances that the amended proposal will be built after the demolition of the original cottage, it is recommended that any approval be conditioned to require the submission (and issue) of a Building Permit prior to the issue of a Demolition permit.

Statutory Assessment of Dwelling

As discussed above, this report outlines the mediated outcome resulting from the applicant's application to appeal Council's refusal of the original application. Although the key focus is the existing cottage's contribution to the significance of the South Fremantle Heritage Area, officers have also assessed the amended plans against the development requirements of LPS4, the R-Codes and Council Policy to assess the dwellings potential impact on the amenity of adjoining properties. The amended plans comply with the relevant deemed-to-comply requirements of the R-Codes and Council Policy with the exception of the primary street setback and the western boundary wall. These elements have been assessed against the discretionary criteria and design principles of Council Policy and the R-Codes with officers' assessment being outlined below.

Primary Street Setback

Element	Requirement	Original Proposed	Amended Proposed	Extent of Variation
Ground Floor	5m	2.47m - 5m	3m	2m

The primary street setback is supported in accordance with the discretionary criteria of LPP2.9 for the following reasons:

- The setback of 3m is considered to be consistent with the existing prevailing streetscape which ranges between 1.5m and 3m as shown in the original officer's report.
- Overall, the development is considered to appropriately reflect the streetscape character and will therefore not result in a projecting element into the street.

Boundary Wall

The amended western boundary wall is supported as it is essentially the same dimension and location to that as per the original proposal. The boundary wall will abut an existing carport structure which is of similar dimensions and location on the western adjoining site. Although the adjoining carport is 'open', this structure includes three pillars on the boundary and again 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.

CONCLUSION

The proposed partial reconstruction and single storey additions is considered to be an acceptable compromise that maintains the dwelling's positive contribution to the South Fremantle Heritage Precinct, whilst having some flexibility in its siting and dimensions to address the concerns of the applicant.

The outcome is considered acceptable in this instance and is recommended for approval as per the recommendation below.

Should the Planning Committee consider that the amended proposal does not satisfy Council's concerns as outlined in the background and heritage sections above, the previous resolution of Council is repeated below:

Alternative recommendation

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, for the partial reconstruction of the existing Single house and single storey additions and alterations at No.6 (Lot 27) Commercial Street, South Fremantle, as detailed on plans dated 13 April 2021, for the following reasons:

- 1. The proposed demolition of the existing dwelling on site is not supported in accordance with clause 4.14.1 of Local Planning Scheme No. 4 (LPS4) as the existing front two rooms of the dwelling are considered to have some cultural heritage significance in its own right and the overall form of the front portion of the dwelling makes a contribution to the broader cultural heritage significance and character of the South Fremantle Locality which is a prescribed heritage area under LPS4.*
- 2. The proposal is detrimental to the amenity of the area, detrimental to the cultural heritage significance of the area, and incompatible with the objectives of the Residential Zone set out in clause 3.2.1 (a) of the Local Planning Scheme No. 4, as per clauses 67(a), (l) and (n) of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.*

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

As the application is currently the subject of an application for review, should the application be refused the matter will be referred back to the SAT. In the event that the applicant wishes to continue with the appeal, the matter is likely to be referred to a hearing where the SAT will become the decision maker. In accordance with Council Policy (LPP1.4), should the matter be referred to a hearing the City will need to engage independent legal, town planning and heritage consultants to represent the City.

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the partial reconstruction of the existing Single house and single storey rear additions 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 13 April 2021. 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 Demolition Permit, an application for a Building Permit for the approved single storey dwelling is to be submitted and approved, to the satisfaction of the City of Fremantle.**
- 3. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 4. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 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.**

**PC2105-2 MCLAREN STREET, NO. 15 (LOT 25), SOUTH FREMANTLE
DEMOLITION OF EXISTING SINGLE HOUSE AND CONSTRUCTION
OF A SINGLE STOREY SINGLE HOUSE WITH AN ANCILLARY
DWELLING – (NB DA0508/20)**

Meeting Date: 5 May 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. City's Heritage Assessment
2. Applicant's Heritage Assessment
3. Applicant's Structural Report
4. Applicant's Mould Report
5. Site photos

SUMMARY

Approval is sought for the demolition of the existing Single house and the construction of a Single house with Ancillary dwelling.

The proposal is referred to the Planning Committee (PC) as the proposal includes 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 dwelling in a heritage area**
- **Primary street setback**
- **Boundary walls**

The application is recommended for refusal on the basis of the heritage significance of the existing house and its contribution to the McLaren Street streetscape and the South Fremantle Heritage Area.

PROPOSAL

Detail

Approval is sought for the demolition of an existing Single house, and the construction of a Single house with an Ancillary dwelling at the rear.

The applicant has submitted the following documents in support of the proposed demolition:

- Heritage assessment by Hocking Heritage
- Structural report of the existing house
- Mould report of the existing house.

Development plans are included as attachment 1.

Site/application information

Date received: 20 November 2020
 Owner name: Gabriele Zugaro
 Submitted by: Chross Homes and Developments Pty Ltd
 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 the proposal included the demolition of a dwelling in a Heritage Area and discretion was sought under the R-Codes and LPS4. The advertising period concluded on 11 December 2020, and no submissions were received.

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 dwelling in a heritage area
- Primary street setback
- Boundary walls

The above matters are discussed below.

Background

The subject site is located on the southern side of McLaren Street between South Terrace and Parmelia Street in South Fremantle. The site has a land area of approximately 625 m² and is currently a Single house. The site is zoned Residential and has a density coding of R30. The site is not individually heritage listed but is located within the South Fremantle Heritage Area, which triggers the need for a heritage assessment.

The existing dwelling, dating back to its construction in 1899, is a single storey masonry and decramastic tile cottage, with a symmetrical façade, central front door flanked on either side by windows. The façade visible from the street is a later brick addition which was added to enclose the original veranda.

Heritage Assessment

Applicant's Justification for Demolition

In response to the City's heritage assessment, the applicant commissioned Hocking Heritage to assess the property. The full report is included as Additional Information 1 however generally finds:

- The cement render is failing in a number of places and exploratory tests show that the place is likely of limestone construction, which could indicate heritage significance. However, the same tests show the underlying limestone to be rubble and dust, and in poor condition. This is supported by the provided structural report (Additional Information 3).
- The original house facade which cannot be seen from the street now presents with a brick veneer which appears to have been stuck to the rendered finish. It is unknown when the facade was rendered but the owner confirms it was rendered at the time his father purchased the place. The brick veneer is of no heritage significance. The render beneath the brick veneer is also of no significance.

- It is unknown what condition the limestone beneath the render is in. Cement render is harmful to both brick and stone substrate and removal may cause damage even under the guidance of an experienced heritage builder. Tests from the inside show rubble only.
- The windows to the front rooms are non-original and of no significance.
- The floor of the front two rooms consists of timber floors and skirting likely circa 1950s.
- The ceilings are non-original and have been replaced at some point.
- Evidence throughout the interior of the house shows bubbling drummy plaster indicating rising damp issues, spongy floorboards indicating issues with the floor structure and failing external render. Exploratory tests undertaken internally have shown a variety of results including sandy mortars behind the render, rubble stone construction which may have been used as wall filler when the windows were altered, random bricks and hard cement renders. The original construction of the property appears to be in variable condition.
- A further report undertaken by Airborne Building Solutions confirmed there were moisture levels of 999 which had progressed up the walls to over 1200mm from floor level. The floor structure was recorded as displaying dry rot.
- Due to the recorded levels of pathogenic fungi (*Aspergillus*/*Penicillium* and *Cladosporium*) the property has been deemed to be a health and safety hazard by Airborne Building Solutions (see Additional Information 4).
- In conclusion, the only potential heritage significance of the property is of the original verandah and the front two rooms. However, the streetscape appearance of the house has been significantly altered over the years such that these elements are obscured or no longer extant, and there is no consistent heritage housing typology along McLaren street.
- The house does not meet the threshold for inclusion on the heritage list and is considered to have little or no heritage significance.

The implication is that the walls are so degraded that removal of the cement render would be impractical as the underlying walls are not structurally sound and would have to be entirely replaced, thus negating the heritage significance of the original materials.

Officer's Assessment

The original 1899 cottage is still located on the site with the original form being clearly evident, although the place has undergone much change over the years. When comparing the aerial photograph with the 1908 Sewerage Diagram the various elements of building, additions and outbuildings can still be identified.

As briefly described above, the dwelling is a single storey masonry (likely limestone) and decramastic tile cottage with a symmetrical façade, central front door flanked on either side by windows. The dwelling has been modified over time including the infill of the original verandah with a new brick facade. The original street elevation remains in situ, behind the new façade, with timber framed casement windows, being replacements of the likely original double hung sash windows. The side walls appear to have been rendered over with masonry render. The roof to the house, although not its original material, retains its original form being a hipped roof over the front two rooms of the house and various skillion roofs to the rear.

To the rear of the cottage there are numerous outbuildings, some of which are likely early or original. There have been many ad hoc additions to the outbuildings over the years with sheds for various activities such as bottling tomatoes and housing chickens. The rear garden retains many elements of the way of life of the self sufficient, hardworking and resourceful European Migrants who arrived on our shores during the post WWII period.

Although the dwelling has been altered over time, demonstrating the influence of the European Migrants of the post WWII era, the original floor plan, original masonry walls, original timber floors and some original outbuildings remain intact. Most notably, the underlying structure and form of the dwelling is intact and clearly visible from the street.

The existing dwelling is considered to be of cultural heritage significance, and its demolition would have a major impact on the aesthetic value of the dwelling and the significance of the South Fremantle Heritage Area due to its current streetscape contribution and value.

In accordance with clause 4.14 of LPS4, demolition can only be supported where a house has little or no heritage significance and does not contribute to the heritage significance of the locality.

In this instance the structure and form of the original cottage is clearly evident and the cottage forms part of a collective existence of modest sized cottages in McLaren Street and South Fremantle. The existing cottage is therefore considered to make a positive contribution to the significance of the Heritage Area and its demolition is not supported.

It is therefore recommended that any future redevelopment of the subject site should include the retention and conservation of the front section of the dwelling including at a minimum, the front two rooms and central corridor under the main hipped roof with any addition to be constructed to the rear of this section of the cottage where more flexibility could be applied in order to meet the owners needs and current living requirements.

Proposed Dwelling

Notwithstanding the Officer's recommendation regarding the proposed demolition above, Officers have also carried out an assessment of the proposed new Single house and Ancillary dwelling. The proposed replacement dwelling including the Ancillary dwelling complies with the deemed-to-comply requirements of LPS4, the R-Codes and Council Policy, including the site area and floor area of the Ancillary dwelling, with the exception of the following:

Primary Street Setback

Element	Requirement	Proposed	Extent of Variation
Street setback	7 m	5 m	2 m

Prevailing streetscape

Address	Requirement	Setback	Extent of Variation
7-9 McLaren St	7 m	4 m	3 m

11 McLaren St		4 m	3 m
13 McLaren St		7.8 m	Complies
<i>Subject Site</i>		5 m	2 m
17 McLaren St		6 m	1 m
19 McLaren St		10.7 m	Complies
21 McLaren St		3 m / 5 m*	4 m / 2 m

*3 m to the gable window, 5 m to the remainder of the house.

The primary street setback is considered to meet the Design principles of policy LPP 2.9: Residential Streetscape in the following ways:

- The existing streetscape varies in regard to setbacks (see Figure 1 below). Note that as per LPP 2.9, the street setback is measured to the main wall of the house and does not include a verandah, porch, etc.



Figure 1: McLaren Street Streetscape. Blue line is approximate 5m proposed setback.

- The proposal is generally in line with or behind three of the six houses within the streetscape and can therefore be considered to be consistent with the prevailing streetscape as per clause 1.2(i) of the policy.

Boundary Walls

Element	Requirement	Proposed	Extent of Variation
West (garage)	1 m	Nil	1 m
West (main house)	1.5	Nil	1.5 m

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

- The existing main house is located on the boundary, and the new house will have a boundary wall length less than that which currently exists, therefore improving the light and ventilation to the adjoining property.
- The boundary wall is single storey and abuts a path on the adjoining site providing access to the rear of the adjoining house.
- The garage boundary wall abuts a vegetated area. The adjoining house has a large outdoor living area further to the south and east that will be minimally impact from the proposed boundary wall.

- There is an existing boundary wall to the rear of the site composed of a jumble of various outbuildings. The new garage boundary wall will replace these buildings and have a smaller footprint than the existing conglomeration of boundary walls.

CONCLUSION

Officers acknowledge the potential problems with the current condition of the existing dwelling, however, on balance, conclude that there is sufficient intact original fabric remaining and the overall structure and form positively contributes to the cultural heritage significance of the South Fremantle Heritage Area. As such, the proposal is recommended for refusal.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demolition of the existing house and construction of new single storey Single house and Ancillary dwelling at No. 15 (Lot 25) McLaren Street, South Fremantle, as detailed on plans dated 19 November 2020, for the following reasons:

1. The existing house is considered to be of some heritage significance and demolition is contrary to clause 4.14 of the City of Fremantle Local Planning Scheme No. 4, and clause 67(2)(k) and (l) of the *Deemed provisions* by virtue of being detrimental to the heritage significance of the place and the locality.

**PC2105-3 STRANG STREET, NO. 37 (LOT 93), BEACONSFIELD – TWO
STOREY SINGLE HOUSE (TG DA0054/21)**

Meeting Date: 5 May 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for a two storey Single house at 37 Strang 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. These discretionary assessments include the following:

- **Overshadowing**
- **Street setback**
- **Lot boundary setback (South West, East)**
- **Boundary walls (South West, North West)**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a two storey Single house to an existing vacant lot at 37 Strang Street, Beaconsfield. The proposed works include:

- **Ground floor.**
 - **Two car garage.**
 - **Study, laundry, living, lounge, kitchen and dining room.**
 - **Paved outdoor area.**
- **Upper floor**
 - **Three bedrooms and two bathrooms.**

The applicant submitted amended plans on 31 March 2021, in response to neighbour comment and officer concerns, including the following:

- **Reduction in the height of the dwelling to satisfy the R-Codes deemed-to-comply requirements for wall height and reduce the shade cast by the dwelling.**
- **Reduction in the building envelope to satisfy deemed-to-comply requirements for open space.**

Development plans are included as attachment 1.

Site/application information

Date received:	9 February 2021
Owner name:	P Neale and L Wayman
Submitted by:	D Neale
Scheme:	Residential R40
Heritage listing:	Not Listed
Existing land use:	Vacant Site
Use class:	Single house
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the application sought to vary the requirements of the R-Codes and Council Policy as discussed in this report. The advertising period concluded on 12 March 2021, and three (3) submissions were received. The following issues were raised (summarised):

- A submitter was concerned in relation to the upper floor bedroom and bathroom windows looking directly into the neighbouring backyard, living room and kitchen. The submitter requested consideration of the inclusion of highlight windows to protect mutual privacy.

- A submitter was concerned about the shade cast by the development and the reduced setback from the southern boundary. The submitter was also concerned that the development includes two storey building bulk and 'heavy structures' close to the south western boundary adjacent to the neighbouring courtyard.
- The submitter was also concerned that the ground floor windows facing the south west boundary imposed a privacy concern as the adjoining area is their outdoor living area and this area may be overlooked by the development.

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

- With respect to visual privacy, the development complies with the relevant deemed-to-comply criteria of the R-Codes, with openings either being set off the property boundaries per the window to Bedroom 3, screened per the window onto Bedroom 1, or provided as highlight windows with a sill height of greater than 1.6m above the finished floor level. The windows to the ground floor are not raised more than 0.5m above natural ground level on site and are therefore not subject to visual privacy assessment under the R-Codes.
- The shade cast by the development and the setbacks of development are discussed further below.
- The height of the building was amended to satisfy the relevant deemed-to-comply criteria of the R-Codes, reducing the height of the building to no greater than 7m above natural ground level.

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:

- Overshadowing
- Street setback and Garage Setback
- Lot boundary setback (South West, East)
- Boundary walls (South West, North West)

The above matters are discussed below.

Background

The subject site is located on the southern side of Strang Street, Beaconsfield and comprises one of the last lots to be developed on the block bounded by Fullston Way, Naylor Street and Culver Street. The site is an unusual roughly triangular shape, has a land area of approximately 277m² and is currently vacant. The site is zoned Residential and has a density coding of R40. The site is not individually heritage listed but is located within the South Fremantle Heritage Area.

The site exhibits a slight slope from east to west of approximately 0.5m. The site was cleared for use as a residential property in the late 2000's and the surrounding properties were generally developed between 2010 and 2015.

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

- DA0621/13 – Two Storey Single house
The subject development was generally similar to the proposed house, with the exception of the roof form which comprised a pitched roof in lieu of the proposed concealed roof. This approval expired in approximately 2017 without being acted upon.

Overshadowing

Element	Requirement	Proposed	Extent of Variation
Shade cast over lot 82	11.5% (25.3m ²)	8.07% (17.77m ²)	Nil
Shade cast over lot 83	13.25% (35.1m ²)	13.07% (34.65m ²)	Nil
Shade cast over lot 84	7.45% (19.7m ²)	12.1% (32.22m ²)	4.65% (12.52m ²)
Shade cast over lot 90	8.7% (21.75m ²)	5.14% (12.85m ²)	Nil

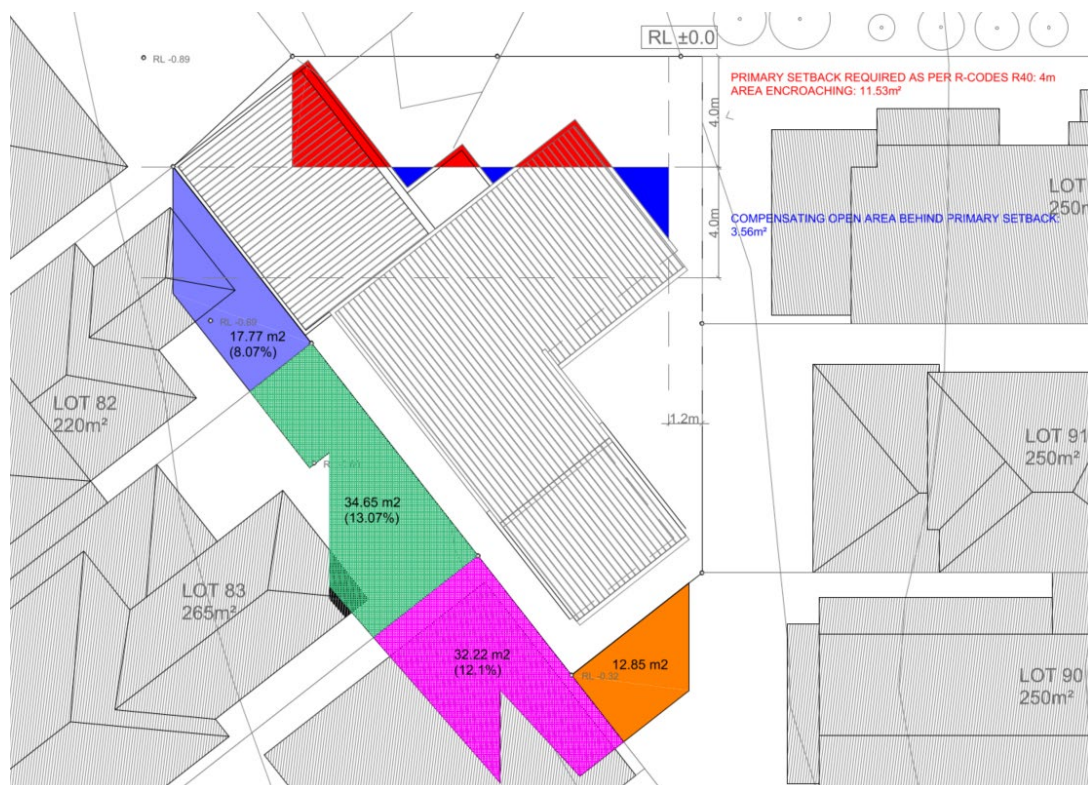


Figure 1: Development plan extract showing the shade cast by the subject development on midday at midwinter

The above assessment of the shade cast by the subject development is undertaken in accordance with the requirements of R-Codes 5.4.2 C2.2 which requires that where a development site shares its southern boundary with a lot, and that neighbouring lot is bound to the north by other lots, the limit of shading for the development set out in accordance with the R-Codes (in this case a maximum of 50%) is to be reduced proportionate to the affected property's northern boundary that the development site abuts. For example, Lot 90 adjoining the development site is bound to the north by the subject site and Lot 91 and in accordance with R-Codes 5.4.2 C2.2, the maximum 50% shade cast by the development is apportioned to the subject site and Lot 91 in proportion with the percentage of the north facing boundary of Lot 90, so the dwelling at Lot 91, if considered today, would be permitted to cast shade over 41.3% of Lot 90.

It is acknowledged that the requirements of R-Codes 5.4.2 C2.2 best provides for lots with right angled boundaries per figure 11b from the R-Codes below, rather than in the subject case. In response to concerns raised in response to public consultation, the applicant elected to reduce the height of the building in order to better satisfy the relevant deemed-to-comply criteria of the R-Codes as listed above.

Figure 11b – Proportionate limits from shared northern boundaries (clause 5.4.2 C2.2)

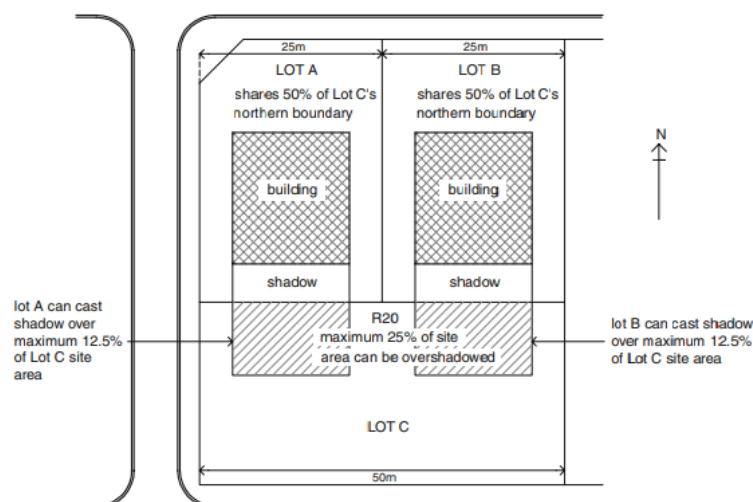


Figure 2: R-Codes diagram depicting proportionate overshadowing assessment

The shade cast by the development over lot 84 is considered to meet the Design principles of the R-Codes in the following ways:

- The shade cast by the ground floor of the development is consistent with that cast by the existing dividing fence, resulting in a similar level of sunlight access for the ground floor alfresco of lot 84 which is located close to the property boundary.
- The shade cast by the upper floor is generally cast over the roof area of the adjoining building. The alfresco area is open to the north east only with a highlight window along the north western side as shown in Photo 9 of the additional information. Some impact to these openings is anticipated however per the below diagram, some sunlight access to the rear alfresco area should be capable of retention as existing.

- The affected neighbour did not provide a submission in response to public advertising.

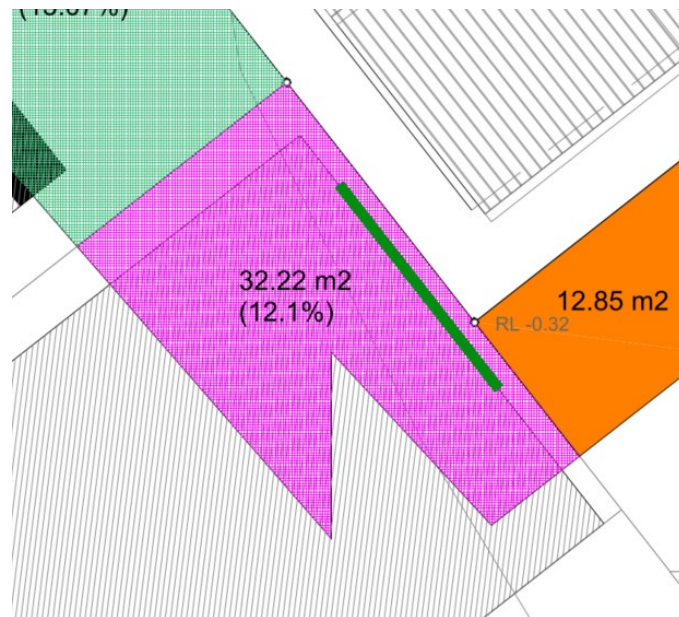


Figure 3: The green line above shows the open side of the existing neighbouring alfresco area, sunlight for which will generally be unaffected by the upper floor at midday on midwinter.

Lot boundary setbacks

Element	Requirement	Proposed	Extent of Variation
Ground and Upper Floor (south-west)	1.5m	1.2m	0.3m
Upper Floor (east)	1.2m	0.8m	0.4m

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

- With respect to privacy, the windows to the ground floor are generally screened by existing dividing fencing. Highlight windows are provided to the upper floor.
- The ground floor of the development is single storey in height for ~58% of its length and the upper floor is of limited length (9.2m), located in central to the ground floor which is considered to break up the bulk of the building.
- The shade cast by the development generally complies with the relevant deemed-to-comply criteria of the R-Codes with the exception of the shade cast over lot 84, which is discussed further above. The remainder of the development will provide for the retention of northern sunlight to the adjoining properties at midwinter.

The reduced setback of the corner of the upper floor main bedroom (bed1) is considered to appropriately satisfy the relevant design principles of the R-Codes for the following reasons:

- The reduced setback comprises a minor portion of the development which is otherwise set back in compliance with relevant deemed-to-comply setback requirements. This small portion of the development is not considered to impose

undue building bulk on neighbouring properties due to its limited size, no privacy impact due to the screening of the only window in the side of the wall, and no shade impact as shade from this portion of the dwelling falls onto the subject site.

Boundary walls

Element	Requirement	Proposed	Extent of Variation
North West Garage (north-west)	1m	Nil – 0.5m	1m – 0.5m
Garage – (south-west)	1m	Nil	1m

The proposed boundary walls are considered appropriate in accordance with the relevant design principles listed in LPP 2.4 for the following reasons:

- With respect to shade cast by the boundary wall over lot 82 to the south, the development satisfies the relevant deemed-to-comply criteria in providing for minimal overshadowing at midwinter; The adjoining alfresco area of lot 82 will retain midwinter northern sunlight access as demonstrated on the overshadowing plan.
- The shade cast by the north west facing wall will generally fall over the subject site at midwinter, leaving the adjoining rear yard at lot 81 open to winter sun.
- The walls are well set back from the primary street due to the substantial verge in front of the subject site.
- The walls do not contain openings and are onto a non-habitable space and therefore do not impose a significant privacy impact.
- The garage boundary walls are consistent with the existing built form in the immediate locality.
- The location of the garage in this corner of the lot is considered to appropriately make use of the available space on the unusually shaped lot.

Street setback

Element	Requirement	Proposed	Extent of Variation
Ground floor	7 m	0.2m	6.8m
Upper floor	10 m	2.2m	7.8m
Garage setback	To be set back in line with or behind the front wall of the dwelling	Corner of garage set forward of dwelling by 2m.	2m

The proposed setback of the development and the garage being set forward of the dwelling is considered appropriate in accordance with the discretionary criteria of LPP 2.9 – Residential Streetscapes for the following reasons:

- The subject lot is well set back from the Strang Street roadway by virtue of the existing lot and roadway layout. Accordingly the development will not project into the existing established streetscape.
- The proposed development is also directly adjacent to a corner lot which has been developed with comparable setbacks to the Strang Street roadway. The below diagram generally shows the established setback line of the adjoining properties and the setbacks of the subject development.

- The garage does not unduly project into the streetscape as this is set well back from the street boundary.
- Generally it is considered that the subject lot comprises a somewhat unique situation with respect to its street alignment, with the lot being of both unusual shape, and being well set back from the roadway due to the large verge. The constraints on the lot have resulted in development being proposed closer to the street than may be considered for a more regularly shaped lot, however in this instance the street setbacks are considered worthy of support due to the unique character of the lot and its limited ability to impose building bulk on the streetscape due to the significant setback from the roadway (~10m at its closest point).



Figure 4: Approximate setback line facing Strang Street

CONCLUSION

The proposed development is considered to satisfy the relevant criteria of the Residential Design Codes as well as the requirements of the City's Local Planning Scheme No. 4 and Planning Policies in accordance with the above assessment. The subject site is noted to be of an unusual shape and the proposed development is considered to

respond appropriately in providing for a suitable development which does not unduly impact upon surrounding properties. The proposed dwelling is therefore recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two Storey Single House at No. 37 (Lot 93) Strang Street, Beaconsfield, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 31 March 2021. 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 issue of a Building Permit for the development hereby approved, a detailed drawing showing how the **Bedroom 1 window** located on the **southern** elevation, 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, or**
 - c) a minimum sill height of 1.60 metres above the internal floor level,****Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.**

5. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
6. Prior to occupation/ use of the development hereby approved, the boundary wall located on the south west and north west boundary shall be of a clean finish in any of the following materials:
 - coloured sand render,
 - face brick,
 - painted surface,and be thereafter maintained to the satisfaction of the City of Fremantle.
7. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

Advice notes

- i) The applicant is advised that 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) 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) Fire separation for the proposed building works must comply with Part 3.7 of the Building Code of Australia.
- iv) Protection of window openings must comply and are to be restricted from opening in accordance with Part 3.9.2.5 of Building Code of Australia
- v) The applicant is advised in relation to condition 4, the application of film to a window can be considered provided the film is translucent or obscured to a minimum of 75% obscure in order to meet the objectives of Clause 5.4.1. C1.1 of the Residential Design Codes and is maintained for the life of the development.
- vi) Levels as per existing footpath and/or ROW
 - Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;



- **Any adjustment in levels is to be achieved within the property boundaries;**
- **Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.**

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

PC2105-4 INFORMATION REPORT – MAY 2021

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
DA0166/20
Site Address and Proposal
6 Commercial Street, South Fremantle – Proposed Demolition of existing Single house and construction of a single storey Single house.
Planning Committee Consideration/Decision
<ul style="list-style-type: none"> At its meeting held on 25 November 2020, the Council resolved to refuse the application.
Current Status
<ul style="list-style-type: none"> On 22 December 2020 an Application for Review by the State Administrative Tribunal was lodged by the owner. A Directions Hearing has been scheduled for 22 January 2021. Mediation between the parties was held on 22 February 2021. A second mediation between the parties was held on 29 March 2021. On 13 April, the applicant submitted amended plans and the City is invited to reconsider its decision on or before 26 May 2021. A report dealing with the Amended Plans is included in this Agenda.

OFFICER'S RECOMMENDATION

Council receive the following information reports for May 2021:

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

10.3 Council decision

Nil

11. Motions of which previous notice has been given

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

Nil

12. Urgent business

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

Nil

13. Late items

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

Nil

14. Confidential business

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

Nil

15. Closure