



Agenda

Planning Committee

Wednesday, 1 December 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, 1 December 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

26 November 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

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

3. Disclosures of interests by members

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

4. Responses to previous questions taken on notice

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

5. Public question time

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

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

6. Petitions

Petitions to be presented to the committee.

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

7. Deputations

7.1 Special deputations

A special deputation may be made to the meeting in accordance with the City of Fremantle Meeting Procedures Policy 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 3 November 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

PC2112-1 **BURT STREET, NO.19-21 (LOT 1873) AND NO.23-25 (LOT 1907),
FREMANTLE – PUBLIC WORKS - MIXED USE DEVELOPMENT
COMPRISING COMMUNITY (COMMUNITY PURPOSE,
RESTAURANT, SHOP, INDUSTRY COTTAGE AND OFFICE
TENANCIES AND MULTIPLE DWELLINGS) (WAPC REFERRAL) –
(JL DAP005/21)**

Meeting Date: 1 December 2021
Responsible Officer: Director Strategic Planning and Projects
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Schedule of Submissions
2. Planning Report and Transport Impact Statement
3. Site Photos

SUMMARY

A Development Assessment Panel application (DAP) has been made by the Department of Communities for a three to six storey mixed use Public Works development at the currently vacant site known as No.19-21 and 23-25 Burt Street Fremantle.

Public Works DAP applications are exempt from the need to obtain planning approval under Local Planning Schemes but do require approval under the Metropolitan Region Scheme (MRS). This means the Western Australian Planning Commission (WAPC) is the relevant planning authority for compiling the Responsible Authority Report (RAR) for these types of development applications. The City of Fremantle acts in a referral stakeholder capacity for the WAPC.

Although the WAPC and DAP will not be bound by the City's local planning framework in its assessment and determination of the application under the MRS, as part of City officers' assessment of this application the provisions of the City's Local Planning Scheme No.4 (LPS4), the Residential Design Codes (R-Codes) and relevant Local Planning Policies have been used to help guide its recommendations to WAPC.

It is recommended that the Planning Committee advise the WAPC that the proposed Public Works development is generally supported subject to recommended conditions and advice notes.

PROPOSAL

Detail

This application is seeking development approval under the MRS as 'Public Works' in the form of a DAP application.

As such the application is merely referred to the City of Fremantle for comments, with the RAR being the responsibility of officers from the Department of Planning Lands and Heritage (DPLH) on behalf of the WAPC.

Approval is sought for a mixed use, but predominantly residential, development comprising of five buildings ranging from three to six stories (plus basements), in height comprising 272 Multiple dwellings, plus Restaurant, Office, Shop, and Exhibition Centre land uses over two adjoining lots at No.19-21 and 23-25 Burt Street, Fremantle. The proposal specifically includes:

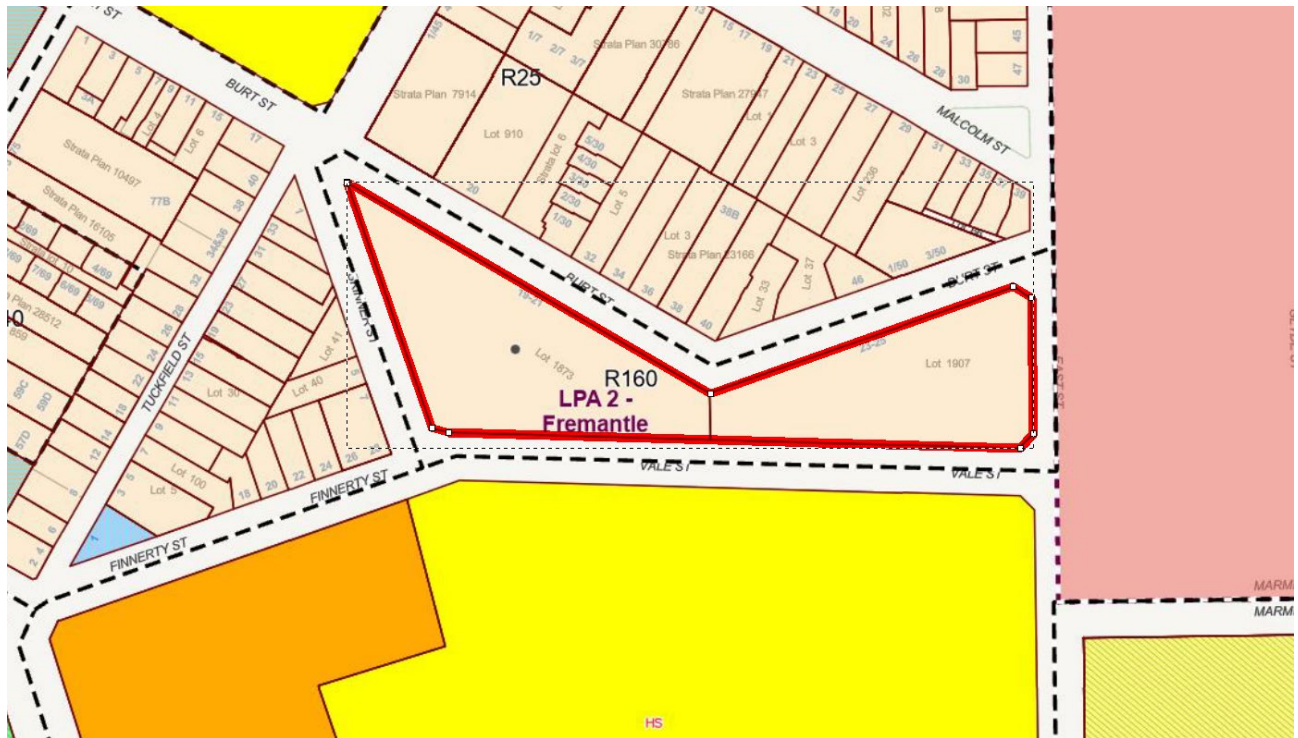
- 2 Restaurants (275m² internal area)
- 272 Multiple dwellings (86 x one bedroom and 186 x 2 +bedroom)
- 350 m² Health Studio (Gym) at ground level in Building 2
- 600 m² Art Studio/ Cottage Industry use at ground level in Building 2
- 475 m² (approximate) of Community Purpose (arts space/ performing arts centre) in Building 2
- 486 Car bays
 - 255 parking bays (29 Commercial/ Community Purpose bays and 226 residential bays) at basement level in Buildings 1 and 2
 - 231 parking bays (34 Commercial and 197 bays Residential) at basement level in Buildings 3 and 4
- 120 bicycle bays (over whole development site)
- 53 Motorcycle/ scooter bays (over whole development site)

Vehicle access is provided via two separate crossovers (Buildings 1 and 2 basement accessed from Burt Street and Buildings 3 and 4 basement accessed from Vale Street).

Development plans are included as Attachment 1.

Site/application information

Date received:	23 September 2021
Submitted by:	Element
Scheme:	Residential R160
Heritage listing:	Nil
Existing land use:	Vacant lots
Use class:	Multiple dwelling, Restaurant, Shop, Office, Community Purpose, Industry Cottage, Health Studio
Use permissibility:	N/A



OFFICER COMMENT

The subject site is located on the block bound by Skinner Street (west), Vale Street (south), East Street (east) and Burt Street (north). The site has a land area of approximately 13750 m² and has been a vacant lot since early 2017 when demolition of the last remaining buildings occurred.

The site is zoned Residential and has a density coding of R160. The lot is located within sub area 2.4 of the Fremantle Local Planning Area of LPS4. The site is not located in a Heritage Area, nor is it on the City's Heritage List.

The immediately surrounding area varies in its zoning, built form and its land use. Immediately adjoining the site to the south is John Curtin College of the Arts, to the north, east and west is single to three storey low density residential development (R25).

The built form to the west of site is typically characterised by single and two storey dwellings, with many being identified for their cultural heritage significance for their contribution to the streetscape. The area to the north and east is again improved by single to two storey residential buildings but with less clusters of houses of heritage significance.

The subject site is an irregular shape and has very unusual topography. The site slopes steeply from Burt Street to Vale Street between 2-9m approximately and has a crossfall from east to west of approximately 16m. The site has a number of mature trees and other vegetation scattered over the property.

A review of the property file has found the following relevant planning application:

- Public Works - Demolition of existing Multiple Dwelling Building and incidental Structures - PW0006/17.

Community Consultation

The WAPC is responsible for community consultation for all public works development assessment applications, but in this instance the City undertook community consultation on behalf of the WAPC. Consultation was carried out in accordance with the provisions of LPP 1.3 Public Notification of Planning Proposals as they apply to a significant application, which is required to be advertised for a period of 28 days. The community consultation process included:

- 2 x newspaper notices;
- Signs on site;
- Notice to owners and occupiers in 200m radius;
- Notice on the City's website;
- Notice to precinct groups; and
- Community information session (attended by 24 members of the public, City planning staff and Councillors).

Copies of all the submissions made on the proposal were directed to the WAPC for consideration in preparing the RAR.

The key planning issues raised in the submissions received are summarised below, with a table of submissions included in the additional information to this report.

Issue Raised	Officer's comments
Building Height Submitters were concerned with regards to overall height.	This matter is discussed further in the officer comment section of this report.
Traffic safety Submitters were concerned about the safety of traffic and service vehicles moving along.	This matter is discussed further in the officer comment section of this report. The applicant has provided a Traffic Impact Statement seen in the Additional Information to this report.
Building Bulk / Design The development is out of keeping with the existing development in the immediate area.	This matter is discussed further in the officer comment section of this report.
Lack of customer / visitor Carparking	This matter is discussed further in the officer comment section of this report.
Density	This matter is discussed further in the officer comment section of this report.

Referrals/consultation with Government/Service Agencies

Fremantle Ports

The application was referred to Fremantle Ports (FP) for comment in accordance with Clause 5.5.3.2a) of LPS4, as the subject site is located within Area 2 of the Fremantle Ports Buffer Area. The following comment was received:

The subject site is located within Area 2 of the Fremantle Port Buffer. The requirements of the City's local planning policy LPP 2.3 Port Buffer Area Design Guidelines (LPP 2.3) for Area 2 will be applicable to the development; specifically in regard to the built form of the development and the registration of a notification or memorial on the title of the subject lot. It would be appreciated if these requirements could be included as conditions of approval.

As such, conditions of approval are included in the recommendation to WAPC in regard to the built form requirements of LPP 2.3.

Planning Assessment

The provisions of LPS4 and LPP 3.16 Burt Street Policy (LPP 3.16) have been used to help guide the assessment and recommendation for the public works application, noting that the WAPC and DAP are not legally bound by these provisions in the determination of this application.

The site is zoned Residential and has a density coding of R160. The site is located within sub area 2.4 (a, b and c) of the Fremantle Local Planning Area. The below assessment includes details of the assessment against these key LPS4 and LPP 3.16 requirements.

Mix of Land uses

Whilst the provisions of LPS4 are not legally enforceable in a public works application the land use table and definitions are used to help guide Council as part of its referral comments to WAPC. The proposal comprises of several land uses as part of the mixed-use development, including:

- Multiple Dwellings
- Health Studio (Gym)
- Restaurant (Cafe)
- Community Purpose (Community arts and performance spaces)
- Industry - Cottage (Makers space)
- Shop (Arts related tenancy).

The majority of the above listed uses, with the exception of Health Studio and Shop which are not permitted, are discretionary land uses under LPS4 Table 1 - Zoning within the Residential zone. The provided planning report refers to the gym as community purpose for residents of the complex but given its size and positioning within the development it clearly has the ability to be accessed and used by the greater community of Fremantle. As such the use is considered to be more compatible with a Health Studio

land use definition rather than community purpose. In general terms the proposed mix of uses is considered to provide an array of compatible land uses/activities that one would typically associate with a successful residential precinct.

The communal spaces and services offered over the site enable the local community, artists and creatives to coexist. On this basis, the proposed mix of land uses are considered supportable and appropriate given the local planning framework and site context.

Building Height

The following maximum building height provisions apply to the site under LPS4:

Australian Height Datum Required	Proposed	Extent of variation
Area A – 37(m) AHD	40m AHD (Building 1)	3m AHD
Area B – 40(m) AHD	42.6m AHD (Building 2 and 3)	2.6m AHD
Area C – 42(m) AHD	43m AHD (Building 4)	1m AHD

In addition to the above provisions sub area 2.4 states the following

- ii) In Area A, in addition to complying with the height requirements in the table above, no part of any building may project above a height plane measured at an angle of 22.5 degrees above horizontal at a height of 28m AHD along the property boundary on the east side of Skinner Street.

Below in Figure 1 it is demonstrated that portions of building 1 project into this height plane and this remains an area of contention with the community.

- iii) Notwithstanding the street setback requirements of the R-Codes, in Area C of Sub Area 4, the minimum street setback shall be 5 metres at the lot boundary to East Street.

Building 4 is setback to comply with this provision.

Height remains to be a significant concern for residents within the area as again the majority of the submissions received commented on the proposed height particularly to Skinner Street building 1 elevation and a small portion (western section) of building 2 which exceed those prescribed in LPS4 and LPP3.16 Burt Street. The building height does exceed the prescribed heights of LPP3.16 with buildings 3 and 4 being within the permitted building heights of LPP3.16. See an excerpt of the development plans outlining the areas of the proposal; exceeding the heights as per LPP3.16 below:



Figure 1 – Vale Street elevation of building 1 and 2 showing areas of building exceeding Max AHD provisions of Sub area 2.4 (a and b) of LPS4.



Figure 2 – Vale Street elevation of building 3 and 4 showing areas of buildings exceeding Max AHD of Sub area 2.4 (b and C) of LPS4.

The proposed overall building design and proposed building height has been influenced by and responds to the topography of the subject site which is on a steep incline from Skinner Street to East Street. This incline in topography east to west across the site is addressed through a series of tiered, separate buildings that cascade in building height down the site that helps to limit the overall extent of height and scale of buildings that would otherwise be more visually prominent to the surrounding area.

Whilst it is acknowledged that portions of building 1 project into the height planes prescribed by Sub Area 2.4 (a and b) of LPS4, it is noted the height and bulk of building 1 is broken up significantly along the Skinner Street elevation and frontage. This is achieved by significant breaks and increased setbacks of the building along the frontage to accommodate the Skinner Street 'park' in front of the building toward the north-western corner of the site; the retained on-site tree approximately mid-way along the building 1 frontage that creates a 9.5m break in the building bulk; and the retained on-site tree near the southern end of building 1 pulls the building bulk back from south-western end of the site. The retained on-site and verge trees also help to screen and break up the building bulk and perceived scale of the buildings as viewed from surrounding public streets.

The proposed building facades propose a composition of varied building elements, including changes in texture, materials, colours and residential balconies (which create void spaces along frontages) that create visual interest and varied building depths across elevations. These elements further serve to break up the building bulk and perceived height of the building as viewed from surrounding public streets and particularly along Skinner Street.

It is also noted that the rooftop amenity areas on buildings 1, 2 and 4 that project into maximum height plane are centrally located on top of their respective of buildings and setback from all building frontages to reduce the perceived the height and scale of buildings as these areas will largely not be visible from the surrounding streets by pedestrians.

Importantly, due to the orientation of the site as well as the generous separation of buildings from neighbouring sites due to building setbacks (increasing vertically), building breaks and further separation due to the verges and road reserves that surround the site, the portions of building which exceed prescribed building heights do not result in any additional adverse overshadowing adjoining residential properties (refer to overshadowing diagrams in additional information). Similarly, the additional height and centralised location of rooftop amenity spaces will not compromise the privacy of any adjoining residential dwellings.

On balance, the portions of buildings which exceed the prescribed building heights are considered by City officers to be acceptable in this circumstance as the perceived building height, bulk and scale is mitigated through various design elements discussed above and the variations are not considered to be detrimental to the amenity of adjoining properties or within the locality generally. As such, the proposed building heights are considered to be acceptable in the context of Sub area 2.4 and Clause 4.8.1 of LPS4.

Car parking

Overall, the total number of provided car bays (486), motor bike/ Scooter bays (53) and bicycle racks (120) exceed the requirements under LPS4 and Volume 2 of the R-Codes. However, the portion of the allocated bays to commercial tenancies and visitor bays for the residential aspects of the development is not clear.

Parking within the Burt Street area is a concern for some residents. A major issue is the current informal use of the development site for parking (which would cease upon redevelopment) and the closeness to the Fremantle Arts Centre, which runs events that generate high levels of vehicle and pedestrian traffic. The majority of submissions received raised concerns regarding the proposed development exacerbating existing parking pressures in the area.

Whilst basement parking is proposed for residents of the development, over the site minimal parking is to be provided for public/visitor use, particularly for visitors to the non-residential components of the development. This is a concern given the current issues experienced in the locality resulting from events at the Fremantle Arts Centre and John Curtin School. In considering a shortfall of parking bays, it is important to consider the

existing public parking and parking on private developments in the vicinity. In considering a reduction in parking for this development, the existing issues with parking are a serious matter that require consideration in the RAR for DAP's assessment.

The issue relating to no delivery and visitor bays being explicitly allocated onsite is of serious concern. Whilst a surplus of total car bays exists for the development, none of these bays appear to be specifically set aside for visitor or delivery bay use. A total of 101 visitor bays (38 Residential and 63 Commercial/ Community Purpose) are technically required under LPS4 and Volume 2 of the R-Codes. Access to the basement carparks is somewhat limited and its accessibility and convenience for visitors is not obvious. Even if bays in the basement areas are specifically set aside for non-resident use (not shown on the current submitted plans) these are likely to be used by staff parking for the commercial tenancies and not visitors who would need to be let into a secure basement.

Given the absence on the submitted plans of legible, easily accessed visitor parking spaces on site, City officers are concerned that in practice a significant proportion of visitors driving to the site (especially for short duration visits) would seek to use existing surrounding street parking facilities. This is a major concern as the current street parking issues experienced in the immediate area is a major issue and is unable to accommodate such a high demand. Putting further pressure on such public facilities is not reasonable nor a good outcome for the community of Fremantle.

Overall, this outcome is not considered appropriate. Given the application is for a public works project, and the submitted plans do not clearly demonstrate that all non-residential and visitor parking demands generated by the development can be satisfactorily accommodated on site, the City considers it equitable and appropriate that some financial contribution should be made by the developer towards implementing improved street parking and general street verge/public realm improvements along Vale Street, Skinner Street and East Street which would help alleviate anticipated increased parking issues in the immediate locality. It is noted that significant investigations would need to occur with the City given the sensitivity of existing mature vegetation and other natural features in the large verge areas around the site. This is a matter which also would need to be pursued separate to this application as all of these works would fall on land under the management of the City which is outside of the scope of this application. Accordingly, appropriate advice is included in the officer's recommendation below.

Traffic Matters

Traffic safety, street parking and service vehicle movements was a concern raised by many submitters during public consultation of the proposals.

Due to the amount of development and in accordance with LPP3.16, a Traffic Impact Statement was required to accompany any application submitted for the subject site. The submitted application was supported by a Transport Impact Statement, prepared by Cardno (dated 9 September 2021) to assess impacts of the proposed development on the adjacent road network with a focus on traffic operations, circulations, and car parking requirements.

With respect to analysis of the traffic impacts of the proposed development (and the traffic generated by it) on the surrounding road network and relevant road/access intersections (Burt Street/ Tuckfield Street; Burt Street/ East Street; Vale Street/ East Street; Access 1/ Burt Street; and Access 2/ Vale Street), the report concludes that all of the intersections are expected to operate at acceptable levels of service, average delays and capacity during both the AM and PM Peak hour periods for the opening and 2033 design year. Based on the SIDRA modelling analysis, the report concludes that the proposed development is expected not to have any material or significant impact on the surrounding road network.

LPP 3.16 prescribes that the primary vehicle access should be located from Vale Street. Notwithstanding, the proposed development provides two vehicle access points: Access 1 (servicing buildings 1 and 2) 43m away from the Burt Street/Skinner Street intersection along Burt Street, while Access 2 (servicing building 3 and 4) is 70m away from Vale Street/East Street intersection. The separate and distinct vehicle access to buildings 1 and 2 along Burt Street and building 2 and 3 along Vale Street allows the number of overall vehicle movements from the development to be broken up across two primary vehicle access points on differing streets which mitigate potential traffic safety and congestion issues if they were to be located on the same street and/or singular.

The dual access also allows a maximisation of setback of vehicle access points from respective street intersections and clear sight lines (in accordance with AS2890. 1: 2004 Parking Facilities: Off-Street Car Parking) are to be provided at the vehicle access points to ensure adequate visibility between vehicles leaving the car park or domestic driveway and pedestrians on the frontage road footpaths to improve pedestrian safety. On this basis the two primary access points are considered acceptable for the proposed development in mitigating potential traffic congestion and safety.

The City's Infrastructure and Engineering have reviewed the proposal and accompanying Traffic Impact Assessment and have advised the following:

- Any proposed modifications to the road reserve including footpath, road and landscaping proposals, require full engineering designs to be approved by the City of Fremantle.
- It is noted that all visitor parking is located within the internal parking areas. This will result in reliance of on street facilities for visitors and deliveries to the complex. On street parking should be catered for that will complement the existing parking in the immediate vicinity of the development.
- While 90 degree parking could be done for the development verge area, the resulting parking area would effectively be up to the building and not provide a pathway (as well as making all verge garden areas not possible). While 90 degree parking could provide a net gain (42 bays up from 28 on Vale St taking up approximately 104m of verge area, would not be advised due to the impact on the streetscape and pedestrian amenity. Substandard bays could be installed to allow a path but this scenario, while possible, again renders large areas of the street frontage dedicated to non-landscaped areas detracting from the streetscape. With the required removal of the parallel bays on Vale St, will change the environment of Vale St for all road users.

- Of consideration should be a minor road widening of Vale St to accommodate modules of parallel parking divided by pedestrian crossing points. The net gain in parking would be a little more than 42-46 bays but requires further investigation but will provide a greater pedestrian safety and traffic calmed environment than 90 degree. A similar scenario could also be used for Skinner Street.
- Burt Street should not be used for any site parking due to the limited access to the development and grade of Burt St which may create sight line issues.
- East Street parallel bays are effectively existing and could be accommodated as long as they are sympathetic to the bike route along here.
- Traffic Calming devices shown as zebra crossing on both Burt Street and Vale Street are supported by the City, however all investigation, design and approval to be done by applicant. Such crossings would require supporting infrastructure such as lighting, kerb ramps and connecting footpaths. Applicant to provide evidence to support these works including civil designs.
- With regards to vehicle access points to the site, Vale Street would be better for access however will limit the amount of parking available. Burt Street has access traditionally but close to Skinner Street. This would also be fine however going further up Burt Street would be not supported due to the inherit problems with sight lines caused by steep grades and landscaping. There are benefits in having the access points on different streets however the impact on the network as a whole is negligible so not a significant issue from a traffic perspective either way.

Strategic context

The submitted development application is the culmination of a lengthy planning process involving the City and the Department of Communities. The Council's support for a scheme amendment to LPS4 to increase the residential density coding of the site to R160 (a process which commenced in 2013) was based on a recognition that the site is well situated to accommodate higher density residential development in a location with good access to the city centre, public transport, primary and secondary public schools and a range of community facilities including Fremantle Park, Fremantle Leisure Centre and Fremantle Arts Centre.

However, the Council was concerned to balance the merits of higher density development on the site against other community considerations which were recognised as not being able to be statutorily controlled through the local planning scheme. These considerations included ensuring the greater development yield facilitated by the upcoding of the site would deliver a diverse range of housing types and levels of affordability, including a proportion of social housing given the historical use of the site for government-managed social housing for rent. Other outcomes the Council sought to secure were early engagement with the City's DAC as designs for the redevelopment of the site were worked up, and early and inclusive engagement with the local community in the design development process. The mechanism used to address these issues was a Memorandum of Understanding (MoU) between the City and the Housing Authority (Department of Communities).

Under the MoU the Housing Authority committed to use its best endeavours to ensure that a development application submitted following approval of the scheme amendment would, in the event of the application proposing more than 180 dwellings (which the current application does), provide for:

- i. Between 10 and 15% of the first 180 dwellings to be public (social) housing;
- ii. At least 45% of the first 180 dwellings to consist of a mix of public and affordable housing (inclusive of the public housing component in (i) above);
- iii. The balance of the first 180 dwellings to be in any form of tenure;
- iv. At least 25% of all dwellings to be built to adaptable housing standards to readily accommodate people with disabilities;
- v. Provide a diverse range of accommodation types (including diversity of size).

The applicants have included a statement in the report submitted as part of the development application documentation that the proposal will meet and in some respects exceed the above provisions. However, the submitted plans do not provide any indication of the exact number or location of public and affordable housing units throughout the five proposed buildings. Officers consider that a suitable mechanism to demonstrate how the public/affordable housing components will actually be delivered when the development takes place should be required in conjunction with an approval of this application, if approval is granted, and an appropriate recommendation to the WAPC to address this matter is provided as part of the City officer recommendation below.

The MoU also specified that the Housing Authority would carry out at least two consultations with the City's DAC and a process of engagement with the local community prior to lodgement of a formal development application. Officers can confirm that the applicants held a community engagement event in the local area in late 2020 and have presented to the DAC on two occasions prior to lodging the application, in addition to a post-lodgement presentation on 11 October 2021 as referred to under 'Design Quality' below.

Other Community Consultation Matters

It is noted that the proposal includes the following elements, which are supported or recommended for appropriate conditions of approval should the WAPC approve the development.

- The project has committed to implement 4 star Green Star design requirements in line with the City's policy *LPP 2.13: Sustainable Buildings Design Requirements*.
- The development includes a landscaping plan which should be implemented prior to occupation of the development and maintained for the life of the development.
- Although waste will be collected by a private company, a final Waste Management Plan and Delivery Management Plan should be submitted prior to a BP being issued.
- Noise impacts / Fremantle port conditions/ Notification to be imposed as part of the referral to WAPC.
- The applicant will also be advised of community concerns associated with potential dilapidation of surrounding properties during the construction stages of the proposal.

Design Quality

The submitted proposal was presented to the City's Design Advisory Committee (DAC) on 11 October 2021 (this followed two pre-lodgement presentations to the DAC in accordance with commitments under the MoU referred to above). A copy of the Minutes of the 11 October meeting has been provided to the WAPC and are attached. The City's

DAC has identified a number of design strengths of the proposal and provided comments and recommendations in accordance with SPP7.0 Design of the Built Environment, as detailed below.

Strengths

- Largely compliant with the planning scheme with some additional height sought on Skinner Street which is not considered an issue.
- A successful master plan which seeks to arrange a series of buildings throughout a complex and heavily contoured site so as to address the adjoining public domain in an active and engaged manner.
- Each building presents in a unique way whilst relating to the overall form in a coherent manner presenting in a visually diverse yet cohesive way.
- A collection of high quality community focused public spaces and facilities as well as provision of high quality resident amenity including roof top terraces.
- A remodeled public pathway along the eastern side of Burt Street that successfully balances public and universal access with ground floor resident privacy.
- High levels of natural light, view and vista provided in the various corridors and lobby conditions.
- 67% cross ventilation and adequate solar access.
- Largely successful aesthetic response including the use of masonry.
- High quality landscape design.
- Double sided townhouse typology with sunken courtyards functions well in the provision of private outdoor space and natural light.

Recommendation

In addition to the above comments DAC also made the following recommendation:

- Consider adapting apartments that are located well below adjoining ground level into uses not so sensitive to natural light, view and vista. For example, car bays or store areas.
- Consider providing direct access from various bedrooms to balconies where possible and opportunistic.
- Ensure that 'snorkel' bedrooms do not only enjoy a generous width of 'snorkel' but are also not situated deeply within the plan. Consider deleting the balcony edge in some instances to allow better access to natural light. Where this is not possible reconsider the validity of the bedroom.
- Consider verge visitor bays.
- Consider more direct, intuitive and legible entries to buildings 2 and 4 that visually connect the entry with the lift.
- With the City of Fremantle, seek ways in which the public footpath at the eastern end of Burt Street can be continued along the western portion of Burt Street to provide public footpath access around the entire site. This additional extent may not need to provide for universal access as that is already provide for through the central part of the site.

Officers agree that the design quality of the proposed development responds appropriately to each of the Principles of Good Design and will make a positive

contribution to the built form in Fremantle. Officers recommend that the WAPC encourage the applicant to submit amended plans in response to the above point 4 (*Consider verge visitor bays*). The applicant's response to point 4 above will however require the City of Fremantle input as street verge treatments fundamentally requires Council's consent.

The City of Fremantle's Design Advisory Committee generally supported the design of the proposed six storey mixed use development subject to the following considerations:

- Rearrangement of the main building entries to Buildings 2 and 4 to provide for legible, intuitive and direct access to the lifts.
- Amendments to, or deletion of, the 'snorkel' bedrooms to ensure that the depth, as well as the width of the aperture, provide for sufficient access to natural, light, ventilation, view and vista for the occupants.
- Amendments to, or deletion of apartments where the private outdoor space is located significantly below the adjoining ground level. As an approximate guide, a person sitting in the private outdoor space should be able to have a clear line of site out of the dwelling.

Following this DAC meeting the applicant opted to amend the plans to address the 3 points above raised by DAC and as such the application is supported.

Conclusion

The proposed development has been considered in accordance with LPS4, the R-Codes and Councils relevant Local Planning Policies. Officers acknowledge that the development proposal is being formally determined only under the MRS and the provisions of LPS4 are only used for guidance purposes, and that the proposed building height and some land uses may not strictly satisfy all the criteria of the LPS4 or LPP3.16 policy. Notwithstanding this assessment, the bulk, scale and overall design of the proposed development is considered supportable for the reasons outlined in the report above.

The proposed development is considered to be of a high design quality that will make a positive contribution to the built environment of Fremantle and deliver positive short- and long-term benefits to the Fremantle economy.

Subject to a satisfactory response to the issues raised above, Officers recommend that the WAPC be advised that the Council generally supports the proposed development.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

The proposed development is considered to make a positive contribution towards meeting several objectives of the Strategic Community Plan as follows:

- Increase the number of people living in Fremantle.
- Incubate, support and develop a vibrant arts community.
- Support innovative housing, work and exhibition options for artists.
- Increase diversity of dwellings (including adaptive, accessible and affordable housing).

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICERS RECOMMENDATION

The City of Fremantle advises the Western Australian Planning Commission that that it supports the proposed Public Works mixed use development at No.19-21 (Lot 1873) and No.23-25 (Lot 1907) Burt Street, Fremantle, on the basis of the submitted plans dated 23 September 2021, subject to the following:

1. The City's support for the development relates to works shown on the submitted plans within the cadastral boundaries of Lots 1873 and 1907 only. The submitted plans also show indicative tree planting, footpath construction and other hard and soft landscaping works within the road reserves abutting the lot boundaries. These road reserves are under the management of the City of Fremantle and separate approval will be required from the City for any works undertaken by the applicant within the road reserves. The applicant should be advised that at this time the City does not necessarily support the design of all landscaping works within the road reserves as shown indicatively on the submitted plans. The applicant is strongly encouraged to discuss with the City the detailed design and funding arrangements for public realm works within the road reserves including, but not limited to, the alignment of new footpaths and opportunities to incorporate additional public parking bays on Vale Street and Skinner Street as part of integrated landscaping treatments of road reserve verge areas.
2. Prior to commencement of the first stage of development on site, the applicant is requested to provide the City of Fremantle with information to demonstrate how, within each stage of development, the following provisions of the Memorandum of Understanding (MoU) between the Housing Authority and the City of Fremantle executed on 29 June 2015 will be fulfilled:
 - i. between 10 and 15% of the first 180 dwellings must be in the form of Public Housing (as defined in the MoU);
 - ii. at least 45% of the first 180 dwellings must consist of a mix of Public and Affordable Housing (as defined in the MoU) including the Public Housing referred to in (i) above;
 - iii. the balance of the first 180 dwellings may be in any form capable of approval;
 - iv. at least 25% of all dwellings shall be designed so they are readily adaptable to accommodate people with disabilities in accordance with

the provisions of Australian Standard AS4299-1995 relating to adaptable housing class C.

3. The attention of the Western Australian Planning Commission is drawn to the submissions made in response to community consultation on the application undertaken by the City of Fremantle on behalf of the Commission, and the Commission is requested to give full consideration to the issues raised in submissions in the preparation of the Responsible Authority Report on the application.
4. Any approval should be subject to the following conditions:
 - All storm water discharge shall be contained and disposed of on site.
 - The development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.
 - Prior to the issue of a Demolition Permit or Building Permit for the various stages of the development hereby approved the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste
 - Additional management requirements to be implemented and maintained for the life of the development.

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

- Prior to practical completion of the development hereby approved, an outdoor lighting plan must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties.
- Prior to practical completion of 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 the issue of a Building Permit for each stage of the development hereby approved, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:
 - a) Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or “double glazed” utilising laminated or toughened safety glass of a minimum thickness of 3mm.

- b) **Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.**
- c) **Roof insulation in accordance with the requirements of the Building Codes of Australia.**

- **Prior to the issue of a Demolition Permit or Building Permit for the various stages of the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle.**
- **Prior to the issue of a Demolition Permit or Building Permit for the various stages of the development hereby approved, a Construction/Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:**
 - a) **Use of City car parking bays for construction related activities;**
 - b) **Protection of infrastructure and street trees within the road reserve;**
 - c) **Security fencing around construction sites;**
 - d) **Gantries;**
 - e) **Access to site by construction vehicles;**
 - f) **Contact details;**
 - g) **Site offices;**
 - h) **Noise - Construction work and deliveries;**
 - i) **Sand drift and dust management;**
 - j) **Waste management;**
 - k) **Dewatering management plan;**
 - l) **Traffic management; and**
 - m) **Works affecting pedestrian areas.**

Dewatering application must include:-

- **Written approval from department of Water and Department of Park and Wildlife**
- **Dewatering impact report**
- **Before discharge in to the City's storm water system, they need to have a sediment control and weekly monitoring plan.**

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

- **Prior to the issue of a Building Permit for the various stages of the development hereby approved, the applicant/owner is to submit a copy of documentation from the Green Building Council of Australia or a suitably qualified professional stating how the development will achieve a Green Star rating of at least 4 Stars or equivalent, to the satisfaction of the City of Fremantle.**

- Prior to practical completion of the building hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.
 - Prior to practical completion of the building 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.
 - Prior to practical completion of the building 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.
 - Prior to practical completion of the building hereby approved, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the subject site is located in close proximity to the Fremantle Port and the Fremantle Art Centre and may be subject to noise, odour and activity not normally associated with residential use. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.
5. Any approval should be subject to the following advice notes:
- The applicant is advised that the above conditions have been worded to enable compliance of requirements at individual building stages.
 - Levels as per existing footpath and/or ROW

Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;

Any adjustment in levels is to be achieved within the property boundaries;

Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

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

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

- In regard to the condition requiring a Construction Management Plan, Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>.

A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:

<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>

The Infrastructure Business Services department can be contacted via info@fremantle.wa.gov.au or 9432 9999.

- The existing tree within the road reserve, shown on the approved plans shall be protected through the implementation of a Tree Protection Zone for protection during construction. Additional information with regard to the tree protection zone requirements can be found here: <https://www.fremantle.wa.gov.au/residents/trees-and-verges>.
- The applicant is advised to liaise with adjacent land owners with regards to the potential to undertake dilapidation reports prior to commencing site works due to the concerns raised during the community consultation of this application.
- 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.

- Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.
- The premises must comply with the *Food Act 2008*, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the *Food Act 2008*. For further information contact Environmental Health Services on 9432 9999 or via health@fremantle.wa.gov.au.
- The applicant is advised that the existing verge tree is to be protected during the construction process with a minimum 2.8x2.8m fencing enclosure.
- The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with the City's standard for crossovers, which are available on the City of Fremantle's web site. The applicant is advised that the new vehicle crossover shall be separated from any verge infrastructure by:
 - a minimum of 1.5 metres in the case of verge trees

**PC2112-2 SOUTH TERRACE, NO. 271 (STRATA LOT 1) SOUTH FREMANTLE -
CHANGE OF USE TO SMALL BAR AND ALTERATIONS AND
ADDITIONS TO EXISTING BUILDING (DA0352/21)**

Meeting Date:	1 December 2021
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Amended Plans
Additional information:	1. Site Photos
	2. Schedule of Submissions
	3. Planning report provided by applicant
	4. Parking analysis
	5. Acoustic report provided by applicant

SUMMARY

Approval is sought for a change of use from Shop to Small Bar with associated alterations and additions at No. 271 (Lot 1) South Terrace, South Fremantle.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period. The application seeks discretionary assessments against Local Planning Scheme No. 4 (LPS4) in relation to:

- **Land use; and**
- **Parking.**

The application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for a change of use from Shop to Small Bar at No. 271 South Terrace, South Fremantle. The proposed works include:

- Internal fit out;
- Demolition of a rear addition and new single storey rear addition, comprising bathroom facilities and new enclosure to rear verandah;
- Roof treatments;
- Replacement of windows to front, rear and northern side elevations.

The business details of the proposed Small Bar use are as follows:

- The maximum capacity of a Small Bar as per the definition in LPS4 is 120 patrons. In reality, the size of the tenancy and sanitary facilities provided means that the maximum capacity under Public Building regulations is anticipated to be 102 people;
- 87m² of internal floor area (Public bar floor area of 27m² and seating/balcony area 60m²);
- Maximum opening hours of:
 - Monday-Saturday: 6am to 12am;
 - Sunday: 10am to 12am;
 - New Years Day: 12pm to 2am;

- Small scale food (i.e. cheese platters, snacks); and
- Patron access into the building from the South Terrace entrance only.

The applicant submitted amended plans on 21 September 2021 including the following:

- Updated floor plan indicating location of proposed licensed area (with courtyard excluded from scope of application). It is noted that the licensed area protrudes slightly into the road reserve. It is not known if this is intended, however will result in an additional impact on residential amenity if this portion is used for alfresco dining;
- Plans have been updated to show the Bakehouse as a Shop, however as this is not on the same lot, it has not been advertised (as required for an 'A' land use) and is therefore excluded from this application; and
- Details demonstrating how the recommendations of the Acoustic Report will be met through various treatments to the existing building.

Amended development plans are included as Attachment 1, and the planning report, parking analysis, and acoustic report supplied in support of the application by the applicant are provided as Additional Information.

Site/application information

Date received: 18 August 2021
 Owner name: Margaret Morris
 Submitted by: Urbis Pty Ltd
 Scheme: Mixed Use
 Heritage listing: Not Heritage Listed, located in South Fremantle Heritage Area
 Existing land use: Shop
 Use class: Small Bar
 Use permissibility: A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) due to the Small Bar land use requiring advertising, in addition to the car parking, delivery, and bicycle parking shortfalls. The advertising period concluded on 13 September 2021, and 22 submissions (19 against and 3 in support of the proposal) were received, including two petitions (one in support and the other objecting).

The petition in support of the proposal included approximately 442 signatures from the following postcodes –

- 6162 (South Fremantle, Beaconsfield, and White Gum Valley)
- 6160 (Fremantle)
- 6163 (Hamilton Hill, Spearwood, Bibra Lake, Coolbellup, North Lake, and Kardinya),
- 6158 (East Fremantle)
- 6159 (North Fremantle)
- 6157 (Bicton, Palmyra, and part of O'Connor)
- 6154 (Alfred Cove, Myaree, and Booragoon), and
- 6156 (Attadale, Melville, and Willagee).

The petition in opposition to the proposal included approximately 140 signatures predominantly from the South Fremantle locality.

The following primary issues were raised by the objectors (summarised):

- Parking and congestion;
- Noise and its impact on residential properties;
- Accuracy of acoustic report;
- Intoxication and antisocial behaviour;
- Incompatibility with amenity;
- Inability to comply with COVID-19 restrictions;
- No need for additional licensed venues in the area; and
- Waste generation.

The following primary comments were provided by the supporters of the proposal (summarised):

- Good addition to the area;
- Most patrons will walk to premises;
- Business will operate safely, respectfully and efficiently;
- Business will have a positive economic, tourist, and social impact on the locality;
- Premises is of a small scale;
- Premises is consistent with current and future character of the locality; and
- The premises is well designed.

Given the large volume of submissions received, a schedule of submissions including relevant officer comments has been prepared and attached to this report. The remaining comments relating to land use, noise and parking are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, and relevant Council local planning policies. In this particular application the areas outlined below do not meet the policy provisions and need to be assessed under the relevant discretionary criteria:

- Land use
- Car parking
- Delivery bay
- Bicycle parking

The above matters are discussed below.

Background

The subject site is located on the west side of South Terrace in South Fremantle. The parent lot has a land area of approximately 359m² and Lot 1 is currently used as a Shop. The site is zoned Mixed use and has a density coding of R30. The property is not individually heritage listed, however is located within the South Fremantle Heritage Area.

The parent lot currently contains several structures, comprising of a two storey Grouped dwelling at the rear of site, an outbuilding (Old Bakehouse), and the Shop to the front of the lot.

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

- DA128/03 (two storey dwelling) – Lot 2 at rear.

Land Use

A Small Bar is an 'A' use in the Mixed Use Zone, which means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice (advertising) in accordance with clause 64 of the Deemed Provisions.

Firstly, in considering this land use, the LPS4 objectives of the Mixed Use zone have been considered. -

Development within the mixed use zone shall—

- (i) *provide for a mix of compatible land uses including light, services and cottage industry, wholesaling, trade and professional services, entertainment, recreation and retailing of goods and services in small scale premises, including showrooms, where the uses would not be detrimental to the viability of retail activity and other functions of the City Centre, Local Centre and Neighbourhood Centre zones;*

- (ii) *provide for residential at upper level, and also at ground level providing the residential component is designed to contribute positively to an active public domain;*
 - (iii) *ensure future development within each of the mixed used zones is sympathetic with the desired future character of each area;*
 - (iv) *ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality, and*
 - (v) *conserve places of heritage significance the subject of or affected by the development.*
- Development within the Mixed Use zone should contribute to a range of land uses that are compatible with each other. The introduction of new land uses, even if listed as one in the objectives, is not intended to be to the detriment of other existing uses that currently exist in a locality.
 - The subject site is located between existing sections of South Terrace which have an accumulation of established licensed venues and is currently an area that provides daytime uses such as a Bakery, Shop and residential uses which add to the diversity of the zone as a whole.
 - The site is located approximately 300m north of the Saroor Bar and Restaurant, South Beach Hotel, 220m north of Running with Thieves, and 380m south of Percy Flint and the Local. These two sections of South Terrace both include Heritage Listed hotels which have long been in the area.
 - It is acknowledged that a Small Bar is a discretionary land use that is able to be considered within the Mixed Use zone. Other land uses within a Mixed Use zone, must reasonably expect that land uses different to their own may locate in their vicinity and that change can occur over time.
 - However, when considering whether to approve a new land use within the zone, given the Mixed Use zone seeks a mix of both commercial uses with reasonable levels of activity and residential uses to support the viability of those businesses, the amenity of residential uses needs to be considered.
 - The Mixed Use zone is not intended to have the same level of activity as a City Centre where it is expected to have multiple licenced venues and entertainment premises as a matter of course.
 - The objectives of the zone state that new development **is not** detrimental to the amenity of adjoining owners or residential properties. The key impact of this proposal is on the amenity of the residential land uses adjoining this site and within the locality.
 - A residential property is predominantly occupied during the evenings and is a place of rest, with occasional activity. When inserting a small bar into a locality with a potential capacity of 100+ persons consuming alcohol that seeks to be open late into the evening, there is a high likelihood for residential amenity to be impacted even with strict adherence to noise regulations. Elements that may disturb this amenity include –
 - Waste removal – i.e. glass bottles into bins;
 - People entering and leaving the premises during later hours of the evening;
 - Patrons being dropped off by ride share/taxis in the streets;
 - Deliveries to the site;
 - Noise from patrons; and,
 - Light spill to neighbouring properties.

- The subject site is not located in a Heritage Listed place, though it is within the South Fremantle Heritage Area. The structures proposed to be demolished are of limited to no significance and could be supported to be removed.

Additionally, in considering an 'A' use the Council will have regard to the matters to be considered in the Deemed Provisions of the Regulations. In this regard the following provisions of Clause 67 of the Regulations have been considered in the Table below:

Provision	Officer comment
(a) <i>The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area</i>	See discussion in body of the report.
(g) <i>any local planning policy for the Scheme area</i>	See discussion in body of the report relating to Local Planning Policy D.B.U6 – <i>Late night entertainment venues serving alcohol</i> .
(m) <i>the compatibility of the development with its setting, including —</i> <i>(i) the compatibility of the development with the desired future character of its setting; and</i> <i>(ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development</i>	The impact of the use on the character of the area is an important consideration which is further detailed in the body of the report. Regarding the built form of the proposal, it is considered that it is predominantly internal, with the external modifications proposed at the rear of the property relatively minor in their impact to adjoining properties and the streetscape, with no adverse building bulk or scale issues posed.
(n) <i>The amenity of the locality including the following:</i> <i>(i) Environmental impacts of the development</i> <i>(ii) The character of the locality</i> <i>(iii) Social impacts of the development</i>	See the body of the report for further discussion relevant to noise. The impact of the proposal on the character of the broader locality is detailed above in the assessment of the use against the Mixed use zone. In relation to the more immediate locality, the subject site is abutted by short stay accommodation to the south, and residential land uses abutting the site to the north, east, and west. Within the immediate locality exist retail, personal services, galleries, eateries, and other non-licensed venues. See diagram 1 below for a more detailed demonstration of the land uses in the immediate locality.
(s) <i>the adequacy of —</i> <i>(i) the proposed means of access to and egress from the site; and</i> <i>(ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles</i>	No parking or delivery bays are proposed on the subject site. Parking and delivery bays are discussed further below.

<p><i>(u) the availability and adequacy for the development of the following —</i></p> <p><i>(i) public transport services;</i></p> <p><i>(iii) storage, management and collection of waste;</i></p> <p><i>(iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);</i></p>	<p>Discussion relating to public transportation and bicycle racks is provided in the body of the report.</p> <p>There are issues raised with respect to the Waste Management plan in relation to collection, the City's waste collection officers inability to access the property to collect the bins, and the bi-weekly collection of recycling (though general waste can be collected weekly).</p> <p>It is also considered that waste collection may pose an adverse amenity impact given bins will need to be presented to the street (no on-site collection permitted). With the amount of waste produced, and infrequency of collection for recycling, this will likely result in up to four 360 litre bins being presented to the street at any given time.</p> <p>Should this land use be supported, further detailed consideration will need to be given to the Waste Management Plan.</p>
<p><i>(x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals</i></p>	<p>The impact of the development on the community of the locality is discussed in the body of the report.</p>
<p><i>(y) Any submissions received on the application.</i></p>	<p>A detailed discussion relating to the submissions received is provided in the schedule of submissions.</p>



Figure 1: General land use map present in immediate locality of subject site.

Parking

Element	Requirement	Proposed	Extent of Variation
Car parking (Small Bar)	1: 2.5 m ² of public bar area	Nil	23 bays
	27.5m ² public bar area proposed		
	11 bays required		
	1: 5 m ² of lounge /garden area	Nil	
	60m ² lounge proposed.		
	12 bays required		
Delivery bay (Small Bar)	1: service/storage area	Nil	1 bay
Bicycle racks (Small Bar)	Class 1: 1 per 25 m ² bar floor area and 1 per 100 m ² lounge and beer garden 4 Class 1 bays required.	Nil	4 Class 1 bays
	Class 3: 1 per 25 m ² bar floor area and 1 per 100 m ² lounge and beer garden	Nil	4 Class 3 bays required.
	4 Class 3 bays required.		

There are no parking provisions specific to a 'Small Bar' in LPS4. Therefore, the requirements of a Hotel/tavern have been consistently used by the City in assessing Small Bar applications, as they most closely relate to the nature of the land use.

The overall car parking shortfall of 23 bays and a delivery bay is not considered to meet the discretionary provisions of Clause 4.7.3.1 of LPS4 in the following ways:

- Though it is reasonable to assume that some patrons will use ride-share services and active travel (e.g. cycling and walking), the site does not have any parking available for staff who are likely to drive given late closing hours.
- The number of patrons driving will fluctuate depending on the day and the individual, however on days of even low demand is likely to add strain to the existing parking issues in this portion of South Fremantle. The existing parking issues in the locality are generally the result of heritage listed dwellings which don't contain on-site parking facilities, in addition to relatively narrow streets. The presence of crossovers to a number of dwellings results in fewer on-street bays being available. Additionally, there is a lack of City-run and privately owned car parks available for public parking in the immediate area;
- Regarding public transport, the locality has several services available after 7pm on a weekend (considered to be a busy time), however they predominantly travel along Hampton Road and require a 500m walk to the site. It is noted that the 532 bus route services the site more directly, however, it is infrequent during weekend nights. It is noted that the Blue CAT bus ceases services at 6:25pm on weeknights, 7:45pm on Fridays, and 6:20pm on weekends and public holidays;
- It is noted that the applicant has provided a parking analysis (see additional information). It is noted that the time restricted on-street parking generally tends to finish after 6pm, meaning that more people may be encouraged to drive to the locality to visit the premises in the evening. This, in addition to the lack of turnover of bays due to no time restrictions and competition with resident parking due to a lack of on-site parking for a number of residences, will compound the existing car parking issues present in the locality;
- It is noted that based on the development plans provided, the existing Shop on Lot 1 has a current shortfall of 6 bays. Therefore, the shortfall of bays is increased by 17 bays;
- There are no designated loading bays in the street near the development site; and
- No bicycle racks are provided on-site for patrons or staff seeking alternate means of transport.

The bicycle rack shortfall variations are not considered to meet the discretionary provisions of clause 4.7.3.3 and 4.7.3.4 of LPS4 in the following ways:

- The application does not constitute a sufficiently minor change of use to warrant the waiving of the Class 1 racks due to the significant change in the number of patrons coming to site compared with the existing Shop use;
- The incorporation of Class 3 racks is not considered incompatible with the design of the premises; and,
- The Class 3 racks are not considered to be able to be adequately provided in the public realm.

If the application were supported, the provision of bicycle racks could be accommodated on site or within the immediate verge area, subject to review of existing verge infrastructure.

D.B.U6 – Late night entertainment venues serving alcohol

The proposal has been assessed against the relevant provisions of this Policy.

Element	Requirement	Proposed
General Provisions For All Late Night Venues Which Propose To Serve Alcohol	1.1 Location Due to access and safety issues, any proposal for a late night entertainment venue (serving alcohol), including hotels, night-clubs, jazz and piano bars and performing arts centres, should be located on land adjacent to well-lit through streets to enable adequate safety and access for taxi cabs. Ideally a loading zone or similar shall be located near the entrance to the building to allow for private vehicle drop off and pick up as well as pre-ordered taxi travel. Amenity and safety considerations may preclude narrow or quiet streets from this type of development.	The subject site is located on a portion of South Terrace with a degree of lighting provided, however isn't considered well lit. Nonetheless, the lighting provided by the premises in combination with the street lighting is considered reasonable to provide a degree of safety. Delivery services are discussed in the body of the report. The street is wide, and whilst is busy during the day, its amenity is considerably quieter during the night.
	A provision for a queuing area at the entry of the venue is required on site if admission fees or other line up situations are proposed for the venue.	It is considered unlikely that patron numbers would be sufficient for any extended period of time to require a queuing area.
	If this is not possible Council may consider a site adjacent to a footpath of 3 metres minimum width (from the kerb to the entrance of the property).	As discussed above, a dedicated queuing area is considered unnecessary, however the footpath is considered generally wide enough to accommodate a line whilst allowing for pedestrian traffic to flow.
	Proximity of proposed late night entertainment facilities (serving alcohol) to residential development shall form a significant part of the assessment of the applications as, in general, Council does not support proposals which may encourage conflict between land uses.	As discussed in the body of the report, given the proximity of the premises to adjoining residential land uses, it is considered that land use conflict will be a significant issue.

Noise

An Acoustic report has been provided by the applicant to justify the change of use proposal. During the advertising period, a submission was received that challenged the competency of this report. Officers have reviewed both the applicants report and submitter's review. Whilst the Acoustic Report provided by the applicant is generally

considered satisfactory in its technical competency, there are some items which have been underestimated including the exclusion of waste and deliveries as a noise source and the length of time doors and windows may be kept open at both the front and rear of the site (at the toilet facilities).

Notwithstanding the edits that may be needed to the report, its effective implementation will require strict adherence to the recommendations at all times. It is also difficult to predict compliance with noise regulations until the noise source is fully operational, noting that many of the mitigation measures are assumptions and will be unable to be verified until in place.

The recommendations and proposed works detailed in the report include:

- Managing the sources of noise, with measures including:
 - Music to be at background levels only;
 - Loudspeakers to have appropriate mounts to stop vibrations and resonances and point to centre of indoor bar;
 - All mechanical equipment and furniture shall be disconnected from building structure with anti-vibration mounts and furniture to be fitted with sliding panels or felt; and
 - Installation of appropriate toilet exhaust fan).
- Installation of sound absorption panels and barriers and absorptive furniture and floors;
- Minimise air gaps at boundary areas;
- Provide automatic closing system for rear door;
- Retrofit all existing windows to make them air-tight and upgrade existing glass;
- Retrofit all doors as required;
- Upgrade ceiling with high-density insulation and one layer of mass loaded vinyl; and,
- Ensuring doors and windows are closed, other than for patron transit, after 10pm on any days. Doors and windows to also be closed, other than for patron transit, during Sundays, public holidays, and after 7pm when venue capacity is above 30%;
- Limiting waste disposal to daytime hours.

Having the windows and doors closed at all times is considered an unrealistic expectation given how licensed premises operate. However well a licensed premises might be managed, there is a reasonable likelihood that noise from the venue will pose an adverse impact on the locality and in particular, is likely to result in a negative amenity outcomes for the adjoining residents. Additionally, as discussed in the land use assessment above, complying with the Noise Regulations is only one element of assessing the amenity impact of a new land use. A use that complies with noise regulations, can still provide a negative impact on the amenity of uses in the locality. It is further noted that noise being generated from people traveling to and from the site, in addition to using transport, is considered to have an adverse effect on the locality.

CONCLUSION

The proposed land use of Small Bar has been assessed to not be compatible with existing residential land uses in the locality. The anticipated detrimental impact on the

amenity of these uses and the impact of the parking shortfall on the locality is not supported, therefore officers recommend refusal.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

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

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use to Small Bar and alterations and additions to existing buildings at No. 271 (Lot 1) South Terrace, South Fremantle, as detailed on plans dated 21 September 2021, for the following reasons:

1. The proposal Small bar use does not meet the Local Planning Scheme No. 4 objectives of the Mixed Use zone due to its impact on the amenity of adjoining residential uses.
2. The proposal would be detrimental to the residential amenity of adjoining properties under clause 67 of *Planning and Development (Local Planning Scheme) Regulations 2015*.
3. The proposal does not meet the parking requirements of Local Planning Scheme No. 4.

**PC2112-3 SOUTH TERRACE, NO. 2/284 (LOT 22) SOUTH FREMANTLE -
CHANGE OF USE FROM OFFICE TO SHOP AND UNAUTHORISED
SIGNAGE (DA0405/21)**

Meeting Date: 1 December 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plan
Additional information: 1. Management Plan
2. Site Photos

SUMMARY

Approval is sought for a change of use from Office to Shop and associated existing signage at Unit 2, No.284 South Terrace, South Fremantle in a ground floor tenancy of the development on site.

The proposals are 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). These discretionary assessments include the following:

- Land Use (Shop)
- On site car parking
- Unauthorised window signage

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a change of use from Office to Shop of an existing 75m² commercial tenancy, on the ground floor of a mixed-use building at 284 South Terrace in South Fremantle. The proposal includes:

- Changing the approved use from Office to Shop so that the tenancy can be occupied for a Massage Parlour;
- Opening hours of 9am – 8pm (Monday – Sunday);
- Maximum of 2 employees onsite at anytime; and
- Unauthorised window signage.

The land use definition of a Shop under the City's Local Planning Scheme No. 4 is: '*A premise used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet.*' Uses such as massage parlours and tattoo studios as well as hairdressers, beauty therapists and nail bars have been consistently interpreted by the City of Fremantle (the City) as falling within the 'services of a personal nature' component of this definition since the gazettal of LPS4 in 2007.

Development plans are included as attachment 1 comprising plans for each element of the development application (change of use and signage).

Site/application information

Date received: 15 September 2021
 Owner name: South Terrace Management Pty Ltd South Terrace Development Trust
 Submitted by: Metrowest
 Scheme: Mixed Use
 Heritage listing: South Fremantle Heritage Area
 Existing land use: Office
 Use class: Shop
 Use permissibility: A



CONSULTATION

External referrals

Nil required.

Community

The proposal was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), as it involves a use which requires consultation prior to obtaining approval and the application also involves a car parking shortfall. The advertising period concluded on 20 September 2021, and five submissions were received. The following issues were raised (summarised):

- A massage parlour is inappropriate for this site;
- The land use will result in carparking issues for the locality which is already under significant pressure and will impact local residents;
- The mix of Shops to small office offerings is also a concern, don't think the area needs more small shops,
- Bylaws of the strata should prevent this use,
- Concerned with the area becoming a 'red light district',
- Concerned that the community consultation signage was done correctly,
- Noise generated by the use is of concern,
- The City has made no provision for new car parking facilities in the locality to cater for more parking demands, and
- The present business at 2/284 South Terrace seems to operate at night-time when there is already a competing demand on car parking in the entire locality from existing hospitality businesses in the immediate vicinity.

In response to the above, the applicant submitted the following response (summarised):

- Concerns associated with an alleged illegal activity occurring within the premises need to be pursued with the Western Australian Police as the City doesn't have the jurisdiction to investigate or enforce such matters.
- With regards to strata bylaws and enforcement of these provisions, this is a matter which would need to be pursued under Strata titles legislation which is not enforced or administered by the City.
- The City notes that the applicant will be advised the development will need address current acoustic requirements and must comply with the *Environmental Protection (Noise) Regulations 1997*.

The issue of car parking and land use is discussed further in the officer comment section below.

OFFICER COMMENT

Statutory and policy assessment

The proposals have been assessed against the relevant provisions of LPS4, and relevant Council local planning policies. In this application the areas outlined below require discretionary assessment under LPS4:

- Land use (Shop)
- On site car parking
- Signage

The above matters are discussed below.

Background

The subject site is located on the eastern side of South Terrace, on the street block between Charles Street and King William Street. The site has a land area of approximately 1617m² and is currently occupied by a three-storey mixed-use building with residential apartments to the upper floors. The site is zoned Mixed Use and has a density coding of R30 but was developed to an R60 coding in accordance with LPS4 cl. 4.2.5. The site is located within the South Fremantle Heritage Area.

On site car parking is provided on the ground level behind a vehicle gate. The site was developed with a Restaurant (corner tenancy), two shops (two southern units) and 3 office tenancies (remaining units between the Restaurant and Shop units) to the ground floor of the building along South Terrace.

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

- 18 March 2015 - DAP013/15 – Demolition of existing Building and construction of three storey mixed use development, including allocation of land uses. Approved by JDAP.
- DAPV007/16 – Minor alterations to Mixed use development approved as part of DAP013/15. This application was also approved by the JDAP.

Land Use (Shop)

A Shop is an 'A' use in the Mixed-Use Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval and consultation has been undertaken with surrounding landowners and occupiers. In considering an 'A' use the Council will have regard to the matters to be considered in the Regulations. In this regard the following matters have been considered:

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

It is considered that the proposed land use of Shop use is consistent with the objectives of the Mixed-Use zone for the following reasons:

- The proposed Shop could make a positive contribution to the Mixed Use zone, complementing existing uses, and adding vitality to the centre.
- It is considered that the change in use would not be significantly detrimental to the amenity of adjoining and adjacent residential properties. The proposed use will cater for a limited number of patrons at any one time not only by limiting the floor area of the tenancy, but it also is to have a maximum of two staff working at any time. In light of the modest size of the unit and the stated nature of the proposed business, it is considered that the potential for significant adverse impact on the amenity of residential properties can be appropriately managed.
- An appropriate advice note is recommended to be included alerting the owners to the requirement for compliance with the *Environmental Protection (Noise) Regulations 1997* (as amended).

On Site Car Parking

Element	Requirement	Proposed	Extent of Variation
Existing Tenancy (Office)	1 Bay per 30m ² gross lettable area (gla)	75m ² gla = 2 bays	1 bay
Proposed Tenancy (Shop)	1 bay per 20m ² of net lettable area (nla)	55m ² nla = 2 bays	1 bay

It is considered that the relaxation of parking requirements under clause 4.7.3 of LPS4 is appropriate for the following reasons:

- The total shortfall of onsite carparking remains unchanged from the already approved Office tenancy as per the original development approval for the site, being 1 bay. There are 2 car bays allocated to this unit in the strata plan, meaning they are not intended to be used by anyone other than the occupants of this tenancy (or visitors to).
- The site is surrounded by a number of publicly available parking bays (detailed below) and it is considered that the nature of the business is such that the turnover of occupants would be appropriately staggered over the opening periods of a business day due to nature of service and the one-to-one customer to staff member ratio typically experienced in these businesses.
- The immediate locality is occupied by a number of hospitality venues and residences, which typically demand greater parking after daytime business hours. To restrict the impact on the local community, hours of operation are proposed to be limited to 9am-8pm, noting these are the hours proposed by the applicant. It is noted that although the existing approval of Office would have contemplated slightly less hours per day it does have the same shortfall of car bays when assessed against LPS4 requirements, so limiting the business to these hours would assist in managing the impact on the locality.

Street	Bays available
South Terrace Between Louisa Street to Rose Street (western side)	6 bays
South Terrace Between Louisa Street to Rose Street (eastern side)	5 bays
South Terrace between Rose Street and King William (western side only)	7 bays
South Terrace between Rose Street and King William (eastern side only)	5 bays
South Terrace west side (South of King William)	4 bays (one hour)
South terrace east side (South of King William)	2 bays
Total	<i>Approximately 29 bays</i>

In relation to the above assessment, it is noted that the bay numbers are approximate as some of the parking areas are not individually marked. The majority of these bays are restricted to a maximum 1 - 2 hour stay limitation (shown below) which is expected to be consistent with the potential time spent by a client of such a business.



Image 1: 2 hour parking areas shown in yellow, 1 hour shown in red

Signage

The majority of the tenancy window frontage to South Terrace has been used for signage of the business occupying the unit.

LPP2.14 Advertisement Policy states that window signage is appropriate when:

- (a) *Casual surveillance of the street is sufficiently maintained; and*
- (b) *The advertisement is no more than 50% coverage of the total window area of the tenancy.*

The signage onsite is not considered to meet the above criteria as minimal casual surveillance is provided and approximately 90% of the window is covered by some form of signage for the business. Therefore, a condition is recommended to ensure the existing window sign be modified and reduced to a maximum coverage of 50% of the existing window area onsite for this tenancy to allow for an acceptable level of casual surveillance and interaction with the street.

CONCLUSION

In accordance with the above considerations, aspects of the proposal which vary the statutory planning requirements are considered to appropriately address the relevant discretionary criteria of the Scheme and Council policy. Accordingly, the proposal is recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use from Office to Shop and unauthorised signage at No. 284 (Lot 22) South Terrace, South Fremantle, subject to the following condition(s):

- 1) This approval relates only to the development as indicated on the approved plans, dated 15 September 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) Opening hours are restricted to between the hours of 9am and 8pm every day of the week.**
- 3) Within 60 days from the date of this decision letter, the existing window signage be modified to not occupy more than 50% of the existing window area for the site to the satisfaction of the City of Fremantle.**

Advice notes:

- i. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.**
- ii. All mechanical service systems including air-conditioners and pool filters etc are to be designed and installed to prevent emitted noise levels from exceeding the relevant decibel levels as set out in the Environmental Protection (Noise) Regulations 1997 (as amended).**

**PC2112-4 STIRLING HIGHWAY, NO. 82-84 AND ALFRED ROAD, NO.5, NORTH
FREMANTLE - EXTENSION AND UPPER FLOOR MULTIPLE
DWELLING ADDITIONS TO EXISTING COMMERCIAL BUILDING –
(CS DA0250/21)**

Meeting Date: 1 December 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site photos
2. Landscaping Plan
3. Transport Impact Assessment

SUMMARY

Approval is sought for an extension and the addition of twelve upper floor Multiple dwellings to an existing commercial building at 82-84 Stirling Highway, North Fremantle.

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

- Land Use
- Wall Height
- Solar and Daylight Access
- Natural Ventilation
- Lot Boundary Setback
- Private Outdoor Space and Balconies
- Visual Privacy
- Landscaping
- Plot Ratio
- Car Parking
- Signage

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the following additions and alterations to an existing two storey commercial building:

- Rear extension of the existing ground floor tenancies;
- New seating area on the Stirling Highway side of the building for the existing deli;

- Upper floor addition consisting of 12 Multiple dwellings (2 single bedrooms, 10 two bedrooms), and an internal corridor;
- Alterations to the existing roof and façade; and
- Pylon sign.

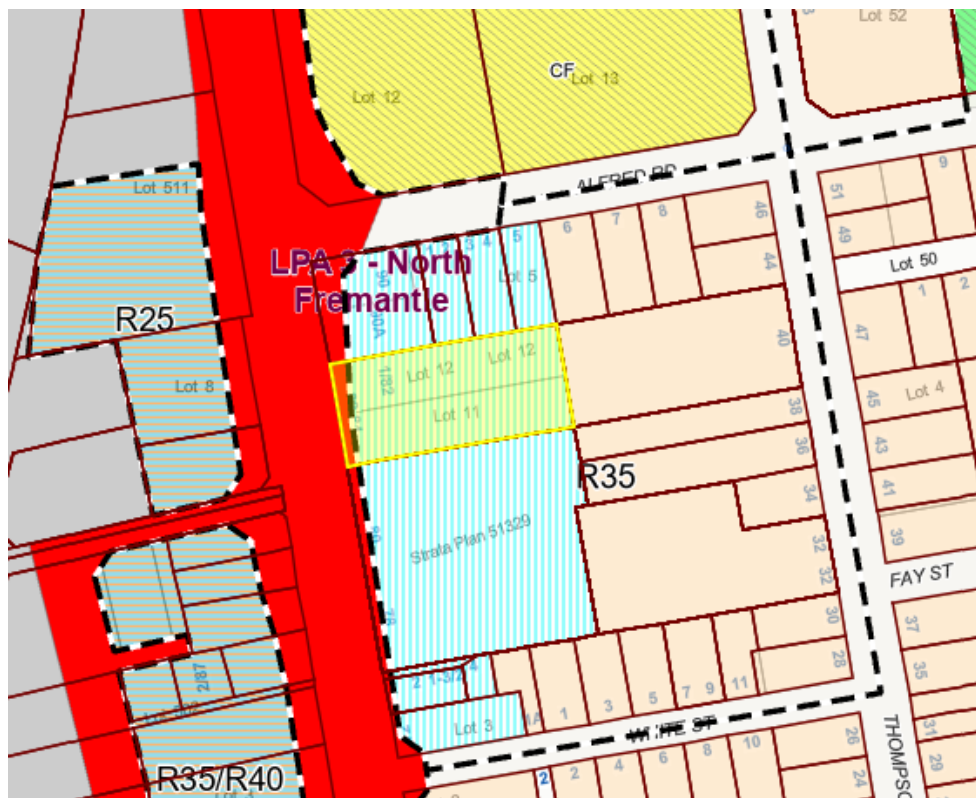
The applicant submitted amended plans on 24 August 2021, and again on 29 October 2021 including design changes in response to City Officer and Design Advisory Committee (DAC) comments, including:

- Extending the footprint of the ground floor dining area;
- Including additional planting on structures and trees;
- Roof alterations and internal changes of the Multiple dwellings to improve amenity; and
- Improved pedestrian access and legibility.

The latest amended development plans are included as Attachment 1.

Site/application information

Date received:	11 June 2021
Owner name:	Woodward Assets Pty Ltd
Submitted by:	United Studio
Scheme:	R35 Neighbourhood Centre
Heritage listing:	North Fremantle Heritage Area
Existing land use:	Shop, Showroom, Warehouse
Use class:	Shop, Showroom, Warehouse, Multiple Dwellings
Use permissibility:	D, D, D, A



CONSULTATION

External referrals

Fremantle Ports (FP)

The application was referred to FP as the subject site is located within Fremantle Port Buffer Area 2. No response was received, but it is recommended that the standard built form requirements of Buffer Area 2 of the policy should form part of any approval. These matters can be dealt with as relevant conditions and advice notes.

Main Roads Western Australia (MRWA)

The application was referred to MRWA for comment as the site is affected by a Primary Regional Road reservation. Main Roads have advised:

Main Roads has no objections subject to the following conditions being imposed:

- 1. Prior to occupation of the development, Lot 11 (82) and Lot 12 (84) Stirling Highway must be amalgamated.*
- 2. The area within the Stirling Highway Primary Regional Road reserve that is required for future road purposes must not be included in the car parking requirements for this development.*
- 3. This noise-sensitive development adjacent to a major transport corridor must implement measures to ameliorate the impact of transport noise. The development is to comply with WAPC State Planning Policy 5.4 Road and Rail and implement Noise Insulation "Deemed to Comply" packages for this residential development.*
- 4. Prior to the occupation of the building, certification from a qualified acoustic consultant is to be submitted confirming Condition 2 has been achieved. This certification must be provided to the City of Fremantle.*
- 5. A notification, pursuant to Section 70A of the Transfer of Land Act 1893 is to be placed on the Certificate of Title of the proposed development. The notification is to state:*
"The lots are situated in the vicinity of a transport corridor and are currently affected, or may in the future be affected by transport noise."
- 6. The redundant crossover on Stirling Highway must be removed and the footpath/verge reinstated at the applicant's cost.*
- 7. No works are permitted within the Stirling Highway road reserve unless Main Roads has issued a Working on Roads permit.*
- 8. In the event, where private infrastructure, including the signs contained within the widened road reservation/land requirement as detailed in Land Protection Plan 1.3340/4, upon receipt of a notice from Main Roads, the infrastructure is to be removed and the verge made good at the applicant's expense.*
- 9. Any illumination of the proposed pylon sign must not exceed 300cd/m² (candela per square metre) between sunset and sunrise.*

10. *The sign must not flash, pulsate or chase.*

11. *The pylon sign must not contain fluorescent, reflective or retro reflective colours or materials.*

12. *No waste collection is permitted from the Stirling Highway road reserve.*

Conditions of approval are recommended along with advice notes as requested by MRWA.

Design Advisory Committee (DAC)

In accordance with LPS4 and LPP 1.9 Design Advisory Committee and Principles of Design, when assessing a development proposal with a building height of greater than 11m, Council must have regard to the comments of the DAC to assist in determining the design quality of the development.

The application was presented twice to the DAC, once on 12 July 2021 and again on 13 September 2021. At the most recent DAC meeting, the members provided the following comments:

Design quality evaluation	
Strengths of the Proposal	<ul style="list-style-type: none"> • The form, profile and roof silhouette, including the saw-tooth arrangement, respond positively to context. • The compact nature of the apartment arrangement provides for an interesting proposal incorporating a mix and level of product diversity appropriate for the location. • The bulk, form and scale of the proposal is appropriate and supported. • The modified roof form assists with mediating the scale and mass of the proposal as well as introducing light into the apartments. • AC and service platforms integrated into, and concealed within, the roof forms. • The detachment and separation of the bedrooms from the walkway and the insertion of a landscape buffer is an improvement in relation to privacy.
Principle 1 Context and character	<i>Good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.</i>
	<p>a) The form, profile and roof silhouette, including the saw-tooth arrangement, respond positively to the context.</p> <p>b) The compact nature of the apartment arrangement provides for an interesting proposal incorporating a mix and level of product diversity appropriate for the location.</p>
Recommendations	1. Consider developing the east entry way further as a pedestrian-

	focused, mews-style environment with hard and soft landscaping and permeable paving that clearly signals a pedestrian environment over a vehicular roadway.
Principle 2 Landscape quality	<i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, within a broader ecological context.</i>
	a) Consideration of additional landscaping at the Stirling Highway entrance of the commercial tenancies should be explored.
Recommendations	1. Consider the location and viability of trees illustrated within the eastern car park/entry.
Principle 3 Built form and scale	<i>Good design ensures that the massing and height of development is appropriate to its setting and successfully negotiates between existing built form and the intended future character of the local area.</i>
	a) The bulk, form and scale of the proposal is appropriate and supported. b) The modified roof form assists with mediating the scale and mass of the proposal as well as introducing light into the apartments. c) The integration and concealment of AC and service platforms within the roof forms is supported.
Recommendations	1. Consider the saw tooth roof pitch taking into account future PV's mounting systems not being dominant or visually obtrusive.
Principle 4 Functionality and build quality	<i>Good design meets the needs of users efficiently and effectively, balancing functional requirements to perform well and deliver optimum benefit over the full life-cycle.</i>
	a) See recommendations below.
Recommendations	1. Consider extending the ground floor Unit 1 and 3 towards the car park and further recessing Unit 2 to create a centralised forecourt. 2. Carefully consider the soffit of the frontage at Stirling Highway to ensure all services in this location will be fully sleeved and concealed from the public realm. 3. The soffit/undercroft under the Stirling Highway entry has the capacity to host a collection of hydraulic pipes and services which need to be concealed
Principle 5 Sustainability	<i>Good design optimises the sustainability of the built environment, delivering positive environmental, social and economic outcomes.</i>
	a) The absence of a landscape and Environmental Sustainability Design (ESD) professional remains a concern.
Recommendations	1. The proponent is encouraged to appoint both a landscape

	professional and ESD professional to assist with the design resolution of the proposal.
Principle 6 Amenity	<i>Good design optimises internal and external amenity for occupants, visitors and neighbours, providing environments that are comfortable, productive and healthy.</i>
	<ul style="list-style-type: none"> a) The detachment and separation of the bedrooms from the walkway and the insertion of a landscape buffer is an improvement in relation to privacy. b) The facing windows between the southern unit bedrooms presents privacy and amenity issues for residents.
Recommendations	1. Consider alternating the location of facing windows to the bedrooms of the southern units to mitigate privacy issues between the bedrooms.
Principle 7 Legibility	<i>Good design results in buildings and places that are legible, with clear connections and easily identifiable elements to help people find their way around.</i>
	<ul style="list-style-type: none"> a) The legibility of the entry remains a concern whereby the primary and intuitive entry point is from Stirling Highway but the lift, and therefore disabled entry, is from the rear. b) The Alfred Road entry remains a challenge in relation to legibility. Further consideration of potential design strategies to improve its legibility is encouraged.
Recommendations	<ul style="list-style-type: none"> 1. Consider relocating the lift to the Stirling Highway entry. 2. Consider developing the east entry way further as a pedestrian-focused, mews-style environment with hard and soft landscaping and permeable paving that clearly signals a pedestrian environment over a vehicular roadway.
Principle 8 Safety	<i>Good design optimises safety and security, minimising the risk of personal harm and supporting safe behaviour and use.</i>
	a) N/A
Recommendations	1. N/A
Principle 9 Community	<i>Good design responds to local community needs as well as the wider social context, providing environments that support a diverse range of people and facilitate social interaction.</i>
	a) N/A
Recommendations	1. N/A
Principle 10 Aesthetics	<i>Good design is the product of a skilled, judicious design process that results in attractive and inviting buildings and places that engage the senses.</i>
	a) N/A

Recommendations	1. N/A
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<p>Concluding Remarks</p> <p>After considering the proposal for 82-84 Stirling Highway, North Fremantle, the Panel advises that whilst support for many of the design initiatives is evident, there are currently unresolved design issues noted above that need addressing.</p> <p>The applicant is encouraged to consider amending the plans having regard for the comments and recommendations above.</p>

The applicant submitted further amended plans on 29 October 2021 including design changes in response to City Officer and DAC comments, including:

- Further articulation to roof form;
- Landscape plan provided;
- PV cells concealed from public view, and angled to reflect roof form;
- A/C units concealed within roof form;
- Wheelchair access from rear (Alfred Road);
- Reconfiguration of shopfronts to create alfresco area fronting Stirling Highway;
- ESD appointment;
- Privacy improvements to both north and south units; and
- Windows facing internal walkway/communal open space offset to improve amenity of occupiers.

The additional changes provided in the latest set of amended plans are considered to have met the design recommendations made by the DAC.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as discretion was sought against LPS4 and the R-Codes. Letters were sent to residents in the immediate vicinity. The advertising period concluded on 6 July 2021, and ten (10) submissions were received, including one document with five (5) submitters. The following issues were raised (summarised):

- Concerns about sufficient residential parking bays;
- Concerns about odour from the waste facilities;
- Objection to building on the boundary with the balconies above in regard to impact on overlooking, building bulk, ventilation and overshadowing, particularly to the outdoor living areas on the northern residential properties;
- Plant screening is inadequate to protect privacy of adjoining residences;
- Questions about how trellis screening on northern boundary will be maintained;
- Objection to allowing R60 density as it appears the developer is just squeezing as many units as they can into the space and this will set a precedent for future development;
- Objection to overlooking to all adjoining properties;
- Objections to the building height as it will block views and sky;
- Would like more details on the material of the walls;

- Concerns about retaining the existing gate from the rear of one of the Alfred Road residences;
- Requesting a construction management plan and dilapidation report prior to construction to ensure no damage to nearby heritage houses and that the vehicle easement will remain unimpeded.;
- Units could be used as Air BnBs and create noise and amenity impacts;
- There are already traffic and parking difficulties, plus sightline difficulties from the existing electricity substation on Alfred Road;
- Bollards should be placed along the eastern fence to protect it from vehicles, as vehicles currently parking there have already damaged the fence;
- Concerns that noise from the rear of the property, which is already an issue, will be exacerbated;
- Concerns about light spill from the rear of the property;
- Concerns about fumes and pollution from underground car park;
- Waste management;
- Will residents be notified of any variations;
- What are overshadowing impacts from the development, particularly to outdoor living areas of southern lots, and to the east and southeast;
- More information requested on fence and carport details; and
- Subsoil engineering study requested.

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

Element	Officer Comment
Odour	A Waste Management Plan requirement will be a condition of approval
Landscaping	A condition of approval required to finalise landscaping provision and location
Traffic / access	A referral to Main Roads WA has provided a number of conditions to be complied with
Air BnB	Type or length of occupancy is not a planning consideration beyond requirements of R-Codes Volume 2. The use of a multiple dwelling as a short stay dwelling is exempt from the need to obtain planning approval in accordance with LPP 1.7. They will however require registration with the City and will be subject to compliance with the local law.

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. Unlike previous versions of the R-Codes, the Apartment Codes are a performance-based policy. In this regard, there are no

deemed to comply criteria, rather objectives for good design. In most instances, the R-Codes set out Acceptable Outcomes which are suggested ways in which a designer might meet the objective. In addition to LPS4 and local planning policy discretions being sought, the following design elements require further interrogation:

- Land use
- Wall height
- Private open space and balconies
- Design of apartments
- Visual Privacy
- Landscaping
- Signage

The above matters are discussed below.

Background

The site is located on Stirling Highway just south of Alfred Road. No. 5 Alfred Road is owned by the same entity as the subject site and contains a vehicle access easement. (see Figure 1 below) intended to be utilised as secondary access / exit for residential occupants.



Figure 1: Lot layout and location

The site is located within the North Fremantle Heritage Area but is not individually heritage listed.

The ground level slopes approximately 3m from Stirling Highway down to the rear of the site. A vehicle ramp along the southern side sits within the lot boundaries of the adjoining southern site (which contains the Rose Hotel) but contains an access easement granting legal right of access for the subject development. This easement connects from Stirling Highway along the south of the site, then north through Lot 5 to meet Alfred Road.

The lot is improved by an existing two storey Commercial building with the ground floor portion built into the natural slope of the lot so as to present as a single storey building when viewed from Stirling Highway. The first floor contains a Shop and two Showrooms. Two Warehouses currently take up the basement portion of building.

At the 6 March 2019 Planning Committee meeting, the Committee resolved to approve an upper floor addition consisting of Offices (DA0332/18). This application has not been acted upon but is still valid and could be developed if this proposal does not go ahead.

The bulk, scale and layout of the subject application is broadly similar to that of the previously approved Offices application, but the inclusion of the Multiple dwellings and the required R-Codes Volume 2 assessment raises different considerations.

Land Use

Multiple dwellings are an 'A' use in the zone, which means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice (advertising).

In considering the uses, the Council will have regard to the matters to be considered in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations). In this regard the following matters have been considered:

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

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

- The addition of Multiple dwellings diversifies the uses in the Neighbourhood Centre Zone as per the objectives of LPS4.
 - (i) provide for weekly and convenience retailing including small-scale shops, showrooms.... residential (at upper levels)....local offices, cottage industry.....which serve the local community, consistent with the local-serving role of the centre.

The Multiple dwellings have been considered against the Residential Design Codes Volume 2 – Apartments, and details of notable design elements can be found in the assessment below.

Wall height

Element	Requirement	Proposed	Extent of Variation
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Maximum Wall height (LPS4 – North Fremantle LPA3)	7.5m	6.8m to 11.9m	Nil to 4.4m
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The subject site slopes down approximately 3m from front to rear, and the proposed development is to be located on top of the existing building which will give it the appearance of a two storey building from the Stirling Highway frontage, and three storey from the rear. As the site slopes, the building height variation occurs as the with the front elevation being less than 7.5m at the lot boundary on the north and south sides, with the maximum height of the saw tooth roof (when viewed from Stirling Highway) being 7.8 - 8.8m.

Clause 4.8.1 of LPS4 allows variations to the heights prescribed by LPS4 in the following circumstances:

Where sites contain or are adjacent to buildings that depict a height greater than that specified in the general or specific requirements in schedule 7, Council may vary the maximum height requirements subject to being satisfied in relation to all of the following—

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

The Rose Hotel on the adjoining site is within the same scheme zone and exceeds the 7.5m building height, thereby allowing the use of clause 4.8.1 to vary height.

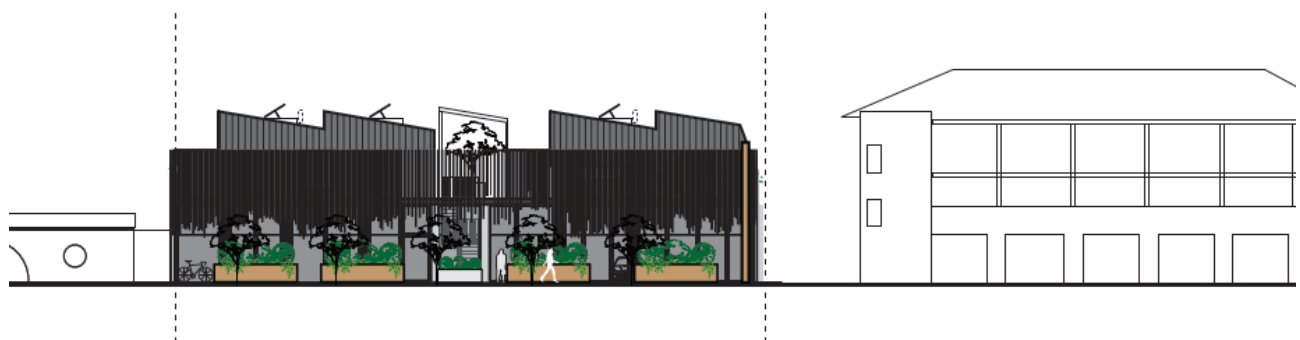


Figure 2: Proposed development at No's 82-84 Stirling Hwy and the existing Rose Hotel



Figure 3: Existing relationship between No's 82-84 Stirling Hwy and the Rose Hotel

The additional building height is considered to meet the requirements of clause 4.8.1.1 for the following reasons:

- The applicant has provided a streetscape comparison showing that the Rose Hotel exceeds the height of the proposed development, which allows the proposed development to graduate the height down (see Figure 2 and 3 above).
- The proposal has been assessed against the Apartment Code provisions in relation to its amenity impact on adjoining properties. The highest portions of wall are at the rear of the site and are separated from adjoining sites by carparking and access easements on both the subject site and neighbouring sites.
- The significant change in level across the site has resulted in the discretion. From the street, the development appears as a two storey and does not have a significant impact on the locality.
- The adjoining site to the north is not heritage listed and could in theory be developed in in a similar manner. Notwithstanding this, the variation in heights across the site have been designed to graduate the height down from the peak (being the Rose Hotel).
- Figures 4 and 5 below show the height at the rear of the building is lower than the 2018 proposal previously approved by Planning Committee

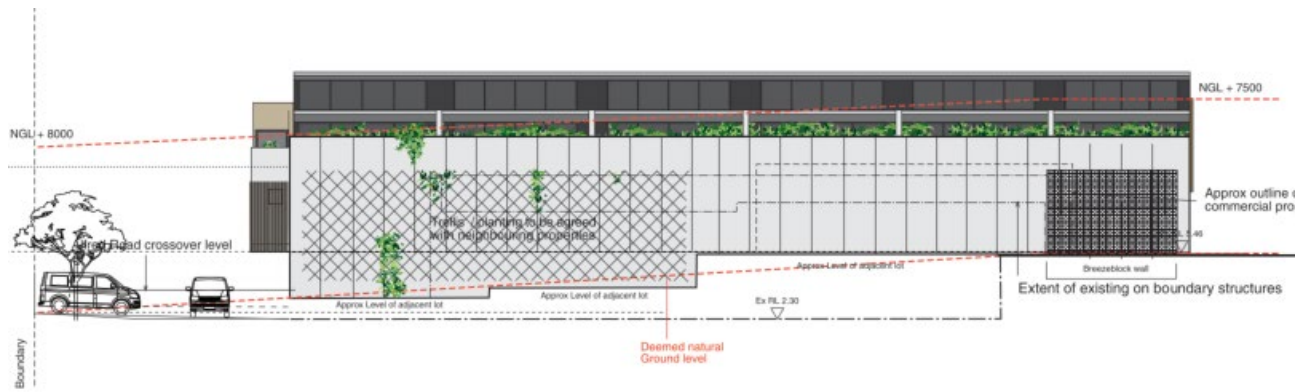


Figure 4: Proposed northern elevation

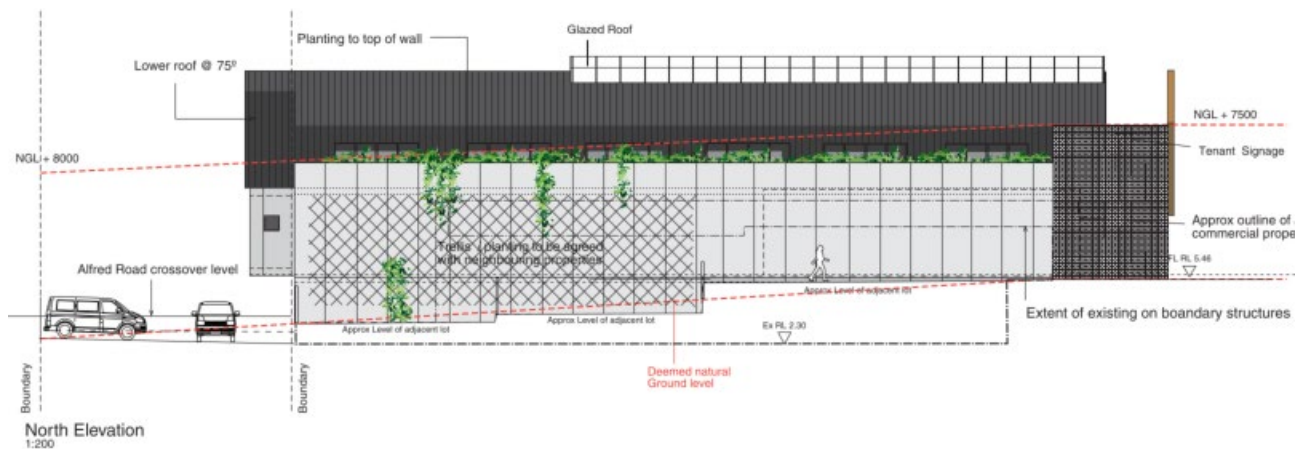


Figure 5: Previously approved north elevation

Solar and daylight access

Element Objective

Optimise number of dwellings receiving winter sunlight to private open space and via windows to habitable rooms

Windows designed to optimise daylight access to habitable rooms

The development incorporates shading and glare control from mid spring to autumn

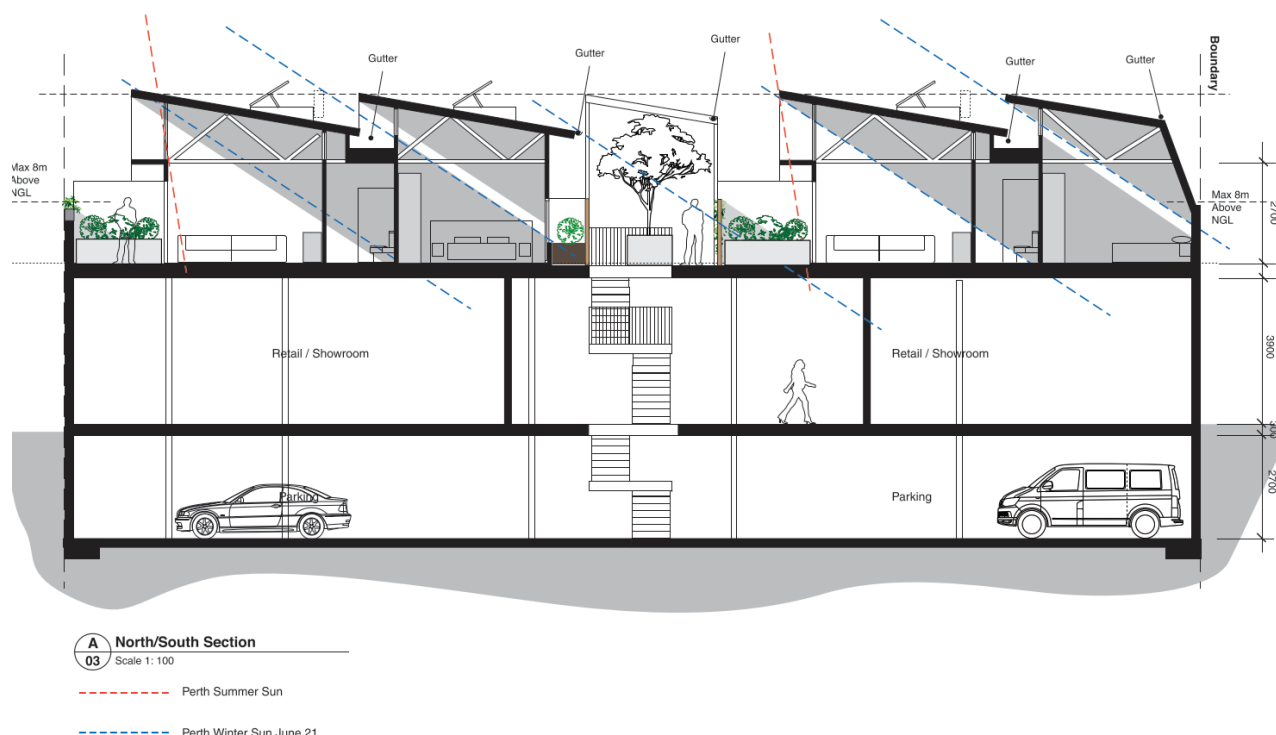


Figure 6: Cross section demonstrating winter/summer solar access

The proposed apartments generally meet the objectives above, namely all twelve apartments have dual north/south aspects, with outdoor living areas facing north. Figure 6 above demonstrates the winter solstice sunlight penetrating all apartments, with the additional benefit of the skylights providing additional light to the bedrooms at the rear. Direct sunlight in summer is minimised with the use of enlarged eaves, also providing additional weather protection to the outdoor areas.

The apartments on the northern side of the development rely on daylight and solar access across the site to the north, which could in the future also be developed. This could result in some reduced solar access and daylight to the outdoor living areas and living areas of these apartments during winter months. However, the overall design of the apartments is such that there would continue to be solar access and daylight from the skylight windows, and the partially uncovered outdoor area.

It is recommended a notification be placed on title for the future occupiers of these apartments advising that the sites to the north could be built out to reflect this potential scenario.

Natural Ventilation

Element Objective

Development maximises number of apartments with natural ventilation

Individual dwellings are designed to optimise natural ventilation of habitable rooms

Single aspect apartments are designed to maximise and benefit from natural ventilation

All apartments in the development are dual aspect, with a total depth of less than 20m, allowing for natural cross ventilation north/south. There will be some limitations for some of the south facing units with their inset windows, however the design response is reasonable and meets the objectives. All habitable rooms have openable windows for ventilation, with the skylights providing additional light.

The apartments have been well designed to accommodate natural ventilation.

Lot boundary setbacks

Element Objective
Building boundary setbacks provide for adequate separation between neighbouring properties
Building boundary setbacks are consistent with the existing streetscape pattern or the desired streetscape character
The setback of development from side and rear boundaries enables retention of existing trees and provision of deep soil areas that reinforce landscape character of the area, support tree canopy and assist with stormwater management
The setback of development from side and rear boundaries provides a transition between sites with different land uses or intensity of development

The application proposes a two-storey wall on the north and south boundaries. The boundary wall on the south abuts an existing driveway. The boundary wall on the north is effectively an increase of 3.8m of height to the existing boundary fence adjoining No 1 and 2 Alfred Road. No. 3 and 4 Alfred Road currently only have a standard height dividing fence at the rear of the property. There is a separation distance of 9.7m between the eastern elevation of the upper storey, and the lot boundary to the east.

The suitability of the setbacks of the proposed building is supported against the objectives of the Apartment Codes for the following reasons:

- Half of the length of the boundary wall abuts an existing commercial property and will have minimal impact on the residential lots.
- The proposed wall is located on the southern boundary of the residential lots and will have minimal impact on northern sunlight to outdoor living areas.
- A trellis for vegetation has been proposed on the boundary wall to soften the appearance of the wall. This vegetation is to be conditionally included as part of the landscaping plan and to be maintained for the life of the development.
- The balconies on the upper floor will be setback from the boundary and screened by planter boxes such that all views to the residential lots will be to the roofs. No overlooking will be down to the private outdoor living areas, as shown in Figure 3 below.

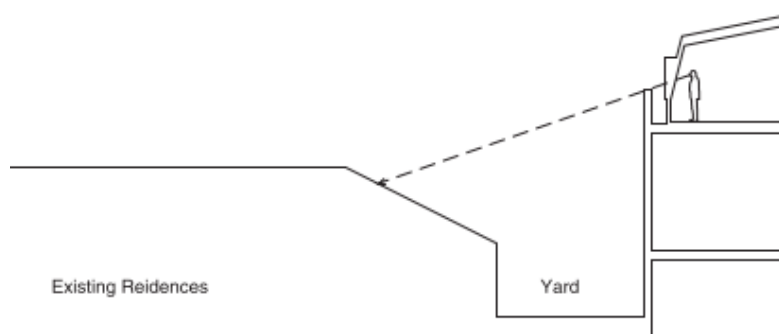


Figure 7: Sightline from upper floor balconies

The building setbacks are considered to provide adequate separation between neighbouring properties and are consistent with the Neighbourhood Centre Zone objectives (land uses). Further discussion is included in the report below on landscaping and deep planting on site which will improve the amenity of both onsite and neighbouring residents.

Private open space and balconies

Element Objective
Dwellings have good access to appropriately size open space to enhance residential amenity
Private open space is sited, orientated and designed to enhance liveability for residents
Private open space and balconies are integral to overall architecture form and detail of building

The acceptable outcome balcony depth is suggested to be 2.0m for 1-bedroom units, and 2.4m for 2 bedroom units, with a minimum area of 8 m² for 1-bedroom units, and 10 m² for 2-bedroom units.

The proposed balconies of all 12 units are the same depth (2.1m), but of different sizes, which for the 1-bedroom units creates balcony areas that exceed the minimum private open space acceptable outcome.

The proposed 2-bedroom apartments have a reduced depth of 2.1m, but the smallest balcony size of 15m² exceeds the minimum required, with the largest up to 20 m². The reduced depth is considered to be offset by the significantly larger size of the private open spaces provided and the variation is supported.

Visual privacy

Element objective
The orientation and design of buildings, windows and balconies minimises direct overlooking of habitable rooms and private outdoor living areas within the site and of neighbouring properties, while maintaining daylight and solar access, ventilation and the external outlook of habitable rooms.

The Apartment Codes seek to ensure a usable space is provided for residents, without also compromising the visual privacy of adjoining properties.

The balconies on the upper floor will be setback from the boundary and screened by planter boxes such that all views to the residential lots will be to the roofs. No overlooking will be down to the private outdoor living areas, as shown in Figure 8 below.

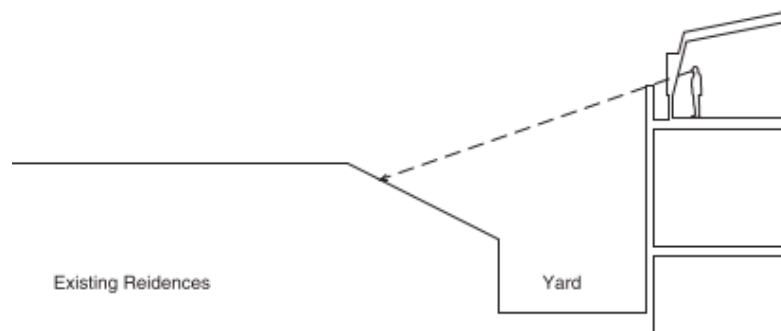


Figure 8: Sightline from upper floor balconies

The balconies of all units are proposed to be screened via a 1.5m high solid balustrade with planting above. While the inclusion of planting in this area is supported as it assists to soften the appearance of the development, the wall itself is considered to be the primary method of screening for these balconies. Details on the screening and how it will be maintained are not clear and a condition of approval is recommended to clarify this.

Landscaping (Tree canopy and deep soil areas)

Element Objective
Site planning maximises retention of existing healthy and appropriate trees and protects the viability of adjoining trees
Adequate measures are taken to improve tree canopy (long term) or to offset reduction of tree canopy from pre-development condition
Development includes deep soil areas, or other infrastructure to support planting on structures with sufficient area and volume to sustain health plant and tree growth

A site of this size (>1000m²), should provide at least 10% of the site area as deep soil area planting, including a number of large and medium trees under the Acceptable Outcomes of the Apartment Codes. Where the required deep soil areas cannot be provided due to site restrictions (for example, this site is an additional storey to an existing commercial premises), planting on structure with an area twice the shortfall of deep soil area provision is to be provided.

The submitted landscaping plan has not yet been supported by the City. There are very little deep soil areas proposed, with most landscaping proposed in the parking areas, and on structure. Further detail and refinement should be provided to ensure the landscaping can be delivered to a satisfactory standard. A condition of approval is considered appropriate to ensure this is provided and maintained.

Plot ratio (Density)

Element	Requirement	Proposed	Extent of Variation
Plot ratio	0.8	0.65	Complies

The development seeks to increase the density from R35 to R60 under clause 4.2.5 of LPS4, which states:

Notwithstanding the requirements of clause 4.2.3, residential density in the Local Centre, Neighbourhood Centre and Mixed-Use zones may be increased up to R60, where residential development is part of a mixed use development, where, in the opinion of Council the proposal is not detrimental to the amenity of the area.

The total area of the application site (No.5 Alfred Rd and No's 82-84 Stirling Hwy) is 1378m². The plot ratio of the proposed multiple dwellings is 904 m². This is compliant with the maximum plot ratio allowance for the R60 residential coding.

The proposal includes the commercial element of Warehouse, Showroom and Shop, which retains the existing tenants. There is approximately 50% Residential and 50% Commercial uses in the proposed development, therefore is considered to meet the requirements of Clause 4.2.5 of LPS4 in seeking the higher density coding.

The existing character of the area is a mix of residential, comprising single houses, grouped dwellings and multiple dwellings, and existing commercial elements, ranging from shops and showrooms to warehouses and offices. The additional residential element proposed in this development is considered appropriate for the area and will not have a detrimental impact to the amenity of the area.

Onsite car parking

Element	Requirement	Proposed	Extent of Variation
Showrooms x 2 (551 m ²)	1:50m ² gla = 11	25 standard bays 3 delivery bays 1x ACROD	8 car bays
Shop (397 m ²)	1:20m ² nla = 20		
Warehouse (184 m ²)	1:100m ² gla = 2		
Residential	0.75 bay/ 1 bedroom units = 2 1 bay/ 2+ bedroom units = 10	15	Complies
Visitor (residential)	1 bay/4 units = 3	3	

The proposed commercial element has an eight car bay shortfall, however, in this location with close proximity to bus and train routes, the shortfall is considered supportable given the showroom and warehouse elements are unlikely to generate the customer numbers to require the car bays.

It is noted that there are an additional 11 car bays for the commercial uses proposed within the MRWA Primary Regional Road Reserve area that have been excluded in the totals above. These car bays have been excluded from the calculations as these bays are considered 'bonus' bays for the commercial element due to their possible removal during potential road widening and/or upgrades, and cannot be relied upon for the lifetime of the development. The Main Roads WA resumption timeframes are in excess of four years therefore the additional 11 bays would be available for at least this amount of time.

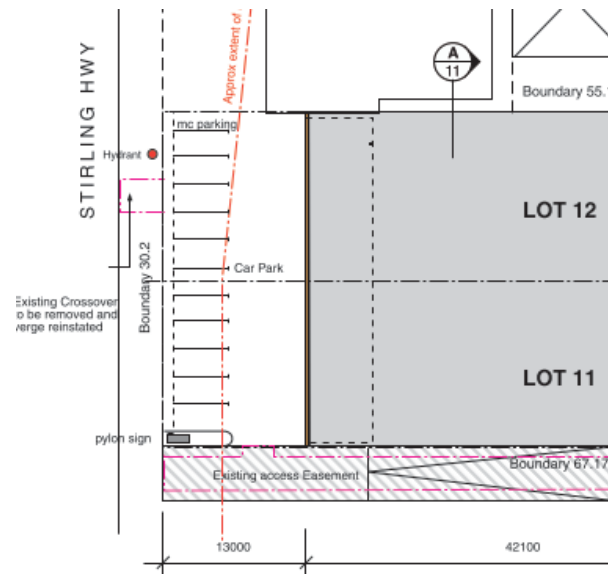


Figure 9: Extent of MRWA Primary Regional Road Reserve

A condition of approval is necessary to ensure that the three residential visitor bays are provided outside of any secured area, and are clearly marked and available for visitors to access at all times.

Signage

The proposed pylon sign is shown as 7.5m in height. LPP2.14 (Advertising) allows for a free-standing sign or pylon sign where it is no more than the height of the immediately adjoining subject building or no more than 6.0m in height, whichever is the lesser. The proposed additions to the existing building would create a maximum height (Stirling Highway frontage) of 7.8 – 8.8m.

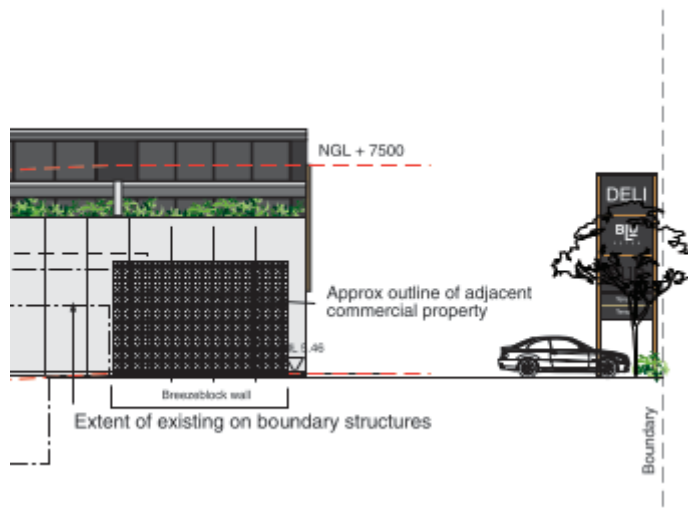


Figure 10: Existing signage and proposed sign

The pylon sign as proposed is not supported as other existing signage in the immediate vicinity is not comparable to the increased height proposed, and there is no precedent demonstrated. A condition of the approval is required to ensure amended plans are provided to reduce the height of the pylon sign to no more than 6m in height.

Overshadowing

The orientation of the lots (east/west) results in overshadowing falling onto the site to the south (No.78 Stirling Hwy). The overshadowing permitted is based on the base-coding which in this location is R35, which is 35%. The development to the south has undercroft car parking (accessed from the shared driveway), with communal outdoor areas of the residences on the level above, which is located at the equivalent of street level at Stirling Highway. The private outdoor areas of the residences on the western side of No.78 Stirling Highway are already subject to screening along the northern side of the balcony(s), and the height of the proposed development will remain lower than the height of this building, therefore the additional height of the development proposed is not considered to result in unacceptable levels of overshadowing to these dwellings. The units on the eastern side have their main outdoor area on the eastern side which will not be impacted by the new structures proposed.



Figure 11: Approximate overshadowing of development at No.78 Stirling Highway



Figure 12: Existing development at No.78 Stirling Highway

CONCLUSION

The proposal for additions and alterations to an existing commercial building, including the addition of 12 multiple dwellings has been considered above, and on balance is supported, subject to appropriate conditions and advice notes.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle
- Increase the net lettable area of retail space
- Provide for and seek to increase the number and diversity of residential dwellings in the City of Fremantle

Green Plan 2020

Encourage the planting of vegetation on private land.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Extension and Upper Floor Multiple Dwelling Additions to Existing Commercial Building at No. 82-84 (Lots 11 and 12) Stirling Highway, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 29 October 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 or otherwise approved by the City of Fremantle.**
- 3. The development hereby approved, including any footings, shall be wholly located within the cadastral boundaries of the subject site Nos. 82-84 (Lots 11 and 12) Stirling Highway, and No. 5 (Lot 5) Alfred Road, North Fremantle.**

- 4. Prior to the issue of a Building Permit, Nos. 82-84 (Lots 11 and 12) Stirling Highway, and No. 5 Alfred Road, North Fremantle are to be legally amalgamated or alternatively the owner may enter into a legal agreement with the City of Fremantle, drafted by the City's solicitors at the expense of the owner and be executed by all parties concerned prior to the commencement of the works. The legal agreement will specify measures to allow the development approval to operate having regard to the subject site consisting of two separate lots, with the lots to be amalgamated no later than 2 years from the issue of a Building Permit, to the satisfaction of the City of Fremantle.**
- 5. Prior to the issue of the Building Permit, the applicant must demonstrate that this noise sensitive development adjacent to a major transport corridor must implement measures to ameliorate the impact of transport noise. The development is to comply with *WAPC State Planning Policy 5.4 Road and Rail* and implement Noise Insulation 'Deemed to Comply' packages for this residential development to the satisfaction of the City of Fremantle.**
- 6. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the balconies located on the north elevation, are to be screened in accordance with Clause 3.5 of the Residential Design Codes (Volume 2) to the satisfaction of the City of Fremantle.**

Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.
- 7. Prior to the issue of a Building Permit and/or Demolition Permit, a Construction Management Plan shall be submitted to the satisfaction of the City of Fremantle addressing the following matters:**

 - a) Use of City car parking bays for construction related activities;**
 - b) Protection of infrastructure and street trees within the road reserve;**
 - c) Security fencing around construction sites;**
 - d) Gantries;**
 - e) Access to site by construction vehicles;**
 - f) Contact details;**
 - g) Site offices;**
 - h) Noise - Construction work and deliveries;**
 - i) Sand drift and dust management;**
 - j) Waste management;**

- k) Dewatering management plan;**
- l) Traffic management; and**
- m) Works affecting pedestrian areas.**

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

- 8. Prior to the issue of a building permit amended plans should be submitted to include to the satisfaction of the City of Fremantle:**
 - a minimum of 2 Class 1 bicycle racks, and 1 Class 3 bicycle racks an end of trip facility consisting of one male and one female (or two unisex) shower**
 - Two lockers shall be provided****And be thereafter installed and maintained to the satisfaction of the City of Fremantle**
- 9. Prior to the issue of a Building Permit, a Waste Management Plan is to be submitted to include all proposed uses and depicting that all waste collection will occur within the site in forward gear via the access easement or from Alfred Road. No waste collection will be permitted on Stirling Highway. The management plan is to be approved by the City of Fremantle on advice from Main Roads.**
- 10. Prior to the issue of a Building Permit, amended plans for the pylon sign should be provided, to reduce the total height of the sign to no more than 6m in height as per the requirements of LPP3.14 – Advertisements to the satisfaction of the City of Fremantle.**
- 11. Prior to the issue of a Building Permit for the development hereby approved, a detailed landscaping plan, including:**
 - Species selection appropriate to location**
 - Size of container for proposed trees on structure**
 - Detail of trellis on northern elevation**
 - Reticulation,**
 - Maintenance schedule or method for landscaping within private and common areas**
 - Additional trees within carparking area, including area of No.5 Alfred Road**
 - Treatment of hard and soft landscaped surfaces (i.e. paving, mulch, lawn, synthetic grass etc),**

Shall be submitted to and approved by the City of Fremantle.

Implementation of the landscaping shall be in accordance with the approved landscaping plan prior to occupation of the development. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Fremantle.

12. Prior to the issue of a Building Permit, details of compliance with the following shall be submitted and approved to the satisfaction of the City of Fremantle:

- Any glass used for windows or other openings shall be laminated safety glass of minimum thickness of 6mm or 'double glazed' utilising laminated or toughened safety glass of a minimum thickness of 3mm.
- All safety glass shall be manufactured and installed to an appropriate Australian Standard.
- All air conditioning systems shall incorporate the following features:
 - i. Multiple systems to have internally centrally located shut down point and associated procedures for emergency use.
 - ii. Preference for split 'refrigerate' systems
- Quiet house design guidelines shall be applied to residential developments
- All developments shall incorporate roof insulation

13. Prior to the issue of a Building Permit for the development hereby approved, final details of the external materials, colours and finishes of the proposed development, including a physical sample board or materials is to be submitted and approved to the satisfaction of the City of Fremantle.

14. Prior to occupation of the development approved, a Notification pursuant to Section 70A of the *Transfer of Land Act 1893* shall be registered against the Certificate of Title to the land the subject of the proposed Multiple dwellings advising owners and subsequent owners of the land of the potentiality of the enclosure of the balconies located along the northern boundary by future development of the adjacent site. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.

15. Prior to occupation of the development approved, a Notification, pursuant to Section 70A of the *Transfer Act 1893* is to be placed on the Certificate of Title of the proposed development. The notification is to state:

“The lots are situated in the vicinity of a transport corridor and are currently affected or may be in the future be affected by transport noise”.

- 16. Prior to occupation of the development approved, a Notification, pursuant to Section 70A of the Transfer Act 1893 is to be placed on the Certificate of Title of the proposed development. The notification is to state:**

“The subject lot is located within 1 kilometres of Fremantle Port. From time to time the location may experience noise, odour, light spill and other factors that arise from the normal operations of a 24 hour working Port”

- 17. Prior to the occupation of the building, certification from a qualified acoustic consultant is to be submitted confirming that compliance with SPP5.4 has been achieved to the satisfaction of the City of Fremantle.**

- 18. Prior to occupation of the development hereby approved, the boundary walls located on the northern and southern boundaries shall be of a clean finish in any of the following materials:**

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

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

- 19. Prior to occupation of the development hereby approved, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 4.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the City of Fremantle.**

- 20. Prior to the occupation of the development hereby approved, the redundant northern-most crossover on Stirling Highway and related kerbs shall be removed and the verge reinstated at the expense of the applicant and to the satisfaction of the City of Fremantle on advice from Main Roads WA.**

- 21. All car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.**

- 22. The signage hereby permitted shall not contain any flashing, pulsating, chasing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure. Any illumination must be of a low level not exceeding 300cd/m².**
- 23. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

ADVICE NOTES:

- i. All works within the Stirling Highway road reserve require separate approval from the City's Infrastructure and Project Delivery Directorate. Applicants must first receive approval from Main Roads (refer below).**
- New crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. Prior to commencing construction of the crossover(s), the developer is to contact the Engineering Project Officer on 9432 9999 to arrange an inspection or alternatively via ibs@fremantle.wa.gov.au. For crossover specifications, FAQ's, permits, etc refer to <https://www.fremantle.wa.gov.au/crossovers>.**
- ii. The applicant is required to submit an Application form to undertake works within the road reserve prior to undertaking any works within the Stirling Highway road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website > Technical & Commercial > Working on Roads.**
- iii. Main Roads does not allow commercial waste collection from a Primary Regional Road where alternative access to a side street or easement is available. It is noted from the street view imagery that bins are already situated at the rear of this site and at Alfred Street. It is not considered appropriate nor safe to have a waste collection vehicle 'stand' on the major road (and in close proximity to a signalised intersection) which results in undesirable traffic hazards and impedes traffic flows.**
- iv. This property is affected by land reserved in the Metropolitan Region Scheme as shown on the Main Roads Drawing Land Protection Plan 1.3340/4 and will be required for road purposes at some time in the future.**
- v. In the event, where private infrastructure, including the signs contained within the widened road reservation / land requirements as detailed in Land Protection Plan 1.3340/4, upon receipt of a notice from Main**

Roads, the infrastructure is to be removed and the verge made good at the applicants expense.

- vi. The existing car parking located at the front of the site affected by the future road widening is to be viewed as 'temporary and surplus parking' only to the actual parking requirements as defined under the City of Fremantle's LPS No.4.**
- vii. The applicant is advised that when the Stirling Highway upgrades occur, that access to/from Stirling Highway via the easement access on Lot 7 (No.80) Stirling Highway is planned to be limited to left-in / left-out vehicle movements only.**
- viii. The upgrading/widening of Stirling Highway is not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability for the information provided.**

PC2112-5 SCOTT STREET, NO. 36 (LOT 35), SOUTH FREMANTLE – ANCILLARY DWELLING ADDITION TO EXISTING SINGLE HOUSE (TG DA0362/21)

Meeting Date: 1 December 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended development plans
Additional information: 1. Site Photos
2. Heritage Assessment

SUMMARY

Approval is sought for a two-storey ancillary dwelling at 36 Scott Street, South Fremantle.

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

- Ancillary dwelling plot ratio area
- Boundary walls (west, east)
- Lot boundary setback (west)

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a two-storey ancillary dwelling to an existing Single house at 36 Scott Street in South Fremantle. The proposed works include:

- The demolition of an existing rear garage/outbuilding to the site.
- A shed addition to the eastern site boundary.
- A two-storey ancillary dwelling comprising:
 - A living room,
 - Ensuite,
 - Bedroom, and
 - Mezzanine (a small flexible space, for another family member to sleep on short visits, or as a separate private reading/study space).
- Decking to the site and the creation of a parking bay adjacent to the ancillary dwelling accessed via a roller door.

The applicant submitted amended plans on 3 November 2021 including the following:

- Obscured glazing and screening to upper floor windows.
- Clarification of vehicle movements into the proposed parking bay.

Amended development plans are included as attachment 1.

Site/application information

Date received: 26 August 2021
 Owner name: S L Pearce
 Submitted by: M J Campbell
 Scheme: Residential R30
 Heritage listing: Individually Listed Category 3 and 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 elements which sought to vary the deemed-to-comply requirements of the R-Codes and Council policies. The advertising period concluded on 22 September 2021, and two submissions were received. The following issues were raised (summarised):

Element	Officer Comment
A submitter was concerned about overlooking towards their properties from the upper floor windows and requested the inclusion of obscured glazing to these windows.	In response to these concerns, the applicant included obscured glazing to the north facing stairwell window, and a privacy screen to the upper floor mezzanine window (south facing).
A submitter was concerned that the proposed two storey ancillary dwelling would comprise an overdevelopment of the lot and unduly impose on neighbouring properties.	The overall floor area of the ancillary dwelling is discussed further in the officer comment section of the report, however it is noted that the proposed development satisfies the deemed-to-comply open space requirements of the Residential Design Codes, and that two storey development is permitted in accordance with LPS4 sub area 4.3.3.
The submitter was concerned that the parking bay shown on the plans would not be readily usable due to the limited width of the laneway.	The applicant provided updated plans confirming turning circles for the parking bay.
The submitters objected to the removal of the existing tree from the site.	The City is not able to require the retention of trees on private property that are not individually listed on the Significant Tree Register. It is noted that while one tree is being removed, another is being retained.
Submitters objected to the intensification of vehicle movements through the rear lane due to the increase in noise and dust.	The applicant has noted that the rear parking bay may not be used often by the intended inhabitant of the dwelling as they are intended to be an elderly person who does not often use a car. There is also currently a garage in this location.
Submitters were concerned about the proposed boundary walls resulting in an impact upon the privacy of their rear yards.	The proposed boundary walls are discussed further in the officer comment section of the report.

OFFICER COMMENT

Statutory and policy assessment

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

- Ancillary dwelling plot ratio (floor) area
- Boundary walls (west, east)
- Lot boundary setback (west)

The above matters are discussed below.

Background

The subject site is located on the northern side of Scott Street in South Fremantle. The site has a land area of approximately 435m² and is currently occupied by a Single house and rear garage. The site is zoned Residential and has a density coding of R30. The site is individually heritage listed (level 3) and located within the South Fremantle Heritage Area.

Access is provided to the site via the rear private Right of Way as well as a crossover providing access to two open car parking bays on Scott Street.

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

- DA0504/09 – Rear addition and loft to existing Single house.
- DA141/09 – Garage addition, demolition of outside toilet, pool, and outbuilding

Demolition

The application proposes the removal of the rear outbuilding on site to facilitate the works subject to this application. This outbuilding was constructed in the late 2010s and is not considered to be of heritage significance. As a result the demolition of this building is supported in accordance with LPS4 cl. 4.14.

Heritage impact

The proposed dwelling is located to the rear of an existing Level 3 Heritage Listed dwelling. The proposed addition is not considered to have an undue impact on the contribution of the dwelling to the character of the street due to its location at the rear of the site.

Ancillary dwelling plot ratio (floor) area

Element	Requirement	Proposed	Extent of Variation
R-Codes 5.1.1 – Ancillary Dwellings	70m ² plot ratio area	80m ² plot ratio area	10m ²

The plot ratio area of the ancillary dwelling is considered to meet the Design principles of the R-Codes in the following ways:

- The ancillary dwelling is considered to be of a size commensurate to the size of the subject property. A 70m² ancillary dwelling is able to be permitted on a site as small as 350m². The additional site area of the property (435m²) is consistent with the area of the ancillary dwelling.
- The ancillary dwelling has been located to limit its impact upon adjoining properties by being located adjacent to the neighbouring outbuilding which is built up to the property boundary.
- As the ancillary dwelling is two storeys, its building footprint is not significant. This helps to provide slightly greater deep soil planting area and the retention of an existing tree to the south of the building which will help to positively contribute to the amenity of its setting.
- The additional area of the ancillary dwelling over and above the deemed-to-comply site area requirement is considered to improve the liveability and utility of the space.

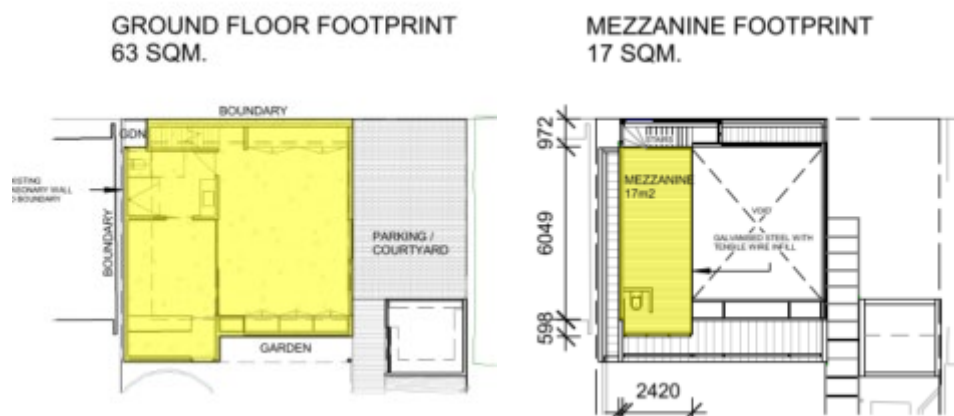


Figure 1 - Images demonstrating the floor area of the ancillary dwelling.

Boundary walls (west, east)

Element	Requirement	Proposed	Extent of Variation
Western boundary wall (Bedroom)	1m setback	0m	1m
Eastern boundary wall (shed)	1m setback	0m	1m

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

- The majority of the wall aligns with the existing boundary wall of the neighbouring property, with only 1m of the boundary wall not matching with the neighbouring development.
- This 1m portion of wall is not considered to impose undue building bulk onto the neighbouring property, noting that this portion of wall will be next to the rear of an existing outbuilding.
- The wall does not impose on the privacy of the neighbouring property as the structure does not include unscreened windows close to the subject boundaries.
- The shade cast by the building at midday on midwinter will fall over the subject site, not the neighbouring property.
- The wall will not be readily visible from the primary street, and boundary walls for buildings in rear yards are common in the immediate locality.

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

- The wall does not impose on the privacy of the neighbouring property as the structure does not include unscreened windows close to the subject boundaries and the shed is a non-habitable structure.
- The shade cast by the building at midday on midwinter will fall over the subject site.
- The wall will not be readily visible from the primary street, and boundary walls for buildings in rear yards are common in the immediate locality.
- The wall is of limited length resulting in a small area of building bulk for the neighbouring property, with the remainder of the boundary being clear of development.

Visual Privacy

The proposal plans demonstrate the screening of the southern face of the upper floor mezzanine to provide visual privacy. A condition of approval is recommended requiring that the screen meet the standard requirements of the R-Codes.

Lot boundary setback (west)

Element	Requirement	Proposed	Extent of Variation
Upper floor mezzanine	1.2m	0.81m	0.39m

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

- The wall adjoins the neighbouring rear outbuilding which is built up to the property boundary, resulting in little to no direct building bulk impact onto the neighbouring outdoor living areas or habitable rooms.
- The wall includes no windows, limiting its privacy impact. The southern window of the mezzanine is to be screened.
- The shade cast by the development will fall over the subject site at midwinter.

CONCLUSION

As discussed in the officer comment section of this report, the proposed ancillary dwelling development is considered to appropriately satisfy the relevant deemed-to-comply requirements and design principles of the R-Codes. Accordingly, the application is recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Green Plan 2020

1. The proposal includes the removal of a tree in the rear yard of the property in the area of the proposed outbuilding and parking bay. There is one other tree that is being retained.
2. No development approval is required for the removal of trees on private property that are not on the Significant Tree Register.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Ancillary Dwelling addition to existing Single house at No. 36 (Lot 35) Scott Street, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 3 November 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 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. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Any damage shall be rectified to the satisfaction of City of Fremantle.**
- 5. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the upper floor mezzanine window located on the south elevation, is to be screened in accordance with Clause 5.4.1C1.2 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 occupation/ use of the development hereby approved, the boundary wall located on the eastern and western boundaries shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**

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) 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.**

PC2112-6 EDMUND STREET, NO. 94 (LOT 101) TWO, TWO STOREY GROUPED DWELLINGS (TG DA0357/21 & DA0358/21)

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

SUMMARY

Approval is sought for two, two-storey Grouped Dwellings at 94 Edmund Street, White Gum Valley. The subject site is currently undergoing subdivision to create two new lots, with each development application relating to one of the lots.

The two applications are 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. Both applications seek discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- Primary Street setback
- Visual privacy (south)
- Lot boundary setback (south, north)
- Garage width

The applications are both recommended for refusal.

PROPOSAL

Detail

Approval is sought for two, two storey Grouped dwellings to an existing vacant site at 94 Edmund Street, White Gum Valley. The proposed works include:

- Proposed Strata lot 1:
 - Two car garage, living and dining areas, guest bedroom and alfresco to ground floor.
 - Three bedrooms and sitting room to upper floor.
- Proposed Strata lot 2
 - Two car garage, living and dining areas, study and alfresco to ground floor.
 - Three bedrooms and sitting room to upper floor.

It is noted that the plans refer to a “possible” mature tree in the rear yard. Officers confirm that there is currently no tree on site. Development plans are included as attachment 1.

Site/application information

Date received: 24 August 2021
Owner name: L & A Manuel, D & D Brown
Submitted by: Beachside Building & Design

Scheme:	Residential R25
Heritage listing:	Not individually listed, nor in a heritage area
Existing land use:	Vacant Site
Use class:	Grouped Dwelling
Use permissibility:	D



CONSULTATION

External referrals

Nil required.

Community

The applications were advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), as the proposals sought to vary a number of Council policy or R-Codes deemed-to-comply requirements. The advertising period concluded on 20 September 2021, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

The proposals have 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 these two applications the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Primary Street setback
- Visual privacy (south)
- Lot boundary setback (south, north)
- Garage width

The above matters are discussed below.

Background

The subject site is located on the eastern side of Edmund Street in White Gum Valley. The site has a land area of approximately 720m² and is currently vacant. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed nor located within a Heritage Area.

The site has a current approval to subdivide in a side-by-side arrangement. Upon completion of the subdivision process, the proposed dwellings will become Single houses. The discretions below will still apply upon completion of this process.

Land Use

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

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

The proposed land use is acceptable as this is consistent with the character of the overall area, but the proposed development includes discretionary elements which are not able to be supported for reasons discussed further in the following sections of the report.

Primary Street setback (ground and upper floor)

Element	Requirement	Proposed	Extent of Variation
Ground floor Lot 1	7m	6.7m	0.3m
Upper Floor Lot 1	10m	6.4m	3.6m
Ground floor Lot 2	7m	6.7m	0.3m
Upper floor Lot 2	10m	6.4m	3.6m

The reduced street setback to the ground floor is considered to meet the discretionary criteria of Local Planning Policy 2.9 Residential Streetscape Policy (LPP2.9) for the following reason:

- There is an established precedent in the streetscape of single storey buildings at or forward of the proposed primary street setback, both properties to the south of the site in the prevailing street, the Church to the north and the building on the lot north of the drainage sump to the north all exhibit setbacks consistent with the proposed development.

Property	Existing setback
84 Edmund Street	6.7m

90 Edmund Street	5.7m
96 Edmund Street	6.7m
18 Watkins Street	9m

- Both the dwelling at 96 Edmund Street and the existing church at 90 Edmund Street exhibit a lesser ground floor street setback than the proposed grouped dwellings.



- Image 1:** Aerial image of the subject site and other sites in the prevailing streetscape

In accordance with LPP 2.9, in considering a reduced street setback for the upper floor, consideration is given to the prevailing streetscape, being in this case the adjoining dwellings and church at 84-96 Edmund Street and 18 Watkins Street. The prevailing streetscape is defined in the policy as being the three properties either side of a site not separated by a road. None of these buildings exhibit upper floors which would provide a precedent for the consideration of a reduced setback to the upper floor of the building. It is considered that accordingly the building will result in an excessively projecting element into the streetscape of Edmund Street, and this is inconsistent with the prevailing streetscape and the provisions of LPP 2.9.

The remaining discretionary criteria of LPP 2.9 are not considered to apply as the subject development will not facilitate the retention of a mature, significant tree, the site does not

abut a corner, and the subject site is considered to be located in a streetscape which is not unusual in its topography.

The applicant has noted a number of properties in the area of the subject site which were considered to provide a precedent for a reduced upper floor setback:

Site/Example	Is it within prevailing streetscape (3 properties either side of the subject site)	Situation
<i>98a Edmund</i>	No	2004 decision prior to LPP2.9 being adopted in 2013
<i>98b Edmund</i>	No	2004 decision prior to LPP2.9 being adopted in 2013
<i>98c Edmund</i>	No	2004 decision prior to LPP2.9 being adopted in 2013
<i>58 Amherst Street (presented as #35 by applicant)</i>	No	Single storey dwelling with no upper floor.
<i>5a Hope Street (presented as 43 Amherst Street by applicant)</i>	No	Two storey dwelling with compliant primary street setbacks. Setback to Amherst Street reduced as is permitted to a secondary street.
<i>1/51 Amherst (72 Amherst St by applicant)</i>	No	5.4m ground floor, 8.2m upper floor.
<i>2/51 Amherst (72 Amherst St by applicant)</i>	No	6.1m ground floor, 9.4m upper floor.
<i>121-133 Stevens Street</i>	No	Subject to separate setback requirements under a separate local planning policy for the Kim Beazley School site allowing for 2-2.5m setbacks

A map showing the approximate location of these properties is below with the subject site indicated in red and nominated properties in yellow. 121-133 Stevens Street are not shown as they are ~1km from the subject site:



Figure 1: Location of properties with reduced setbacks

Finally, in order to determine if the reduced setback is appropriate, the development has also been considered against the relevant design principles of the R-Codes (5.1.2):

5.1.2 – Street setbacks	
Design Principles	Complies
P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:	
<ul style="list-style-type: none"> contribute to, and are consistent with, an established streetscape; 	No – the upper floor addition is considered to project into the streetscape of this portion of Edmund Street.
<ul style="list-style-type: none"> provide adequate privacy and open space for dwellings; 	Yes – the development complies with open space requirements visual privacy requirements.
<ul style="list-style-type: none"> accommodate site planning requirements such as parking, landscape and utilities; and 	Yes – Readily accommodated on site as existing.
<ul style="list-style-type: none"> allow safety clearances for easements for essential service corridors. 	Yes – unaffected by the proposed development.
P2.2 Buildings mass and form that:	
<ul style="list-style-type: none"> uses design features to affect the size and scale of the building; 	No – the varied materials to the building are not considered to appropriately ameliorate building bulk.
<ul style="list-style-type: none"> uses appropriate minor projections that do not detract from the character of the streetscape; 	No – the projection into the streetscape is not a minor projection as defined by the R-Codes. A minor projection on a wall is a <i>rainwater pipe, vent pipe, eaves overhang, cornice or other moulding or decorative feature, provided that the projection does</i>

	<i>not exceed 0.75m measured horizontally.</i>
<ul style="list-style-type: none"> minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and 	<p>Yes – limited area of blank wall and appropriate provision of vehicle parking supply provided.</p>
<ul style="list-style-type: none"> positively contributes to the prevailing development context and streetscape as outlined in the local planning framework. 	<p>No – the development is considered inconsistent with the required street setbacks and to result in an undue projecting element into the streetscape of the subject portion of Edmund Street.</p> <p>LPP 2.9 clearly indicates the City’s requirements with respect to the setback of new dwellings and the discretionary criteria have not been adequately addressed in this instance.</p>

The upper floor street setback is therefore not supported on the basis that it is not considered to satisfy the relevant development requirements of LPP2.9 and specifically, the design principles of 5.1.2 of the R-Codes. In proposing a greatly reduced primary street setback to the upper floor of the proposed dwellings, the development is considered to unduly impact on the amenity of the locality, contrary to the objectives of the Residential Zone under LPS 4. The Scheme sets out that development should recognise the importance of traditional streetscape elements and safeguard and enhance the amenity of residential areas by ensuring that land use is compatible with the character of the area. In this case, due to the proposed development projecting into the streetscape, the development is not considered to appropriately meet the objectives of the Residential Zone.

Lot Boundary Setback (north and south)

Element	Requirement	Proposed	Extent of Variation
Strata lot 1 – Guest/Bathroom wall	1.5m	1m	0.5m
Strata lot 2 – Alfresco/Lounge wall	1.5m	1m	0.5m

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

- The wall adjoins the driveway access for the adjoining Place of Worship property and this site is less sensitive to the building bulk of adjoining development.
- The shade cast by the wall will be contained to the subject site at midwinter.
- The window will be readily screened by a standard dividing fence.

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

- The building bulk of the wall is broken up through the inclusion of openings and the rear open alfresco area.
- The windows are designed to limit overlooking towards the neighbouring property with only highlight windows to this wall.
- The shade cast by the wall will be limited and will fall over an area on the neighbouring lot which has been built up to the boundary with roof cover.

The lot boundary setbacks are supported against the R-Codes.

Visual Privacy (South)

Element	Requirement	Proposed	Extent of Variation
Strata lot 2 – Bedroom 3	4.5m	2m	2.5m

The overlooking from Lot 2 is not considered to meet the Design principles of the R-Codes in the following ways:

- Although the adjoining rear yard has been built over with shade structures, if these were removed the window would provide a degree of overlooking over the outdoor living area of the neighbouring rear yard. It is noted that this issue could be readily addressed through the application of screening to this window, and as such if the PC saw fit to approve the proposal, a screen could be applied to this window to provide appropriate privacy.

Garage width

Element	Requirement	Proposed	Extent of Variation
Width of proposed garages	60%	~70%	10%

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

- The proposed garages are appropriately ameliorated through the provision of an upper floor over the building which reduces garage dominance and the provision of a clear pedestrian entry adjoining the garage on the ground floor.
- It is considered that the upper floor, if set back in accordance with LPP 2.9 would continue to provide an appropriate level of visual connectivity between the dwelling and the street to allow for appropriate street surveillance.

The width of the proposed garages is supported against the R-Codes.

CONCLUSION

In conclusion, both applications are recommended for refusal as the discretionary criteria for the proposed reduction of the upper floor primary street setback have not been met. The remainder of matters under consideration in the officer comment section of the report are considered generally supportable for the reasons stated.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

A. Council, in relation to application DA0357/21:

Refuse, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey Grouped dwelling at No. 94 (Lot 101) Edmund Street, White Gum Valley, as detailed on plans dated 24 August 2021 for the following reasons:

- 1. The primary street setback of the upper floor of the dwelling does not satisfy Local Planning Policy 2.9 Residential Streetscape Policy as the setback is inconsistent with the setback of comparable height in the prevailing streetscape and results in a projecting element into the established streetscape.**
- 2. The street setback of the upper floor does not satisfy the design principles of State Planning Policy 3.1 (Residential Design Codes of WA) as the setback is inconsistent with the established streetscape and does not positively contribute to the prevailing or future development context.**
- 3. The proposal is detrimental to the amenity 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) (ensuring that the aims and provisions of the Scheme have been met) and (m) (the compatibility of the development with its setting) of the Deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

B. Council, in relation to application DA0358/21:

Refuse, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey Grouped dwelling at No. 94 (Lot 101) Edmund Street, White Gum Valley, as detailed on plans dated 25 August 2021 for the following reasons:

- 1. The primary street setback of the upper floor of the dwelling does not satisfy Local Planning Policy 2.9 Residential Streetscape Policy as the setback is inconsistent with the setback of comparable height in the prevailing streetscape and results in a projecting element into the established streetscape.**

- 2. The street setback of the upper floor does not satisfy the design principles of State Planning Policy 3.1 (Residential Design Codes of WA) as the setback is inconsistent with the established streetscape and does not positively contribute to the prevailing or future development context.**
- 3. The proposal is detrimental to the amenity 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) (ensuring that the aims and provisions of the Scheme have been met) and (m) (the compatibility of the development with its setting) of the Deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

**PC2112-7 CHESTER STREET, NO. 22 (LOT 93) SOUTH FREMANTLE -
DEMOLITION OF EXISTING SINGLE HOUSE (TG DA0391/21)**

Meeting Date: 1 December 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Site Photos
2. Heritage Assessment

SUMMARY

Approval is sought for the demolition of the existing Single house at No. 22 Chester Street in South Fremantle.

The proposal is referred to the Planning Committee (PC) as City Officers do not have delegation to determine an application for the demolition of a dwelling in the South Fremantle Heritage Area. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4) in regard to the proposed demolition of an existing dwelling in a Heritage Area.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the demolition of the existing dwelling at 22 Chester Street, South Fremantle.

Development plans are included as attachment 1.

Site/application information

Date received: 9 September 2021
Owner name: A & C Hughes
Submitted by: A & C Hughes
Scheme: Residential R25
Heritage listing: South Fremantle Heritage Area
Existing land use: Single house
Use class: N/A (dwelling to be demolished)
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 involved the demolition of a dwelling in the South Fremantle Heritage Area. The advertising period concluded on 8 October 2021, and one submission was received. The following issues were raised (summarised):

- The submitter was concerned with regard to the treatment of existing asbestos on the property and ensuring that it is safely removed.

The applicant is advised of their responsibilities with respect to asbestos removal as a part of the recommendation.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4. The application seeks discretionary assessment of the following:

- Demolition of a dwelling in a heritage area.

The above matters are discussed below.

Background

The subject site is located on the eastern side of Chester Street, South Fremantle. The site has a land area of approximately 612m² and is currently occupied by an existing dwelling. 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.

Under the current zoning of Residential R25, the subject site would not be readily subdivided. It is noted that the applicant provided indicative development plans for the lot, however these plans have not been lodged for formal consideration, with the subject application relating only to the demolition of the existing dwelling.

A number of outbuildings exist on the subject site, however the demolition of structures such as decks, patios and outbuildings in heritage areas are exempt from requiring development approval.

The existing dwelling dates back approximately to the 1950s, with approval issued for the construction of a timber framed dwelling in 1951.

A search of the property file has revealed no recent development applications for the property, however the development history of the property is discussed in the attached heritage assessment and in the officer comment section below.

Demolition

Demolition of any place requires careful consideration because it potentially removes most of its heritage significance except for the intangible historical and social values that are not dependant on physical fabric. In considering these applications, in accordance with clause 4.14 of LPS4, Council must be satisfied that *the building or structure:*

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

The subject property is located within the South Fremantle Heritage area and the existing dwelling is not one which contributes to the statement of significance for the heritage area. The dwelling is not individually listed on the City's Heritage List.

The City's heritage assessment notes that this section of Chester Street does not comprise of an intact group of heritage dwellings. The dwelling itself was constructed in the 1950s and does not meet the threshold for inclusion on the City's Heritage List and has been found to have limited heritage significance as an example of an early 1950s residence which was constructed as a part of the post-World War 2 development of South Fremantle.

In accordance with the above and the attached heritage assessment, as the dwelling is of limited significance and is not considered to make a significant contribution to the broader cultural heritage significance and character of the locality, the demolition is recommended for approval. It is supported on the condition that an archival record of the dwelling be prepared prior to the demolition of the building. The archival record is to comprise plans and photos of the building to ensure that it is appropriately recorded.

Future development of the site

Although the applicant has not confirmed the future intended development outcome for the site, the site is not readily capable of being subdivided under the R25 density coding, and any new dwelling would be subject to further approval from the City of Fremantle.

CONCLUSION

In accordance with the attached heritage assessment and the above assessment against the requirements of LPS4, the application is recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the demolition of the existing Single house at No. 22 (Lot 93) Chester Street, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 9 September 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 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) Measured drawings**
 - i. A site plan prepared at 1:200 scale,**
 - ii. floor plan(s) of the building 1:100 scale**
 - iii. four elevations prepared at 1:100 scale.**
 - b) Record Photographs. High quality digital colour photographs to be taken of the building (once vacated). Photos are to be clearly labelled with a description of what is depicted in the photograph and the date taken. A plan at 1:100 scale is to be provided to show the position, direction and number of each photograph. Photos 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**
 - iv. Photos of any architectural features.**
 - c) Documentary evidence**

i. Certificate of title

3. 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. 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>

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

PC2112- 8 STAPLES STREET, NO. 18 (LOT 4) NORTH FREMANTLE - PARTIAL DEMOLITION OF EXISTING SINGLE HOUSE AND OUTBUILDING AND ALTERATIONS (DA0400/21)

Meeting Date: 1 December 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Heritage assessment (includes Site Photos)

SUMMARY

Approval is sought for partial demolition of and conservation works to an existing Single house at No. 18 (Lot 4) Staples Street, North Fremantle.

The proposal is referred to the Planning Committee (PC) due to the nature of the proposal involving the partial demolition of a Level 3 Heritage Listed place. The application seeks the following discretionary assessment against Local Planning Scheme No. 4 (LPS4):

- **Partial demolition of Single house**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for partial demolition of an existing Single house at No. 18 (Lot 4) Staples Street, North Fremantle. The proposed works include:

- Demolition of rear additions to the existing dwelling comprising the below:
 - Bedroom 3;
 - Living room;
 - Kitchen;
 - Meals; and,
 - Rear verandah.
- Retention of the front two rooms;
- Demolition of existing outbuilding to the rear of the subject site;
- Re-roof portion of dwelling to be retained with galvanised iron;
- Restoration of original external limestone cladding;
- Reinstatement of bullnose verandah to front of dwelling; and,
- Weatherproofing all doors and windows.

A development application will be lodged in future for the further development of the site, with several elements of these proposed conservation works acting as interim measures to ensure the structural integrity of the dwelling in the short to medium term.

The Primary street fencing doesn't form part of this current application.

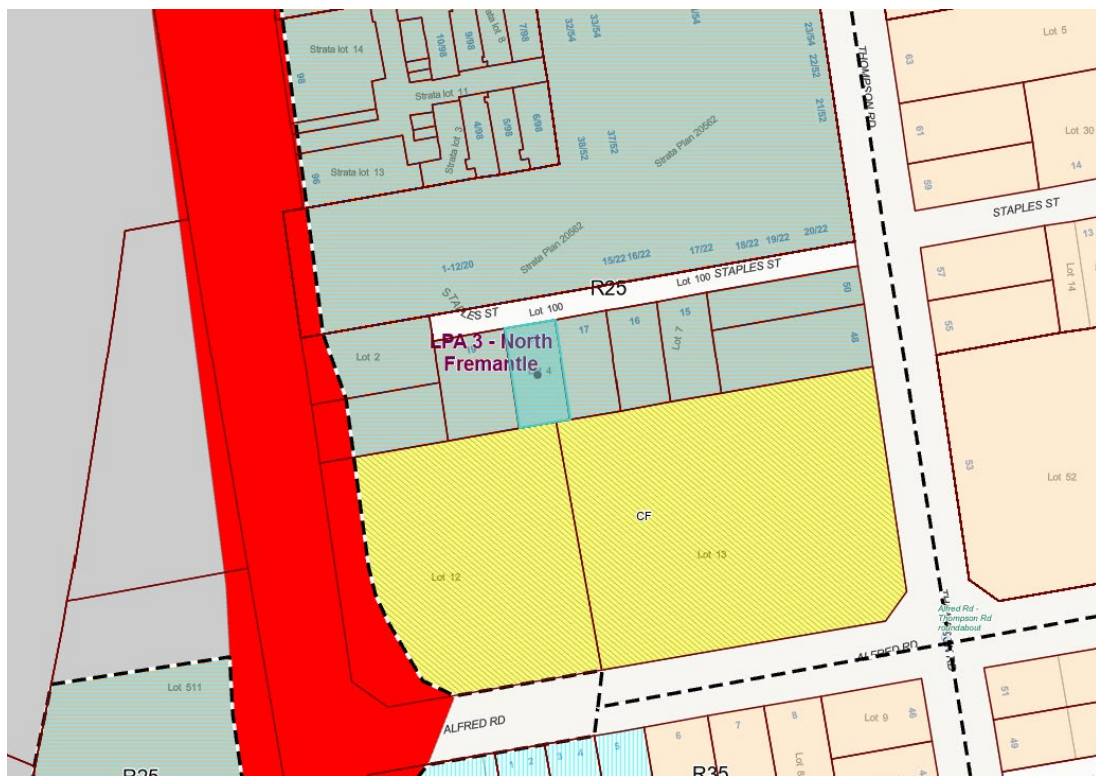
The applicant submitted amended plans on 10 November 2021 including the following:

- Updated floor and elevation plans demonstrating extent of demolition, re-roofing, and various works to be undertaken; and,
- Scope of works detailing the internal and external works to be undertaken as part of this application.

Development plans are included as attachment 1.

Site/application information

Date received:	13 September 2021
Owner name:	Clunebury Pty Ltd ATFT Jumbuck Trust
Submitted by:	Clunebury Pty Ltd ATFT Jumbuck Trust
Scheme:	Mixed use (R25)
Heritage listing:	Individually Listed Category 3 and North Fremantle Heritage Area
Existing land use:	Single house
Use class:	Single house
Use permissibility:	A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, due to the partial demolition of the existing Single house. The advertising period concluded on 20 October 2021, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4. In this particular application the area outlined below requires an assessment against the provisions of Part 4.14.1 of LPS4:

- Partial demolition of Single house

The above matters are discussed below.

Background

The subject site is located on the southern side of Staples Street at the crest of the hill. The site abuts the Croatian Catholic Church and associated community centre to the south. The site has a land area of approximately 295m² and is currently a Single house.

The subject site is currently in a very poor condition, with the portions of the site to be demolished, in addition to the portion of the dwelling to be retained, currently in a state of disrepair.

The site is zoned 'Mixed Use' and has a density coding of R25. The site is individually heritage listed and is located within the North Fremantle Heritage Area.

A search of the property file has not revealed any planning history for the site.

Heritage and demolition

The proposal has been assessed against the relevant provisions of LPS4, provided below.

Part 4.14.1 of LPS4 states that:

"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."*

Part 4.14.2 states that:

"In considering an application under 4.14.1, Council shall have regard to any heritage assessment required under the Planning and Development (Local Planning Schemes) Regulations 2015."

The Heritage Impact Assessment is generally supportive of the proposed demolition, conservation and other works. It is noted that additional information relating to the methodology and materials of some of the proposed works is required to fully assess their impact and ensure appropriate conservation and should be provided to the City prior to the issue of a Building Permit. A condition of approval is recommended to ensure assessment of methodology.

It is considered that the portion of the existing Single house to be demolished is of limited cultural heritage significance and its removal will not have a negative impact on the significance of the place. Further, given the nature of the site, the additions to be demolished are not easily visible from the street, and therefore do not make any significant contribution to the broader cultural heritage significance of the locality. The retention and conservation of the front part of the dwelling is supported.

CONCLUSION

On the basis of the above assessment against the provisions of LPS4 relating to the proposed partial demolition of the existing Single house, in addition to the positive contribution the conservation works accompanying the proposed partial demolition are considered to have on the dwelling, it is recommended that the application be approved, subject to the conditions contained in the officer recommendation below.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the partial demolition of and minor alterations to existing Single house and outbuilding at No. 18 (Lot 4) Staples Street, North Fremantle, subject to the following conditions

- 1. This approval relates only to the development as indicated on the approved plans, dated 10 November 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. 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:**

Drawings

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

Digital photographs are to be taken of the building (once emptied of debris). 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.

One set of such records, including photographs, is to be submitted to the City of Fremantle in electronic format before the start of development.

3. Prior to commencement of works further detail is to be provided to the satisfaction of the City of Fremantle demonstrating the specification and colour of mortar mixes to be used in the stone and brickwork conservation. Conservations works shall be undertaken to these specifications to the satisfaction of the City of Fremantle.
4. Prior to the issue of a Building/Demolition permit (whichever occurs first), further detail is to be provided to, and approved by, the City demonstrating the following:
 - the design and construction of the front verandah; and,
 - the type, colour and profile of the roof sheeting, rainwater goods and timber roof trims.
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. External walls of class 1 buildings must comply with Part 3.7.2.2 of the Building Code of Australia – Fire separation of external walls. If a performance solution is proposed then a certified building permit (BA1 form) must be lodged.
- iii. Fire separation for the proposed building works must comply with Part 3.7.2 of the Building Code of Australia.

- iv. 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.**

**PC2112-9 SOUTH TERRACE, NO. 382 (LOT 2 PLAN 561), SOUTH FREMANTLE
– CARPORT ADDITION TO EXISTING SINGLE HOUSE (ED
DA0367/21)**

Meeting Date: 1 December 2021
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 carport addition to an existing Single House at No. 382 South Terrace, South Fremantle

The proposal is referred to the Planning Committee (PC) due to some comments received during the notification period that cannot be dealt with via conditions of approval. The application seeks discretionary assessments against the Residential Design Codes (R-Codes).

These discretionary assessments include the following:

- **Lot Boundary Setbacks to north and east.**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a proposed carport addition to an existing Single House at No. 382 South Terrace. The carport is to be located toward the rear of the subject site, behind the existing dwelling and accessed from the secondary street frontage of the property, along Orient Street.

The carport will be setback 4.0m from the secondary street frontage of the subject site (Orient Street) and beyond the secondary street building line of the existing dwelling. The carport wall height will be 2.35m and have a maximum roof height of 2.95m above the existing finished levels on the subject site. The carport is to abut existing large retaining walls with dividing fencing atop, along the shared lot boundaries to the north and east of the proposed carport.

Development plans are included as attachment 1.

Site/application information

Date received: 6 September 2021
Owner name: Kristian Michael Smith
Submitted by: Abel Roofing and Patios
Scheme: Mixed Use R30
Heritage listing: Not Listed

Existing land use: Single House
Use class: Single House
Use permissibility: A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as variations to the deemed-to-comply requirements of the R-Codes are proposed. The advertising period concluded on 24 September 2021, and 1 submission was received. The following issues were raised (summarised):

- The respondent raised an objection to the variations proposed to the deemed-to-comply requirements of the R-Codes specifically, lot boundary setbacks and raised concerns the proposed structure may restrict light into the neighbouring dwelling. Concerns were also raised regarding the colour of the roof of the carport.

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

- As is to be discussed in further detail below, the proposed variations to the north and east lot boundary setbacks of the proposed carport are supported under the design

principles of the R-Codes as it is expected to have minimal impact upon the residential amenity of the adjoining properties.

- As shown in the proposed plans and attached site photos, the proposed carport is to sit below the existing height of dividing fencing on shared northern and eastern boundaries that will surround the structure which will obscure the view of the structure and prevent any impact of building bulk and overshadowing upon adjoining properties above the existing situation.
- Furthermore, due to the orientation of the subject site and proposed carport, any overshadow will fall on the subject site and secondary street frontage only without impacting adjoining residential properties.
- As the structure is open on all sides its impact on daylight access to adjoining properties is likely to be minor.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of the 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:

- Lot boundary setbacks (boundary wall) - North and East.

The above matters are discussed below.

Background

The subject site is located on the eastern side of South Terrace on the corner junction with Orient Street. The site has a land area of approximately 468m² and currently comprises an existing single house. The site is zoned 'Mixed Use' and has a density coding of R30. The site is not individually heritage listed though is located within the South Fremantle Heritage Area.

The existing property currently has no on-site covered car parking spaces though has an existing crossover, driveway and uncovered parking spaces located toward the rear of the property, behind the primary dwelling, which is accessed from the secondary street frontage to the property along Orient Street. This application seeks to provide a carport structure over this existing parking area, to deliver covered car parking on-site. The proposed carport is to abut existing significant retaining walls with dividing fencing atop it along the shared lot boundaries to the north and east of the proposed structure (see attached site photos).

Lot Boundary Setback (Boundary walls)

Element	Requirement	Proposed	Extent of Variation
North (carport)	1.0m	0.5m	0.5m
East (carport)	1.5m	0.5m	1.0m

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

- i. The proposed carport is open-sided, is to be constructed of light-weight materials and will be largely obscured from view of the northern neighbour due to the existing dividing fencing and dense vegetation on the neighbouring property near the location of the proposed carport (refer site photos). As such, any potential building bulk are impacts from the structure are greatly mitigated in this situation.
- ii. Due to the orientation and southern position of the subject site in relation to the northern neighbour, any shadow from the proposed structure shall fall on the subject site only and have no impact on the northern neighbour with respect to overshadowing.
- iii. The carport is a non-habitable space and will not result in any overlooking over the northern neighbour and as such is to have no implications on privacy.

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

- i. The adjoining eastern property has finished levels significantly raised above the subject site and the proposed carport is to abut and sit below the top of the existing dividing fence atop the existing limestone retaining wall along the shared boundary between the subject site and this neighbouring (refer attached development plans and site photos). As such, the proposed carport will not be visible from the neighbouring eastern property and thus, have no building bulk impacts upon this property.
- ii. As above, the proposed carport will sit below the existing dividing fencing between the neighbouring eastern property and thus, have no overshadowing impact upon this property. Furthermore, due to orientation of the site and proposed structure any shadow will fall on the subject site and secondary street frontage only and have no impact on adjoining residential amenity.
- iii. The carport is a non-habitable space and will not afford any overlooking over the eastern neighbour and as such, has no implications on privacy.

On the basis of the above, both of the proposed lot boundary setbacks are fully supported by officers under the lot boundary setback design principles of the R-Codes.

CONCLUSION

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

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Carport Addition to Existing Single House at No. 382 South Terrace (Lot 2), South Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 27 August 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.**

Advice notes:

- i) A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.**
- ii) The applicant/owner is advised that in accordance with clause 4.2 of the Notice of Exemption from Planning Requirements during the State of Emergency (COVID-19), the requirement to substantially commence this development within four years of from the date of the decision letter is extended by an additional two years.**

PC2112-10 INFORMATION REPORT - DECEMBER 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
DA0046/21
Site Address and Proposal
No. 91 Paget Street, Hilton - Proposed demolition of Single house
Planning Committee Consideration/Decision
<ul style="list-style-type: none"> At its meeting held on 28 April 2021, the Council resolved to refuse the application.
Current Status
<ul style="list-style-type: none"> On 26 May 2021 an Application for Review by the State Administrative Tribunal was lodged by the owner. On 11 June 2021 a Directions Hearing was held. A Mediation session between the parties was held on 8 July 2021 where the applicant agreed to provide additional information to the City. On 10 September 2021, the applicant lodged a new application for the retention of the existing dwelling and addition of two additional dwellings. At its meeting of 3 November 2021, Planning Committee approved the development application for the retention of the existing dwelling and addition of two dwellings. The applicant has now withdrawn their appeal against the refused demolition application.

1. Application Reference
DA0027/21

Site Address and Proposal
12 James Street, Fremantle – Proposed wall sign addition to existing building
Planning Committee Consideration/Decision
<ul style="list-style-type: none"> • Nil
Current Status
<ul style="list-style-type: none"> • On 27 April 2021, an application for the addition of a wall sign to the side of a heritage listed building was refused under delegation. • On 31 August 2021 the City was notified of an Application for Review by the State Administrative Tribunal being lodged by the owner. • A Directions Hearing was held on 15 October 2021. • A Mediation session between the parties was held on 9 November 2021. Directions have been issued for the applicant to submit revised plans and for the City to reconsider these amendments in early 2022.

OFFICER'S RECOMMENDATION

Council receive the following information reports for **December 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