



Agenda

Planning Committee

Wednesday, 2 February 2022, 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, 2 February** in the Walyalup Civic Centre – Council Chamber, located at 151 High Street, Fremantle commencing at 6.00 pm.



Paul Garbett
Director Strategic Planning and Projects

28 January 2022

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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 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.

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 12 January 2022

9. Elected member communication

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

10. Reports and recommendations

10.1 Deferred items

PC2202-1 DEFERRED ITEM - 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: 2 February 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans (19 December 2021)
Additional information: 1. Applicant's Covering Letter on Amended Plans
2. Site photos
3. Landscaping Plan
4. Transport Impact Assessment
5. Noise Management Plan SPP5.4
6. Waste Management Plan

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 was referred to the Planning Committee (PC) on 1 December 2021. The application was referred to a future meeting to allow the applicant to consider submitting amended plans to address the following:

- A reduction in the bulk of the northern boundary wall;
- Visual privacy;
- Deep soil planting;
- Internal apartment amenity; and
- For the city to further investigate the amalgamation of Lot 5

The applicant has now submitted revised plans for consideration. 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 setbacks
- Private open space and balconies
- Visual privacy
- Landscaping

- Plot ratio
- Onsite carparking
- Signage
- Overshadowing

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:

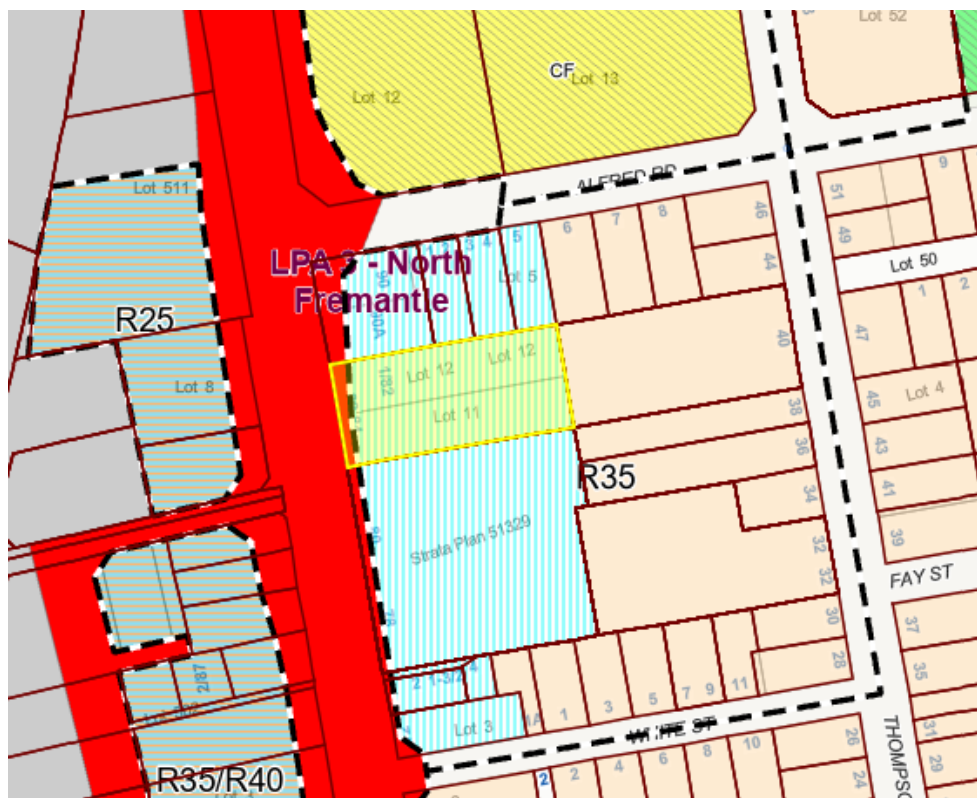
- Extending the footprint of the ground floor dining area;
- Including additional planting on structures and trees;
- Roof alterations and internal changes of the Multiple dwellings to improve amenity; and
- Improved pedestrian access and legibility.

The applicant submitted a further set of amended plans on 19 December 2021 following the PC's referral of the application. The applicant has provided the following comments on the design changes:

- *Bulk of Northern elevation*
 - *Reduced the height of the on-boundary wall and have proposed a different architectural treatment at the upper level which will reduce its visual impact.*
 - *Also proposed apartments adjacent to the northern neighbours have a different layout which includes outdoor spaces that are set back 600mm from the boundary. This will result in a more articulated form for the upper level which will also reduce its visual bulk.*
- *Overlooking*
 - *The original design of the northern apartments made use of a 1500mm high screen wall with integrated planting to prevent overlooking. This has been replaced with a solid 1600mm high screen wall with internal planting which prevents all overlooking and ensures any planting is contained within the apartments.*
- *Apartment amenity*
 - *Confirm that the apartments will have generous natural light through the articulated roof and internal planted courtyard will provide adequate planting (see cross section)*

- The latest amended development plans are included as Attachment 1.

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>
	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>
	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	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	<i>Good design is the product of a skilled, judicious design process that</i>

Aesthetics	<i>results in attractive and inviting buildings and places that engage the senses.</i>
	a) N/A
Recommendations	1. N/A

Concluding Remarks
<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 October amended plans are considered to have met the design recommendations made by the DAC.

The amended plans submitted in December 2021 have not been re-referred to the DAC due to the minor nature of the changes.

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.

The amended plans dated 19 December 2021 have not been re-advertised as they do not create any new areas of discretion.

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
- Solar and daylight access
- Natural ventilation
- Lot boundary setbacks
- Private open space and balconies
- Visual privacy
- Landscaping
- Plot ratio
- Onsite carparking
- Signage
- Overshadowing

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. No. 5 Alfred Road (see Figure 1 below) is intended to be utilised as secondary access / exit for residential occupants as well as including vehicle parking.



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:

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

The proposed 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 (as below).
 - (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
Maximum Wall height (LPS4 – North Fremantle LPA3)	7.5m	6.8m to 11.9m	Nil to 4.4m

The applicant has submitted amended plans, which while overall heights have not changed, there are some amendments to configuration and materiality. This is discussed further below.

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. Specifically, 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 triggering 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 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).
- Figure 4 shows the amended northern side elevation the subject of this report. The wall height remains the same, but the materials have been changed, designed to break up the overall bulk of one solid material and reduce the impact on the northern neighbours. The trellis planting has been retained, but the applicant has advised that if the neighbour does not want this it can be removed.
- Figures 4, 5 and 6 below show the height at the rear of the building is lower than the 2018 proposal previously approved by Planning Committee, and that the amended plans dated 19 December have amended the design of the side elevation, with the height remaining the same.

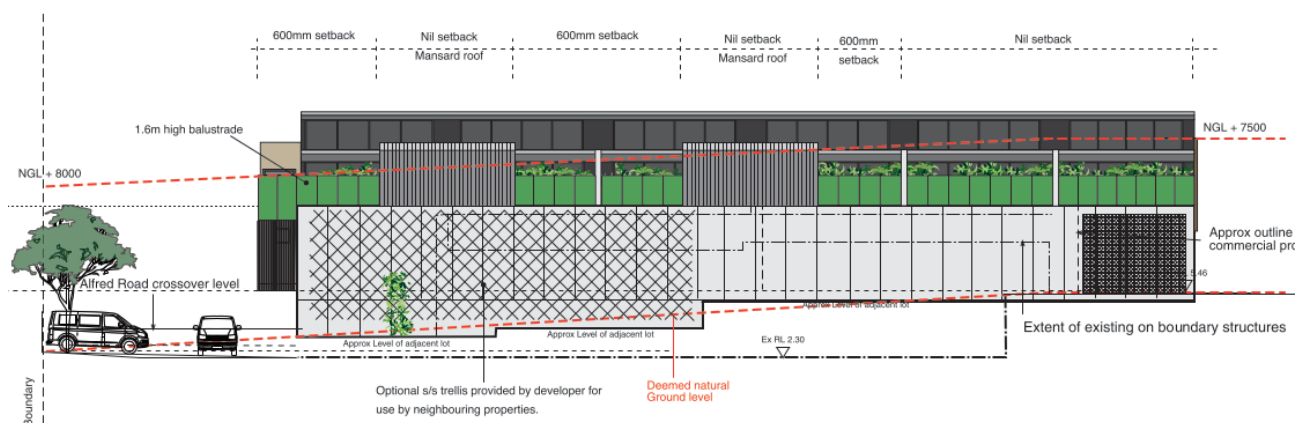


Figure 4: Amended side elevation (north) – Plans dated 19 December 2021

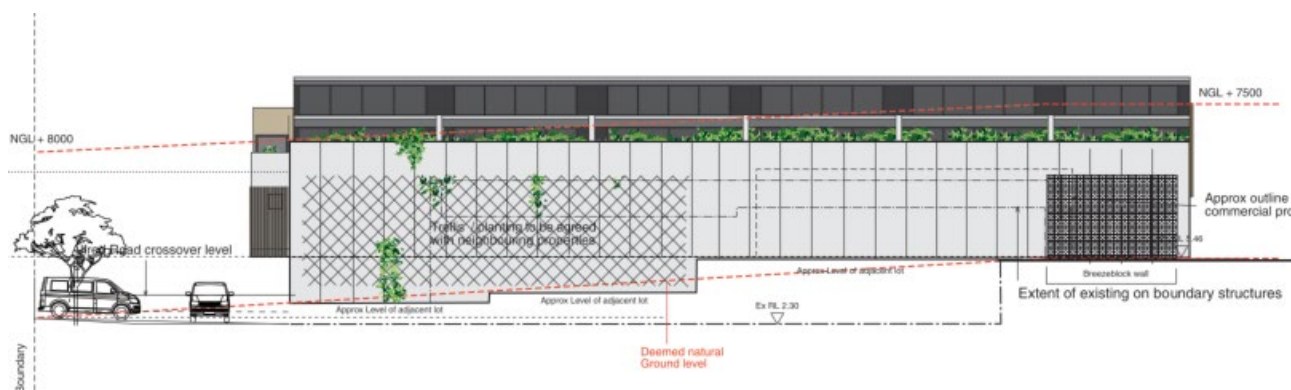


Figure 5: Superseded side elevation (north) – Plans dated 29 October 2021

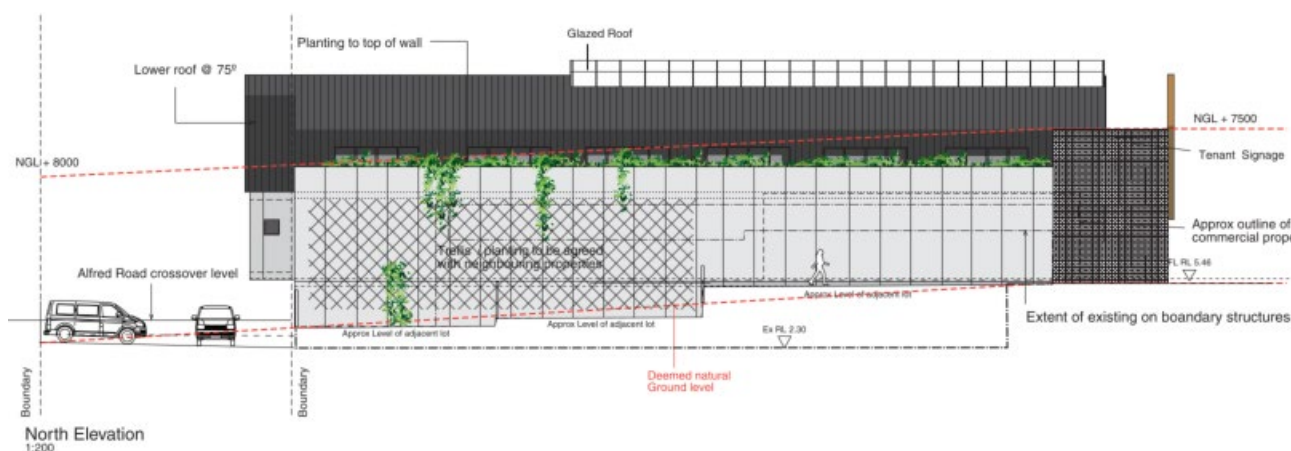


Figure 6: Approved north elevation – Office development

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

The applicant has not made any changes to the design of the proposal in relation to this matter, however has included an updated section demonstrating compliance.

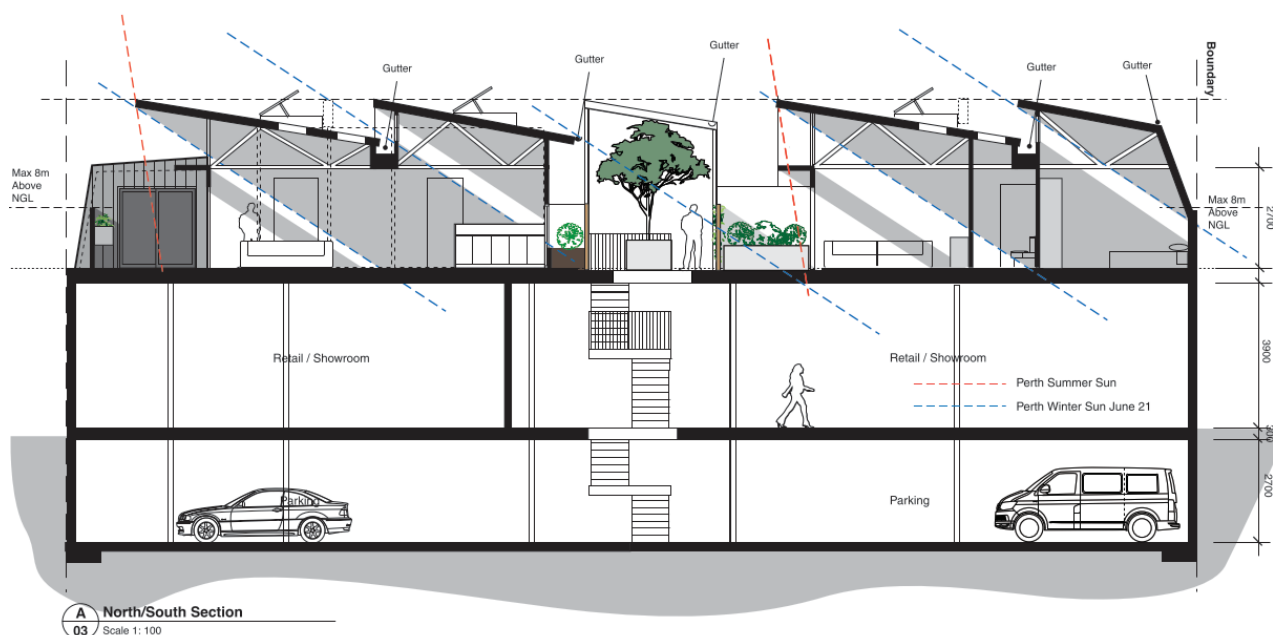


Figure 7: Amended Plan cross section demonstrating winter/summer solar access

The proposed apartments generally meet the objectives above, namely all twelve apartments have dual north/south aspects, with outdoor living areas facing north. Figure 7 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

The amended plans dated 19 December 2021 show operable skylights windows to provide for cross ventilation to the apartments.

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.



Figure 8: Floor plan showing operable skylight locations

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 amended plans dated 19 December 2021 do not change the lot boundary setbacks from the previous version.

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.
- 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.

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 amended plans dated 19 December 2021 have reconfigured the layout of four 2-bedroom apartments on the northern side to allow for the visual privacy concerns to the residential properties to the north to be addressed. This has resulted in one bedroom being pushed to the north, with the balcony being deeper but less wide. (see Figures 9 and 10 below). These reconfigured balconies now meet the minimum depth of 2.4m, whilst also still being 11.6 m² in area which exceeds the minimum acceptable outcome. The remaining 1-bedroom and 2-bedroom apartments on the northern side have a reduced balcony depth of 2.1m, but the balcony size of 13.86m² (1-bedroom apartment) and 15.12 m² (2-bedroom apartment) exceed the minimum area required. The reduced depth is considered to be offset by the significantly larger size of the private open spaces provided and the variation is supported.

No change is proposed to the balconies of the apartments on the southern side.

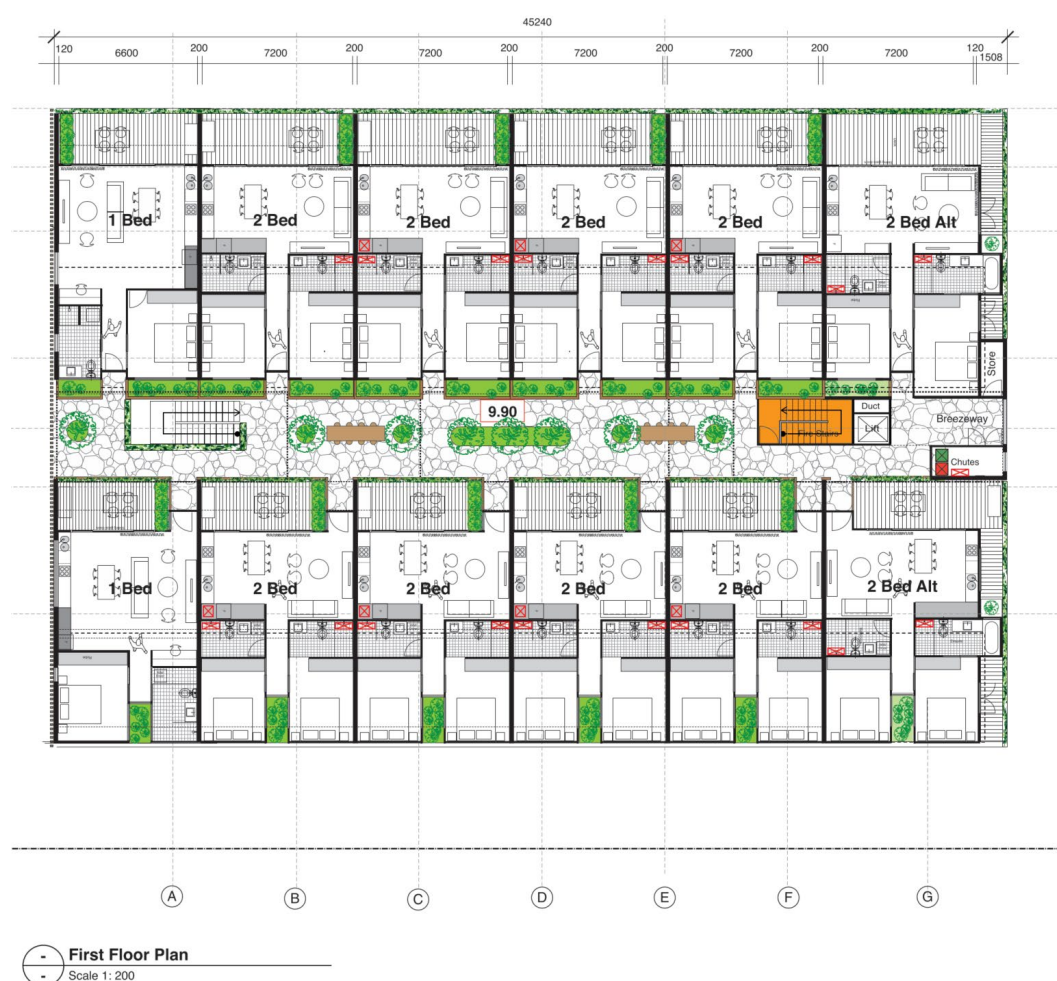


Figure 9: Superseded first floor plan dated 29 October 2021



Figure 10: Amended first floor plan dated 19 December 2021

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 11 below.

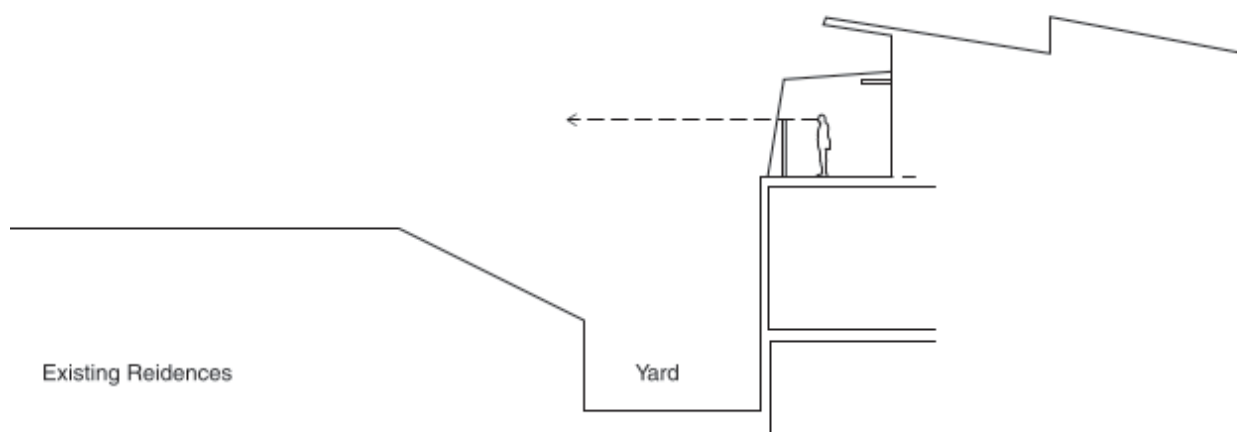


Figure 11: Amended sightline from upper floor balconies

The amended plans dated 19 December 2021 provide a solid 1.6m high screen with planting on the balcony side to prevent overlooking down into the private outdoor areas of the adjoining residences by pushing the position of a person on the balcony further back (as per Figure 11 above).

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 applicant has advised that no further landscaping plan will be provided.

While City officers support a variation to the deep soil areas, this is on the proviso that the on structure planting is of a high quality and that tree planting in the car parking area is also included on Lot 5. A condition of approval is recommended to require improvements to the landscaping plan.

Plot ratio (Density)

Element	Requirement	Proposed	Extent of Variation
Plot ratio	0.8	0.65	Complies

The amended plans dated 19 December 2021 do not change the plot ratio from the previous version.

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 amended plans dated 19 December 2021 do not change the car parking provision or layout from the previous version.

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 MRWA resumption timeframes are in excess of four years therefore the additional 11 bays would be available for at least this amount of time.

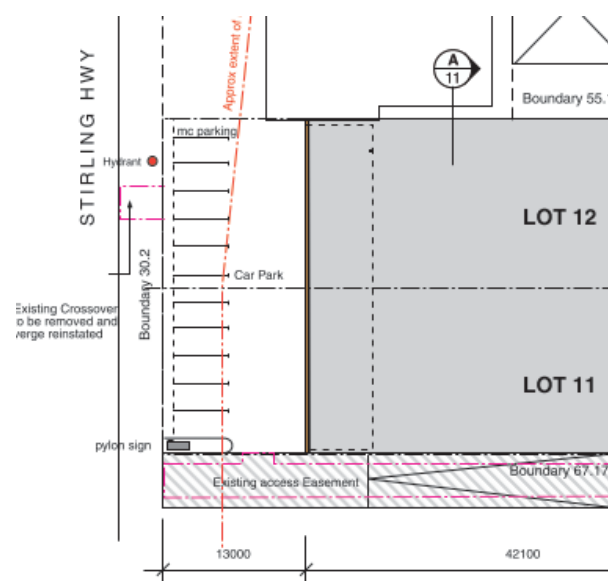


Figure 12: Extent of MRWA Primary Regional Road Reserve

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 amended plans dated 19 December 2021 do not change proposed signage heights from the previous version.

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 13: 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 amended plans dated 19 December 2021 do not change the overshadowing from the previous version.

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.

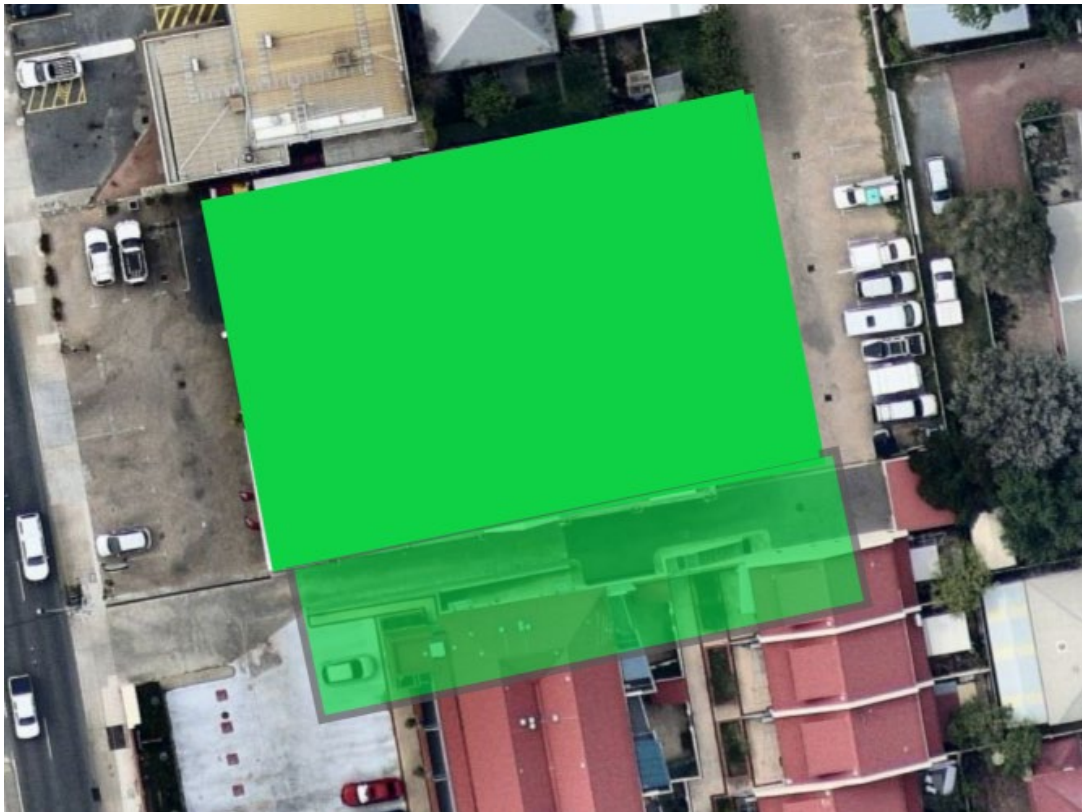


Figure 14: Approximate overshadowing of development at No.78 Stirling Highway



Figure 15: Existing development at No.78 Stirling Highway

Amalgamation of Lots

The proposal shows a one way system for vehicles, accessed from Stirling Highway at the west, along the side of the building with the exit onto Alfred Road to the north. The proposal also includes approximately ten car bays on the land 'Lot 5'.

The reliance on 'Lot 5' to provide not only vehicle access (exit), but also a significant number of car bays, and landscaping creates a situation where the City believes an Access Easement across this land would not be sufficient. The lots should be amalgamated to create one lot to ensure ongoing provision for the development of vehicle and pedestrian access, as well as sufficient car parking bays and landscaping.

The applicant has not provided any further information with their amended plans on the amalgamation of the lots.

A condition of approval should be the lots be legally amalgamated prior to lodgement of the Building Permit. This is also consistent with the conditions of the previous 2018 planning approval for the commercial development.

CONCLUSION

The amended plans dated 19 December 2021 have provided minor design changes to the northern boundary wall, the overlooking to the north, and apartment amenity to address Planning Committee concerns as outlined in the report above.

The application continues to be recommended for conditional approval.

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 19 December 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 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.

- 7. 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**
- 8. 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.**
- 9. 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.**
- 10. 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**
 - 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.

11. 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

12. 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.

13. 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.

14. 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”.

- 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 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”

- 16. 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.**

- 17. 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.

- 18. 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.**

- 19. 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.**

- 20. 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.

21. 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.
22. 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.**

**PC2202-2 DEFERRED ITEM - BRACKS STREET, NO.90 (LOTS 241 – 260),
NORTH FREMANTLE – DEMOLITION OF EXISTING BUILDINGS AND
STRUCTURES – (CS DA0440/21)**

Meeting Date: 2 February 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Planning Committee
Attachments: 1. Demolition Plans
Additional information: 1. WAPC Plan No.1.7977
2. WAPC Decision Letter (5 January 2022)
3. City's Heritage Assessment

SUMMARY

Approval is sought for the demolition of all existing buildings and structures on the site.

The proposal is referred to the Planning Committee (PC) as it proposes demolition of buildings and incidental structures within the North Fremantle Heritage Area.

The application was presented to PC in January 2022, with PC referring the application back to the administration to allow for the applicant to consider providing further information on the heritage significance of the site and to explore opportunities for interim uses of the buildings.

The applicant has not provided any additional supporting written information to this proposal, however the referral to this meeting has allowed for a site visit to occur.

The existing buildings and structures are of no cultural significance, nor do they make a positive contribution to the character of the area, therefore the application remains recommended for conditional approval.

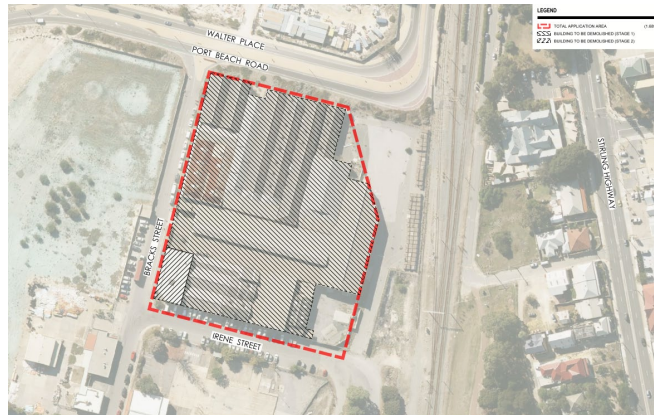
PROPOSAL

Detail

Approval is sought for the complete demolition of all existing buildings and structures on site. Multiple buildings and structures are proposed to be demolished over the large site. No subsequent development has been proposed at this stage.

The demolition of these buildings and structures is in addition to demolition of other buildings on nearby properties approved in previous applications at No.22 Bracks Street (DA0178/21) and the Shell State Business Centre and Yard East (DA0347/21).

The aerial image below shows the location of the buildings proposed for demolition under this application.



Development plans are included as attachment 1.

Site/application information

Date received:	11 October 2021
Owner name:	North Fremantle JV Pty Ltd
Submitted by:	Taylor Burrell Barnett
Scheme:	Industrial Zone
Heritage listing:	North Fremantle Heritage Area
Existing land use:	Various industrial / warehouse buildings
Use class:	n/a
Use permissibility:	n/a



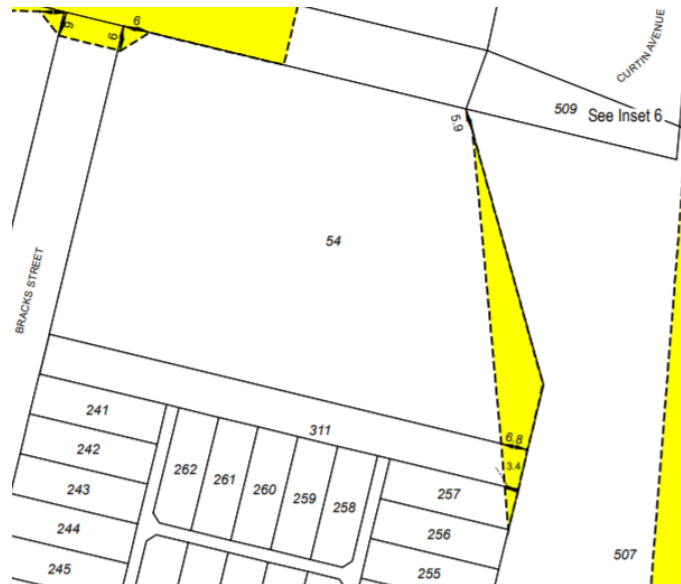
CONSULTATION

External referrals

Department of Planning, Lands and Heritage (DPLH)

The application was referred the Department of Planning Lands and Heritage as a portion of the subject site is within Planning Control Area 158. This section of land is

subject to a separate approval by DPLH. Approval subject to conditions was granted by the DPLH on 5 January 2022 (see WAPC Decision Letter) therefore the area highlighted in yellow on the plan below is excluded from the application to be considered by the City of Fremantle.



Department of Water and Environmental Regulation (DWER)

The application was referred to DWER as the subject site is adjacent to a contaminated site. DWER has advised that an accredited contaminated sites auditor has been engaged to review the current and previous investigations and are expected to provide a mandatory auditors report in 2021. DWER has advised that based on the available information, and considering the application is not proposing to change to a more sensitive land use, they have no objection to the proposed demolition. They recommend, given the risks associated with potential disturbance of impacted soils, that an advice note is applied to any approval granted by the City of Fremantle to ensure appropriate site management during demolition.

Fremantle Ports (FP)

The application was referred to FP as the subject site is located within Fremantle Port Buffer Area 2. FP have advised that they have no objection to the proposal demolition as it will have no immediate impact on port operations. They have requested that the City requires the proponent to provide parking on site rather than on street during the demolition process. A condition of approval is recommended requiring the lodgement of a Demolition Management Plan which will need to detail site management during demolition.

Main Roads Western Australia (MRWA)

The application was required to be referred to MRWA as the site is affected by a Primary Regional Road reservation. MRWA have advised that they have no objection to the proposal subject to conditions and advice notes to protect the road reservation vegetation, correct discharge of stormwater and permit approvals. These matters can be dealt with as relevant conditions and advice notes.

Public Transport Authority (PTA)

The application was referred to PTA for comment as the site is within 50 metres of the PTA's Rail Reserve (or PTA Protect Zone). PTA have advised that they have no objection to the proposal subject to advice to ensure appropriate permit approvals are sought by the applicant/owner. These matters can be dealt with as relevant advice notes.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as complete demolition of all buildings on a site located within a heritage area is proposed. The advertising period concluded on 23 November 2021, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies.

Background

The site has a land area of approximately 17060m² and currently has a number of industrial buildings located on it. The site is zoned Industry. The site is located within the North Fremantle Heritage Area.

At its meeting on the 12th January 2022, PC referred the application for the following reason:

Refer the application to the Administration with the advice that Council is not prepared to grant planning approval to the application for the demolition of existing buildings and structures at No. 90 (Lot 241-260) Bracks Street, North Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider providing more information on the heritage significance of the site and explore opportunities for interim uses of some or all of the existing buildings.

While the applicant has not provided any additional written information for consideration, they have verbally advised that the proponent has chosen not to explore opportunities for interim use of existing buildings. They also invited PC members to site to review the existing structures and speak with the applicant's heritage consultant.

Demolition

Clause 4.14.1 of LPS4 states:

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

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

The subject site is a roughly rectangular site bounded by Walter Place to the north, the railway to the east, Irene Street to the south and Bracks Street to the west. Industrial

buildings almost completely cover the site from boundary to boundary with the exception of small areas on the north-east and south-east corners of the site. The vehicle access is onto Bracks Street, which corresponds with the earlier Vaughn Street. The areas of the site without buildings are all bituminised and fenced. The vehicle entry from Bracks Street has a high face brick wall with wrought iron gates.

The buildings proposed to be demolished under this application are all located on the eastern side of Bracks Street and are identified as:

- Massey-Harris Co Ltd Building (pre 1936)
- J Gadsden Pty Ltd Building (1937-39)
- Irene Street Block West (c. 1954 – 65)
- Irene Street Block East (c. 1954 – 65)
- Corner Officer (c. 1966 – 74)

The proposed demolition works are intended to be split over two stages:

- All warehouse structures (Stage 1 - majority of the site)
- Two storey brick office building on corner of Bracks Street and Irene Street (Stage 2)

A heritage assessment of the application site and surrounding lots has identified that the oil tanks on the west side of Port Beach Road were demolished in the 1990's followed by most of the buildings of the former Caltex Oil Installation at 85 Bracks Street in 2004, followed by additional tanks in 2014. In 2017 most of the Shell oil terminal structures on the west side of Bracks Street were decommissioned and demolished including the fuel tank farm, oil tank farm, bitumen plant and workshop buildings. In 2021 applications have been approved to demolish all the oil terminal buildings east of Bracks Street, including industrial buildings, structures, offices and laboratories.



Photo 1 –Existing buildings on site proposed for demolition (viewed from Bracks Street)



Photo 2 – Existing buildings on site proposed for demolition (viewed from Irene Street)



Photo 3 – Existing buildings on site proposed for demolition (viewed from Walter Place)

The heritage assessment of the proposed demolition has found that the Inter-War and Post War era industrial buildings at No. 90 Bracks Street have little heritage significance and do not contribute to a significant streetscape. Generally, these buildings are generic industrial buildings of the era with little aesthetic value or landmark quality.

The historic and social values of this place can be captured by recording the information collected as part of this assessment in Inherit as a Historic Record Only listing. A condition of approval is recommended requiring the submission of an archival record.

The proposed demolition is supported on heritage grounds as it does not contribute to the identified significance of the North Fremantle Precinct Heritage Area or meet the threshold for individual listing.

It is noted that at the January meeting, the applicant requested that the archival record condition be altered to remove the requirement for architectural plans. On further review and on advice from the City's Heritage Coordinator, this is recommended by officers as a reasonable response given the limited heritage significance of the site.

CONCLUSION

The proposed demolition of all buildings on site is considered supportable for the reasons discussed above and is recommended for conditional approval.

STRATEGIC IMPLICATIONS

The demolition is associated with the long term urban redevelopment aspirations of the owners for the site. However, these are in a very early stage of formulation as a preliminary request for rezoning of the land to Urban in the Metropolitan Region Scheme (MRS) has been submitted to the Western Australian Planning Commission (WAPC), but the WAPC has not yet formally decided whether to commence an MRS Amendment Process, which will be a lengthy process involving significant community and stakeholder consultation and will likely be linked to the recently announced WAPC Future of Fremantle Planning Committee project.

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 buildings and structures at No.90 (Lots 241-260) Bracks Street, North Fremantle subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 11 October 2021. It does not relate to the area of land subject to PCA158 shown on the attached WAPC Plan No.1.7977. 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. Any damage to the existing verge vegetation within the Port Beach Road reservation shall be made good.**
- 3. Stormwater discharge, if any, shall not be discharged into the Port Beach Road reservation or the future Curtin Avenue reservation.**
- 4. No works are permitted within the Port Beach Road or future Curtin Avenue reservations.**

5. Prior to the issue of a Demolition Permit for the development hereby approved the existing building shall be fully documented in the form of a professionally prepared study of the physical, documentary and other evidence associated with the site before any physical or material disturbance. This documentation shall consist of the following:
- a) A photographic report which includes the following:
 - (i) A site plan showing the position, direction and number of each photograph.
 - (ii) The history of the original building and subsequent stages of development.
 - (iii) Old photographs relating to this site and building.
 - (iv) Any other relevant historical information.

One set of such records including photographs shall be submitted to the City of Fremantle in electronic format prior to the commencement of development.

6. Prior to the issue of a Demolition Permit for the development hereby approved, a 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.

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

Advice Note(s):

- i. In regard to the condition requiring a Demolition Management Plan, Local Planning Policy 1.10 Construction sites can be found on the City's website 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

- ii. 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.
- iii. This area is currently subject to quarantine regulations to limit the spread of Red Imported Fire Ants. A permit is required if you are moving any potential host material (including soils and building waste) outside the quarantine area. For more information and permit requirements visit agric.wa.gov/rifa
- iv. 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.
- v. Any removal of asbestos is to comply with the following –

Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the *Health (Asbestos) Regulations 1992* and the *Environmental Protection (Controlled Waste) Regulations 2001*. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the *Occupational Safety and Health Act 1984* and accompanying regulations and the requirement 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>

- vi. The applicant is advised that an appropriate management plan should be prepared to manage any environmental or health risks from potential exposure of contaminated soils during demolition works.

Any material (soil and hardstand) proposed for off-site disposal should be adequately assessed in accordance with the *Landfill Waste Classification and Waste Definitions 1996* (as amended 2019) and the *PFAS National Environmental Management Plan* (Heads of EPA's Australia and New Zealand, January 202).

- vii. The applicant is required to submit an Application form to Main Roads Western Australia to undertake works within the Curtin Avenue or Port Beach Road reserves prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website > Technical & Commercial > Working on Roads.
- viii. This property is affected by land reserved under Planning Control Area 158 as shown on WAPC Plan No.1.7977 and will be required for road purposes at some time in the future.
- ix. The upgrading/ widening of Curtin Avenue and Port Beach Road are 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.
- x. The Public Transport Authority of Western Australia (PTA) advises that, as the proposed works are within 50 metres of the PTA's Rail Reserve (or the PTA Protect Zone), the owner must seek PTA's approval for working in close proximity to the operating railway prior to conducting the proposed demolition works.
- xi. The Public Transport Authority (PTA) advises that the applicant/owner should submit the following documents to PTAThirdPartyAccess@pta.wa.gov.au at least six weeks prior to the commencement of works:
 - a. A completed checklist as located within Appendix 2 of the PTA Procedure 8103-400-004 '*Working in and around the PTA Rail Corridor, Assets and Infrastructure*' and all required documents listed within the Checklist.
 - b. A Work Method Statement
 - c. Details of plant and equipment that will be used, including cranes, and their location within the worksite.All PTA specifications and procedures can be obtained on the PTA Vendor Portal <https://www.pta.wa.gov.au/vendor/>

**PC2202-3 DEFERRED ITEM -SOUTH TERRACE, NO.312 (LOT 344), SOUTH
FREMANTLE - ALTERATIONS TO AN EXISTING RESTAURANT AND
INCIDENTAL INDUSTRY LIGHT (COFFEE ROASTERS) - (JL
DA0513/20)**

Meeting Date: 2 February 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Original Floor Plan (2013 Approval)
2. Site photos

SUMMARY

Approval is sought for alterations to an existing building and an extension of the dining area of the Restaurant at No. 312 South Terrace, South Fremantle.

The original proposal was 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 Local Planning Scheme No. 4 (LPS4) regarding onsite car parking.

At its meeting on 17 February 2021 the Planning Committee (PC) resolved to refer the application to the Administration with the advice that the PC was not prepared to grant planning approval based on the current submitted plans, and invite the applicant to consider amending the proposal to integrate the recommended additional provision of onsite bike parking (20 bays) and improve the interface of the vehicle crossovers and parking area with the public realm consistent with the urban design principles used in the creation of the Little Lefroy Street 'node'.

In response to PC's referral, officers facilitated a face-to-face discussion with the applicant on 24 February 2021. Subsequent to this meeting, the applicant submitted amended plans on 5 January 2022. The following report provides details of the proposed amendments, and an updated assessment against the LPS4 requirements.

In the view of officers, the proposed amendments adequately respond to PC's concerns, or can be addressed via conditions, therefore the amended proposal is recommended for conditional approval.

PROPOSAL

Detail

The original proposal sought approval for the following changes to the premises currently operating as Roasting Warehouse:

- Internal fit out
- External landscaping

- Alterations to existing openings and existing roller door
- Extension of the patio seating area
- Overall increase in the dining area from 100 sqm to 250 sqm (from 84 seats to maximum 180 seats).

On 24 February 2021 City Officer's met with the applicant to discuss PC's referral from its 17 February 2021 meeting. The City has followed up with the owner on multiple occasions since February 2021, which finally resulted in amended plans being received in January 2022.

The 5 January 2022 amended plans include the following changes:

- Removal of the driveway and crossover on South Terrace,
- New sea container for takeaway and Ice cream to be located on Little Lefroy Road,
- Relocation of the three onsite car bays from the internal driveway to the north eastern corner of site,
- 30 new Class 3 bike rack facilities scattered on both South Terrace and Little Lefroy Road sides of the site,
- New seating to front of site and south west corner of site, and
- All existing internal layout to remain unchanged.

Amended development plans are included as attachment 1.

Site/application information

Date received:	23 November 2020
Owner name:	Munroe Agencies Pty Ltd
Submitted by:	Equanimity Consultants Pty Ltd
Scheme:	Mixed use R30
Heritage listing:	South Fremantle Heritage Area
Existing land use:	Restaurant
Use class:	Restaurant
Use permissibility:	A



CONSULTATION

External referrals

Nil required.

Community

The original application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), as discretion was sought against the provisions of LPS4. The advertising period concluded on 13 January 2021, and five (5) submissions were received. One (1) submission supported the proposed alterations but objected to the drive through facility currently operating from the site. The remaining submissions raised the following issues (summarised):

- Street parking is already difficult and this increase in potential seating will make it worse.
- The intersection is impossible to cross due to the revised road layout and pedestrians wandering all over the road. If people have to park off site this situation will grow worse.
- The drive through coffee service is extremely dangerous for pedestrians and will make a bad road situation worse.
- This proposal is much too large for the area and will detract from the amenity and ambiance. Large proposals like this are better situated away from South Terrace and with ample onsite parking.

- The Restaurant plays music outside at night and that, combined with the additional capacity, will cause disruption to nearby residents.

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

- In regard to the temporary drive through facility onsite, this is an exempt activity under the 'State of Emergency' measures administered during COVID-19. This drive through facility does not form part of the current application and will be required to cease operation onsite 3 months after the state of emergency measures are ceased.

The remaining comments are addressed in the officer comment below. The amended plans did not require further consultation.

OFFICER COMMENT

Statutory and policy assessment

The amended proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies and requires discretion against the car parking provisions of LPS4.

The above matters are discussed below.

Background

The subject site is located on the corner of Little Lefroy Lane and South Terrace. The site has a land area of approximately 903 m² and is currently an approved Restaurant. The site is zoned Mixed use and has a density coding of R30. The site is not individually heritage listed but is located within the South Fremantle Heritage Area.

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

- DA0623/12: Change of use and fit out to Restaurant approved on 26 March 2013.
- DA0234/20: Additions and alterations to existing Restaurant approved on 6 July 2020.

Onsite car parking

The amended proposal seeks to increase the dining area from the previous 2012 approval (comprising patron seating 84 seats and 150sqm dinning area) to a maximum of 180 seats (300sqm dining area) both internal and external to the building. The indicative seating layout is shown on the amended plans of Attachment 1.

As a result of the increase seating / dining area the variation to onsite parking provision has also increased from the 2012 approval. The below table outlines the changes:

Application	Required	Proposed	Shortfall
DA0623/12	1:5 seats or 1:5m ² of dining area*	7 bays	Existing Shortfall 23 bays

	(100 seats and 150m ² area = 30 bays)		
DA0513/20 (Current application)	180 seats and 300m ² dining area = 60 bays	3 bays	New Shortfall 57 bays

*whichever is greater

The objections received regarding the original proposal raised specific concerns to lack of on street parking and the fact that this is already a big issue on South Terrace.

The existing shortfall was supported previously for the following reasons:

- The site is located within close proximity to stops 8 and 9 of the Fremantle Blue CAT service and Transperth operate high frequency bus routes along South Terrace, South Street and Lefroy Road.
- There are a number of street bays available in the immediate vicinity including Little Lefroy Road, South Terrace, Inverleith Street, Jenkin Street and Sydney Street.
- It is also still reasonable to expect that a large volume of the patrons of the restaurant will consist of locals and driving to the venue is not the first choice of travel.

The reasons above are still considered applicable, however it is acknowledged that there is greater demand for on-street parking in South Fremantle from existing and new businesses and residents in the area. It is still considered that even at the busiest time, there is some availability of the existing on street car parking bays in the immediate locality, including along Marine Terrace which is approximately 200m from the site. Although it is acknowledged that the proposed use may increase the demand on these bays during the peak periods, it is not considered to result in a parking and traffic impact that is significantly greater than the current demand for on street parking. In addition to this its also considered that a large majority of customers to this premise walk or ride to site whereby ample bike racks provisions have been included in the amended proposal.

Bike racks

Due to the increase in patron numbers and dining area, the Restaurant requires the provision of 1 additional Class 1 or 2 bike rack. Under clause 4.7.3.3 of LPS4, Council may waive the requirement for Class 1 or 2 bike racks where the application is for a minor change of use. Given that the use is not fundamentally changing, it is considered appropriate to waive this requirement.

LPS4 also requires a Restaurant have two Class 3 bike racks (low security rails). The application has been amended to include a total of 30 onsite Class 3 bike racks, an increase from 20 in the previously reviewed plan. It is considered that this helps compensate for the lack of Class 1/ 2 facilities but also addresses the Committees concerns raised in its resolution from the 17 February.

Given the increase in the size of the dining area and reduction in onsite parking it is recommended that a condition be included requiring the installation of these bike racks.

Public Interface

As part the resolution from its February 2021 meeting, PC recommended that the applicant to improve the interface of the vehicle crossovers and parking area with the public realm. It was suggested that work be done on the design to that it was consistent with the urban design principles used in the creation of the Little Lefroy Street 'node' within the public realm.

The amended plans are considered to address this matter for the following reasons:

- include the deletion of the drive thru coffee route,
- introduced a casual seating node to the corner,
- a pop-up coffee outlet to Little Lefroy Road interface, and
- a simplified and redesign for the onsite parking is introduced impacting only a small portion of the Little Lefroy Road elevation.

The application has been assessed against and is compliant with the provisions of LPS4 and Council's relevant planning policies.

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 Additional seating to an existing Restaurant at No. 312 (Lot 344) South Terrace, South Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 5 January 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Within 60 days of this decisions letter, 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.**

- 3. Within 30 days of the date of this decision letter, a plan detailing the provision of thirty (30) Class 3 (as defined in Local Planning Scheme No. 4) bicycle racks shall be provided, to the satisfaction of the City of Fremantle.**

Within 60 days of this decisions letter, the required bicycle racks must be installed in accordance with the approved plan and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.

Advice Note(s):

- i. The applicant is advised that the 'drive through alfresco' does not form part of this application for approval. This activity may be considered an exempt activity under the 'State of Emergency' measures administered during COVID-19, however its operation onsite must cease within 3 months after the state of emergency measures are revoked.**

10.2 Committee delegation

PC2202-4 MCCABE STREET, NOS. 19-21 (LOT 19) - VARIATION TO DAP004/20 (EIGHT STOREY MIXED USE DEVELOPMENT COMPRISING 13 GROUPED DWELLINGS, 97 MULTIPLE DWELLINGS, RESTAURANT, SHOP) (ED DAPV001/21)

Meeting Date: 2 February 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Revised Development Plans - Mixed Use Development (Amended) - 19-21 McCabe Street, North Fremantle
Additional information: 1. Site Photos
2. Revised Landscaping Plans
3. Sustainability Advice Note, prepared by Cundall
4. Updated Transport Impact Statement
5. Updated Waste Management Plan
6. Previous Determination Notice(s) and Plans
7. Mechanical Engineer technical memorandum on A/C condensers, prepared by Floth
8. Hot Water System technical memorandum, prepared by Iconic

SUMMARY

Approval is sought for variations to the development previously approved by the Metro Inner-South Joint Development Assessment Panel (JDAP) on 4 November 2020 (City ref. DAP004/20) which is an *Eight Storey Mixed Use Development Comprising 13 Grouped Dwellings, 97 Multiple Dwellings, Restaurant and Shop Nos. 19-21 McCabe Street, North Fremantle.*

The key matters for consideration as a result of the proposed amendments are related to building height, parking and landscaping.

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

The application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for variations to the development previously approved by the Metro Inner-South Joint Development Assessment Panel (JDAP) on 4 November 2020 (City ref. DAP004/20) which is an Eight Storey Mixed Use Development Comprising 13 Grouped Dwellings, 97 Multiple Dwellings, Restaurant and Shop Nos. 19-21 McCabe Street, North Fremantle.

A summary of the proposed amendments to the originally approved development, are listed as follows:

- 0.65m (650mm) overall building height increase to apartment tower elements;
- Reduction in overall residential dwelling number (109 to 106 dwellings total);
- Increase in commercial space (Café & Shop use) along McCabe Street frontage (314sqm to 737sqm);
- Reduced basement level footprint plus additional basement level
 - Less car bays provided, however less dwellings proposed.
- Increased and improved landscaping and deep soil areas;
- Reduction in height of two of the townhouses (Nos. 10 & 11) in north-western corner of site (reduction to 3-storey in lieu of 4-storeys previously approved);
- Various alterations to apartment tower layouts and configurations; and
- Amendments to wording of some conditions of approval as a result of the proposed changes.

Where relevant, each of the above changes has been assessed and discussed in detail within the accompanying RAR which has informed the Officer recommendations.

Development plans are included as Attachment 1.

Site/application information

Date received:	8 November 2021
Owner name:	Megara Twenty Six Pty Ltd
Submitted by:	Space Collective
Scheme:	Development Area (DA18)
Heritage listing:	Not Listed
Existing land use:	Commercial
Use class:	Multiple Dwellings, Grouped Dwellings, Shop, Restaurant
Use permissibility:	Multiple Dwellings (A), Grouped Dwellings (A), Shop (A), Restaurant (A)

OFFICER'S RECOMMENDATION

Council

SUPPORT the Officer's Recommendation to REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Variation to DAP004/20 (Eight Storey Mixed Use Development Comprising 11 Grouped Dwellings, 97 Multiple Dwellings, Restaurant, Shop) at Nos. 19-21 (Lot 19) McCabe Street, North Fremantle for the reasons outlined in the responsible authority report.

MCCABE STREET, NOS. 19-21 (LOT 19), NORTH FREMANTLE - VARIATION TO DAP004/20 (EIGHT STOREY MIXED USE DEVELOPMENT COMPRISING 11 GROUPED DWELLINGS, 97 MULTIPLE DWELLINGS, RESTAURANT, SHOP)

Form 2 – Responsible Authority Report
(Regulation 17)

DAP Name:	Metro Inner-South JDAP
Local Government Area:	City of Fremantle
Proposed Amendments:	<ul style="list-style-type: none"> ▪ Revised Development Description: 'Eight Storey Mixed Use Development Comprising 11 Grouped Dwellings, 95 Multiple Dwellings, Restaurant and Shop'; ▪ 0.65m (650mm) overall building height increase of tower elements; ▪ Reduction in overall residential dwelling number (108 to 106 dwellings total); ▪ Increase in commercial space (Café & Shop use) along McCabe Street frontage (314sqm to 737sqm); ▪ Reduced basement level footprint plus additional basement level (car parking yield reduced, provision consistent with previous approval); ▪ Increased and improved landscaping and deep soil areas; ▪ Reduction in height (1 storey less) of townhouses in north-western corner of site; and ▪ Various alterations to apartment tower layouts and configurations.
Applicant:	Space Collective Architects (c/o Tom Letherbarrow)
Owner:	North Fremantle Trust ATF Megara Twenty Six Pty Ltd.
Value of Amendment:	N/A
Responsible Authority:	City of Fremantle
Authorising Officer:	Manager Development Approvals
LG Reference:	DAPV001/21

DAP File No:	DAP/20/01821	
Date of Original DAP decision:	4 November 2020	
Application Received Date:	8 November 2021	
Application Statutory Process Timeframe:	90 Days	
Attachment(s):	<ol style="list-style-type: none"> 1. Amended Development Plans and Elevations (DA01 – DA03 (Rev A); DA04 (Rev B); DA05 - DA18 (Rev A)); 2. Applicant Covering Letter; 3. Revised Accommodation, Area and Car Parking Schedule, prepared by Space Collective Architects (dated 5 November 2021); 4. Applicant's Updated R-Code Vol. 2 Planning Assessment; 5. Revised Landscaping Plans, prepared by Aspect Studios (dated 28 October 2021); 6. Sustainability Advice Note, prepared by Cundall (dated 27 October 2021); 7. Revised Transport Impact Assessment, prepared by Cardno (dated 12 January 2022); 8. Revised Waste Management Plan, prepared by Talis (dated 12 January 2022); 9. Previous Determination Notice(s) (DAP/20/01821 – dated 4 November 2020; and Amended Decision Notice by SAT Review (Ref. DR277/2020 – dated 24 March 2021); 10. Mechanical Engineer technical memorandum on A/C condensers, prepared by Floth; and 11. Hot Water System technical memorandum, prepared by Iconic. 	
Is the Responsible Authority Recommendation the same as the Officer Recommendation?	<input type="checkbox"/> Yes	Complete Responsible Authority Recommendation section
	<input type="checkbox"/> N/A	NOTE: To be completed after Planning Committee.
	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections

Responsible Authority Recommendation*
TBA

Reasons for Responsible Authority Recommendation*

*if differing to the below, (following PC)

Officer Recommendation (Replace with “Responsible Authority” If Same as above following PC)

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

1. **Accept** that the DAP Application reference DAP/20/01821 as detailed on the DAP Form 2 dated 8 November 2021 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;
2. **Refuse** DAP Application reference DAP/20/01821 and accompanying development plans (refs. DA01 Rev A; DA02 Rev A; DA03 Rev A; DA04 Rev B; DA05 Rev A; DA06 Rev A; DA07 Rev A; DA08 Rev A; DA09 Rev A; DA10 Rev A; DA11 Rev A; DA12 Rev A; DA13 Rev A; DA14 Rev A; DA15 Rev A; DA16 Rev A; DA17 Rev A) and Landscaping Plans (ref. P20002-LA-102) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 4 of the City of Fremantle’s Local Planning Scheme No. 4 Scheme No. for the proposed minor amendment to the approved mixed use development 8 Storey Mixed Use Development (Multiple Dwellings, Grouped Dwellings, Shop, Restaurant) at No. 19-21 McCabe Street, North Fremantle for the following reasons:

Reason(s)

1. The proposal is inconsistent with clauses 67(c), 67(g) and 67(m) of the *Deemed provisions* as it is contrary to the maximum heights set out within Local Planning Policy 3.11 and State Planning Policy 2.6: Coastal Planning Policy and would be detrimental to the amenity of the area by virtue of the excess scale and height of the development, and incompatibility with the scale of development immediately adjoining the site and within the locality.
2. The proposal is inconsistent with the Element Objectives of clause 2.2 of the Residential Design Codes Volume 2 as the development does not reflect the existing or desired future scale of the local area, nor respond to the changes in topography in relation to the whole of the development area.
3. The development is inconsistent with clauses 67(a) and 67(s)(ii) of the Deemed provisions as it proposes a significant shortfall of vehicle parking and no delivery/service bays for the non-residential component of the development as required by Table 2 of the City’s Local Planning Scheme No. 4. As a result, the proposal is to have adverse impacts upon the local road network with respect to street parking availability, congestion and traffic/pedestrian safety;

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme Zone/Reserve	Industry
Local Planning Scheme	Development Zone
Local Planning Scheme Zone/Reserve	Development Area DA18
Structure Plan/Precinct Plan	None
Structure Plan/Precinct Plan Land Use Designation	None
Use Class (proposed) and permissibility:	Multiple Dwellings (A), Grouped Dwellings (A), Shop (A), Restaurant (A)
Lot Size:	8058m ²
Number of Dwellings:	106
Existing Land Use:	Commercial
State Heritage Register	No
Local Heritage	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Heritage List <input type="checkbox"/> Heritage Area
Design Review	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel <input type="checkbox"/> Other
Bushfire Prone Area	No
Swan River Trust Area	No

Proposal:

The proposal involves modifications to previously approved development (8 Storey Mixed Use Development comprising 98 Multiple Dwellings, 11 Grouped Dwellings, a Shop and a Restaurant) which are summarised as follows:

- Revised Development Description: 'Eight Storey Mixed Use Development Comprising 11 Grouped Dwellings, 95 Multiple Dwellings, Restaurant and Shop';
- 0.65m (650mm) overall building height increase to apartment towers;
- Reduction in overall residential dwelling number (109 to 106 dwellings total);
- Increase in commercial space (Café & Shop use) along McCabe Street frontage (314sqm to 737sqm);
- Reduced basement level footprint plus additional basement level (car parking yield reduced, provision consistent with previous approval);
- Increased and improved landscaping and deep soil areas;

- Reduction in height of two of the townhouses (Nos. 10 & 11) in north-western corner of site (reduction to 3-storey in lieu of 4-storeys previously approved);
- Various alterations to apartment tower layouts and configurations; and
- Amendments to various condition of approval wordings from original approval as a result of the proposed changes.

The following Table provides a comparison of the key development features for the originally approved development and the modified development subject of this application:

Table 1. Originally Approved Development vs. Proposed Modified Development

Element	Approved Development	Amended Development
Overall Building Height	8 Storeys (28.3m) 60.7m AHD	8 Storeys (28.95m) 61.350m AHD (650mm height increase)
Residential Dwelling Number & Type	109 total dwellings, comprising: <ul style="list-style-type: none"> i. 13 Townhouses (Grouped Dwellings); ii. 13 x one-bedroom apartments; iii. 39 x two-bedroom apartments; and iv. 44 x three-bedroom apartments. 	106 total dwellings, comprising: <ul style="list-style-type: none"> i. 11 Townhouses (Grouped Dwellings); ii. 9 x one-bedroom apartments; iii. 46 x two-bedroom apartments; iv. 34 x three-bedroom apartments; and v. 6 x four-bedroom apartments
Commercial Area	Shop and Restaurant Area: 314m ²	Shop and Restaurant Area: 737m ²
Total Plot Ratio Area	16,029m ² (1.989)	16,012m ² (1.987)
Parking	<ul style="list-style-type: none"> • 276 total car bays, comprising: <ul style="list-style-type: none"> i. 4 commercial bays; ii. 225 residential bays (apartments); iii. 32 residential bays (townhouses); 	<ul style="list-style-type: none"> • 267 total car bays, comprising: <ul style="list-style-type: none"> i. 11 commercial bays; ii. 219 residential bays (apartments);

	<ul style="list-style-type: none"> iv. 15 residential visitor bays. • 6 motorcycle/scooter bays • Bicycle Parking: <ul style="list-style-type: none"> i. 118 residential bays; and ii. 20 visitor bays (shared). iii. End-of-trip facilities (2x male and 2x female showers, no lockers) 	<ul style="list-style-type: none"> iii. 22 residential bays (townhouses); iv. 15 residential visitor bays. • 5 motorcycle/scooter bays • Bicycle parking <ul style="list-style-type: none"> i. 106 residential bays; and ii. 6 commercial bays; iii. 25 residential visitor bays. iv. End-of-trip facilities (1x male and 1x female showers, 3 lockers within each)
Amenity Spaces	<p>Public: outdoor cinema, public art walk, raised grass area, public open space access, naturescape for children.</p> <p>Private: pool (and associated cabanas, bar, fire pit), gym, maker space, lounges, kitchen/dining areas and meeting spaces.</p>	No change to previous approval
Deep Soil / Planting Areas	No true deep soil area (DSA) on-site due to extensive basement level footprint, however, 1449m of planting area including 'on structure' planting	635sqm true deep soil areas (meeting deep soil requirements due to reduction of basement footprint) + 514sqm additional planting area on-site and 'on structure'.
Lot Boundary Setbacks	<p><u>North Setbacks</u> Ground – 5.1m-6.1m Podium - 29m-31.7m Upper Levels - 29m-34m</p> <p><u>East Setback</u> Ground - nil - 6.40m - 7.25m Podium - 6.29m - 9.1m</p>	<p><u>North Setbacks</u> Ground - 6.0m-6.1m Podium - 30m-31.7m Upper Levels - 30m-34m</p> <p><u>East Setback</u> Ground - nil - 8.40m - 9.2m Podium - 6.4m-9.2m Upper Levels - 9.2m-19.4m</p>

	<p>Upper Levels - 9.29m-19.34m</p> <p><u>South Setback (McCabe St)</u> Ground - Nil Podium – nil - 1.6m Upper Levels - 5m</p> <p><u>Western Setback</u> Ground - Nil - 11-16m Podium - 22.4m Upper Levels - 9.1-10.1m, plus additional separation by having two towers</p>	<p><u>South Setback (McCabe St)</u> Ground - Nil Podium – nil - 1.6m Upper Levels – 4.26 - 5m</p> <p><u>Western Setback</u> Ground - Nil - 11-16m Podium - 9m-14m Upper Levels - 9.1-10.1m, plus additional separation by having two towers</p>
Building Separation	Separation of the tower elements varies between 17-19.9m	Separation of the tower elements varies between 15-22m

The modified development plans and proposal (**Attachment 1**) are also supported by an updated Transport Impact Statement (prepared by Cardno – **Attachment 7**), Waste Management Plan (prepared by Talis – **Attachment 8**) and Landscaping Plans (prepared by Aspect Studios – **Attachment 5**).

If approved, the modified proposal would also require amendments to the existing conditions of approval from the original determination letter (dated 4 November 2020 - **Attachment 9**), as amended by the State Administrative Tribunal review decision to modify conditions (SAT ref. DR277/2020, dated 19 March 2021 – **Attachment 9**). Where relevant, the modified conditions are discussed in the following sections of the report and should the Metro Inner-South JDAP be of the mind to approve the application, modified condition wording has been provided in an alternative recommendation at the end of the report.

Background:

On 4 November 2020, the Metro Inner-South JDAP resolved to approve an ‘*Eight Storey Mixed Use Development (11 Group Dwellings, 98 Multiple Dwellings, Restaurant, Shop)*’ at 19-21 McCabe Street, North Fremantle (refer **Attachment 9** for previously approved development plans). The application was approved despite a City of Fremantle recommendation to refuse the application for the following reasons:

1. *The proposal is inconsistent with clauses 67(c), 67(g) and 67(m) of the Deemed provisions as it is contrary to the maximum heights set out within Local Planning Policy 3.11 and State Planning Policy 2.6: Coastal Planning Policy, and would be detrimental to the amenity of the area by virtue of the excess scale and height of the development, and incompatible with the scale of development immediately adjoining and within the locality.*

2. *The proposal is inconsistent with the Element Objectives of clause 2.2 of the Residential Design Codes Volume 2 as the development does not reflect the existing or desired future scale of the local area, nor respond to the changes in topography in relation to the whole of the development area.*
3. *The proposal is inconsistent with clauses 67(a) and 67(s)(ii) of the Deemed provisions as it does not provide sufficient vehicle parking and delivery bays for the non-residential development as per Table 2 of the City's Local Planning Scheme No. 4.*

The City opposed the building heights proposed in the original development application as they contravened the maximum building height limits set not only by Local Planning Policy (LPP) 3.11 (McCabe Street Area – Height of New Buildings) but also the height limits that would generally be prescribed by the R-Codes Vol. 2 (Table 2.1) for such a development on such a site had heights not been prescribed by the aforementioned policy.

The building heights prescribed within LPP 3.11 were drafted based on the May 2008 McCabe Street Height Study, which sought to protect important view corridors to the ocean and the river for sites within the area. With respect to the Site, LPP 3.11 set out a maximum height of 7m within 10m of the sites rear boundary, rising to 11m beyond that (35m from rear boundary) and 14m for the remainder of the site with no discretion offered by the policy (excepting minor projections). The heights of the multiple dwelling tower elements of the original proposal exceeded the maximum prescribed heights of LPP 3.11 by up to 14m and exceeded the maximum heights prescribed by Table 2.1 of the R-Codes Vol. 2 by 2 full storeys. Further, the building height was to sit 4.2m above the tallest building within the surrounding area (9-13 McCabe Street) and the site sits on higher natural ground level along the ridgeline.

The City determined that the building height of the original proposal was significantly inconsistent with the specific policy provisions and the pattern of development illustrated within policy LPP 3.11 and incongruous within the existing and emerging development context of the area. As such, the City of Fremantle recommended the proposal be refused due to the excessive building height proposed.

Additionally, the original development proposal had a significant lack of on-site non-residential car parking bays (36 bay shortfall as per Table 2 of the City's LPS4) which was considered to result in an overreliance on the limited street parking to the south-east of the site. The proposal is expected to cause adverse impacts upon the local road network with respect to street parking availability, congestion and traffic/pedestrian safety. Furthermore, there was no servicing/delivery bay provided on-site for the non-residential uses and as such, it is unclear how the non-residential uses will be serviced and/or accept deliveries as street or verge parking for delivery/service vehicles not supported. As such, this significant shortfall of on-site non-residential parking formed another recommended reason for refusal as outlined above.

Notwithstanding the above, at its meeting on the 4 November 2020, the Metro Inner-South JDAP conditionally approved the development with the building height and non-

residential car parking variations as proposed (see original determination letter and approved plans within **Attachment 9**).

On 24 March 2021, following a State Administrative Tribunal review (SAT ref. DR277/2020) of the original decision notice, with particular regard to landscaping plans and respective condition wording, a modified decision notice was issued as shown within **Attachment 9**). The SAT decision notice contained amendments to condition No. 2 (updating approved development plan references/drawing numbers); No. 21 (updating number of small, medium and large trees to be planted on site); and No. 27 (requiring further landscaping details to be submitted such as species selection, reticulation, treatments etc.).

Legislation and Policy:

Legislation

Planning and Development (Local Planning Scheme Regulations) 2015
Local Planning Scheme No. 4

State Government Policies

SPP 2.6: Coastal Planning Policy
SPP 7: Design of the Built Environment
SPP 7.3: Residential Design Codes Volume 1 and 2

Local Policies

LPP1.3: Public Notification of Planning Proposals
LPP 1.9: Design Advisory Committee and Principles of Design
LPP 1.10: Construction Sites
LPP 2.10: Landscaping of Development and Existing Vegetation On Development Sites
LPP 2.13: Sustainable Buildings Design Requirements
LPP 3.11: McCabe Street Area: Height of New Buildings

Consultation:

Public Consultation

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and LPP 1.3 (Community Consultation on Planning Proposals). Letters were sent out to all landowners and occupiers that were consulted on the original application (100m radius of site) and the application was posted on the City's MySay webpage along with all supporting plans and documentation.

The advertising period ran from 17 November 2021 until 6 December 2021 and at the close of advertising the City had received five (5) submissions; four (4) in objection and

one (1) in support of the proposal. The following table summarises the submissions received and provides Officer comment on these submissions where appropriate.

Submission	Officer's comments
<p>This amended application has not addressed the parking and traffic issues this development will result in and the negative impact upon surrounding properties and streets.</p> <p>There is simply insufficient street parking bays available to support this development. There needs to be more on-site visitor/commercial visitor car bays. Street parking along the street includes 2 car bays outside Taskers (predominantly used by the Taskers café) and some 20 opposite The Cutting.</p> <p>Also, to assume people will walk is also naïve as this stretch of McCabe Street is definitely not walker friendly.</p>	<p>City Officers also have concerns related to parking and traffic issues, in particular, the significant shortfall of on-site non-residential parking bays for visitors.</p> <p>This matter is to be discussed in further detail in the assessment section of the report and forms a recommended reason for refusal of this application.</p>
<p>Strongly opposed to any additional building height to a building that is already excessive in height.</p> <p>There have been significant concessions granted already which increased the number of floors allowed on this site. The building should remain the same height as previously approved and there should be a reduction in number of floors to compensate for the increased floor to floor heights.</p> <p>The town planning scheme LPS4 refers to a maximum of 10% of the roof area and less than 4m high be dedicated to roof plant. This proposal is non-compliant and significantly exceeds the</p>	<p>City Officers recommended the original application be refused due to the excessive building height that was proposed that contravened the maximum building height limits set not only by LPP 3.11 (McCabe Street Area – Height of New Buildings) but also the height limits prescribed by the R-Codes Vol. 2 (Table 2.1) – see previous recommended reasons for refusal above.</p> <p>The additional building height proposed as part of this amended application is also not supported on the same basis as the above and discussed in detail within the Assessment section of this report.</p>

<p>maximum 10% allowance and has additionally a 2m high screen. This is not considered a minor roof plant projection above the roof under the R-codes or LPS4 and would therefore add to the proposed height by the 2m screen height.</p>	
<p>The building will look very ordinary and generic, not at all eco friendly, Considering the position of this land it's important the integrity of the architecture reflects and integrates into the environment. This looks like someone trying to maximize profits and not considering long term requirements.</p>	<p>The overall design and appearance of the proposal has not been modified in any significant way as part of this application for amendments from the originally approved development.</p> <p>The original and now approved application was reviewed by the City's Design Advisory Committee (DAC) and following a series of meetings and amended designs, the DAC's final recommendation stated that:</p> <p><i>the Design Advisory Committee, having considered the amended proposal for 19-21 McCabe Street, North Fremantle, considers the proposal to be a high quality multi-residential development and supports the design. The applicant is encouraged to continue to refine the design during future development stages.</i></p> <p>The minor amendments subject of this application did not warrant further DAC review.</p>

As noted in the officer comment section of the above table, additional discussion regarding submission issues is provided in the Assessment section below, where appropriate.

Referrals/consultation with Government/Service Agencies

Not applicable for this variation application.

Design Review Panel Advice

Not applicable for this variation application.

Town of Mosman Park

As the site abuts the Town of Mosman Park along the northern and eastern lot boundaries of the site, the Town of Mosman Park were invited to comment on the amended proposal. The Town of Mosman Park provided two comments on the amended proposal as follows:

1. *The updated Traffic Impact Assessment is to be peer reviewed by the City's Traffic Engineer to ensure the increased car parking and trip generation from the new second floor basement will not determinately impact upon the capacity of the residential road network surrounding the subject site and the Stirling Highway and McCabe Street intersection. The Town is aware that a number of residents have in the past expressed concern about problematic traffic queues along McCabe Street during the peak morning and afternoon periods. The capacity of the intersection and the safety of its users requires consideration as part of the proposed amendment.*

Officer comment: The City's Traffic Engineer has reviewed the proposal and raised concerns regarding the parking and traffic impacts of the proposal that also forms a recommended reason for refusal of the application. Please refer to the below assessment section for further discussion.

2. *The Town does not support any works or modifications to be proposed within Bird Park including the proposed gravel footpath, native plantings and re-vegetation works noted on the concept landscape plans by ASPECT Studios.*

Officer comment: a condition placed on the original decision notice (No. 3) reads as follows: *'This approval does not relate to any proposed work located outside of the cadastral boundaries of the subject site including the adjacent Recreation Reserve known as lot 377 Bird Park and the McCabe Street Road reserve. These works are subject to separate applications for approval with the relevant authority'*. This condition is recommended to remain in place should JDAP be of the mind to approve this amended application.

Planning Assessment:

The amended proposal has been assessed against all the relevant legislative requirements of the Scheme, and State and Local Planning Policies. The following matters have been identified as key considerations for determination of this application or require further discussion:

- Building Height;
- Car/Bicycle Parking and Traffic;
- Landscaping; and
- Amendments to Condition Wordings.

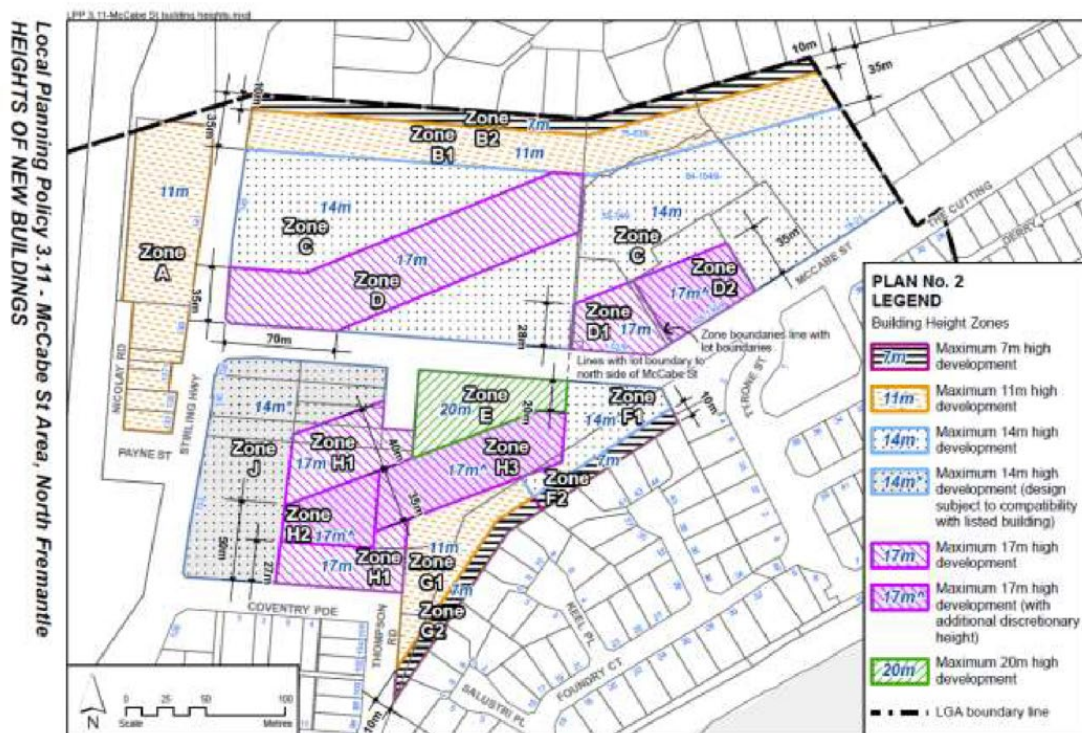
Each of these matters are discussed below.

Building Height

As noted in the background section of the report, the City strongly opposed the building heights proposed in the original development application as they contravened the maximum building height limits set not only by LPP 3.11 (McCabe Street Area – Height of New Buildings) but also the height limits prescribed by the R-Codes Vol. 2 (Table 2.1).

The building heights prescribed within LPP 3.11 (see Figure 1 below) were drafted based on the May 2008 McCabe Street Height Study, which sought to protect important view corridors to the ocean and the river for sites within the area. With respect to the Site, LLP 3.11 set out a maximum height of 7m within 10m of the sites rear boundary, rising to 11m beyond that (35m from rear boundary) and 14m for the remainder of the site with no discretion offered by the policy (excepting minor projections).

Figure 1 – LPP 3.11 - Building Height Zones Map (McCabe Street Area)



The heights of the multiple dwelling tower elements of the original proposal exceeded the maximum prescribed heights of LLP 3.11 by up to 14m and exceeded the maximum heights prescribed by Table 2.1 of the R-Codes Vol. 2 by 2 full storeys. Further, the building height was to sit 4.2m above the tallest building within the surrounding area (9-13 McCabe Street) and the site sits on higher natural ground level along the ridgeline.

The amended proposal seeks to increase the overall building height of the apartment tower elements by 650mm each; increasing the building height from 8 Storeys (28.3m) / 60.7m AHD to 8 Storeys (28.95m) / 61.350m AHD.

It is noted that the original development building height has already been granted approval and the revised layout and configuration of the tower elements would actually reduce the shadow impact upon the adjoining Lot 807 which includes residential

dwellings (though increase overshadowing of the commercial Lot 16 – see plan DA16 Rev A in **Attachment 1**) which is considered positive in terms of this aspect alone.

Notwithstanding, the overall building height increase of 650mm would mean that a building already considered by the City to be excessive for the site and significantly contravene maximum height limits prescribed in LPP 3.1 (McCabe Street Area – Height of New Buildings) and R-Codes Vol. 2 (Table 2.1) would vary these maximum building height requirements even further. The modified building height would exceed the maximum prescribed building heights of LLP 3.11 by up to 14.65m and exceed the maximum heights prescribed by Table 2.1 of the R-Codes Vol. 2 by 2 full storeys.

As such, the City advises that the increased building height of the amended proposal is significantly inconsistent with the specific policy provisions and the pattern of development illustrated within policy LLP 3.11 and the development would be incongruous within the existing and emerging development context of the area. As such, the City of Fremantle recommends refusal of this amended proposal based on the increased building height.

The Applicant provided the following reasoning for the need to increase the overall building heights previously approved by JDAP:

The primary reason for the increase is to create sufficient clearance for both building structure and services to offset between typical levels. The proposed design is not typical of a multi-residential development and extensive tiering of the building facades reduces consistency between the apartments on respective levels. Additional height clearance is required for localised thickening of structure (transfer structure) to support varying apartment layouts floor by floor. Without the proposed building height increase, ceiling heights would not be compatible with some of the provisions in State Planning Policy (SPP) 7.3.

The applicant considers the increased building height being an approximate 2.5% increase, is negligible. Several perspective views are enclosed with this application, and it is near impossible to gauge the difference in proposed building heights.

In addition to the apartments, 2 of the townhouses at the north-western corner of the development have been reduced in height to 3 storeys in lieu of the previously approved 4 storey versions.

Comparative overshadowing diagrams are included with this application and demonstrate that the overshadowing to neighbouring Lot 807 has reduced with the reduction to the townhouses and some building bulk from the northern apartment tower. A small increase to the overshadowing on neighbouring Lot 16 is proposed, however this is a commercial site, and the difference has no undue impact on the amenity of this Lot.

While the City has considered these justifications for the additional height, the excessive building height significantly contravenes the City's policy and guidance and height as outlined above; with adverse impacts upon the immediate and wider locality. It is also considered that alternative solutions to achieve sufficient clearance for both building structure and services could have been implemented, such as a reduction in the number

of overall storeys, that would also reduce the adverse impacts upon the locality. As such, the City's recommended reasons for refusal in relation to building height are upheld.

Traffic, Vehicle/Bicycle Parking and End-of-Trip Facilities

The following tables and discussion evaluate the proposals acceptability with respect to traffic, parking and end-of trip facilities for the residential and non-residential components of the development.

Table 2. Residential Car and Bicycle Parking (R-Codes Vol. 2 – Table 3.9)

Residential Car Parking			
Item	Required	Provided	Shortfall
1-bedroom dwellings (9)	1 bay per dwelling = 9	9	N/A - Complies
2+ bedroom dwellings (97)	2 bays per dwelling = 194	232	N/A – 38 bay overprovision
Visitor Parking	1 bay per four dwellings up to 12 dwellings; 1 bay per eight dwellings for the 13th dwelling and above. = (4 + 11) = 15	15	N/A - Complies
Residential Bicycle Parking			
Item	Required	Provided	Shortfall
Resident	0.5 bays per dwelling (53)	106	N/A – 53 bay overprovision
Residential Visitor	1 space per 10 dwellings (10.6)	25	N/A – 14 bay overprovision
Motorcycle / Scooter Parking			
Item	Required	Provided	Shortfall
Resident	Developments exceeding 20 dwellings provide 1 motorcycle/scooter space for every 10 car bays required. (11)	5	6 bay shortfall

In accordance with the above table, the residential car and bicycle parking provisions for the revised design are fully compliant with the Residential Design Codes Vol. 2, including an overprovision of residential occupier parking bays (241 in lieu of 203 required). A compliant provision of residential visitor car bays is provided, including 6 at ground level and 9 within basement level 1.

Similarly, each residential dwelling is provided a bicycle parking rack for occupiers and 25 secure residential visitor bicycle parking spaces (in lieu of the 11 required) are provided in secure facility at ground level.

While it is noted there is an under provision of the required motorcycle / scooter bays (5 in lieu of 11) it is considered that given the oversupply of residential occupier parking bays, there is ample room to park additional occupier motorcycles should the need arise

Table 3. Non-Residential Car, Bicycle Parking and End-of-Trip Facilities (Table 2 of TPS4)

Non-Residential Car Parking			
Item	Required	Provided	Shortfall
Provedore/Shop (600m ²)	1 bay/20m ² = 30	11	47
Restaurant/Cafe (137m ²)	1 bay/ 5m ² dining area = 27.4 (28)		
	<u>Total required:</u> 58		
Non-Residential Bicycle Parking			
Item	Required	Provided	Shortfall
Provedore/Shop (600m ²); plus Restaurant/Café (137m ²)	class 1: 1 per 300 m2 gla = 2 class 3: 1 per 500 m2 gla = 1 class 1 or 2: 1 per 100 m2 public area = 1 class 3: 2 <u>Total required:</u> 6	6 x class 2 (secure, lockable facility); and 5 x Class 3 (Outdoor Racks) 11 Total	N/A - Complies
End-of-Trip Facilities			
Item	Required	Provided	Shortfall
End-of-Trip Facilities	Up to the first 10 bicycle racks required: One male and one female shower (or 2 unisex) required for every 10* Class 1 or 2 bicycle racks required = 1 male and 1 female (*Calculations rounded up to the nearest 10)	1 x Male EOT facility with 3 lockers; and 1 x Female EOT facility with 3 lockers.	N/A - Complies

	Plus one locker for every class 1 or 2 bike rack.		
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The non-residential car parking provision has been reviewed in the above table due to the increase in the non-residential floorspace of the restaurant and shop uses within the amended proposal (314sqm to 737sqm in total). Notwithstanding a compliant provision of non-residential bicycle parking and end-of-trip facilities, the proposal has a significant shortfall in the required car parking provision for the non-residential uses with only 11 on-site car parking spaces provided in lieu of the 58 required by Table 2 of the City's TPS4. Additionally, the 11 on-site car parking spaces are located on the basement level 1 behind secure gates and therefore are only available for staff; meaning there is no on-site visitor car parking for the non-residential uses.

The City's Traffic Engineers have advised that the significant lack of on-site non-residential car parking (and the fact bays are located behind secure gates or within basements) will result in an overreliance of visitors on the limited street parking to the south-east of the site which due to a lack of capacity is expected to cause adverse impacts upon the local road network with respect to street parking availability, congestion and traffic/pedestrian safety. Furthermore, there is no servicing/delivery bay provided on-site for the non-residential uses and as such, it is unclear how the non-residential uses will be serviced and/or accept deliveries; street or verge parking for delivery/service vehicles is not supported. Notwithstanding the City's position, the applicant has provided a Transport Impact Assessment (attached to this report) in support of their application.

On this basis, the significant non-residential parking shortfall is not supported for the following reasons:

- The site is not located within proximity to high-frequency public transport;
- The development includes a large oversupply of parking for the residents (38 additional bays) while providing only 11 parking bays for the non-residential development in lieu of the 58 required. These bays are behind locked gates and would therefore only practically be for the non-residential staff with no visitor parking provided for the non-residential uses. The significant lack of on-site parking for the proposed non-residential uses is expected to have adverse impacts upon the local road network with respect to street parking availability, congestion and traffic/pedestrian safety;
- The proposal would have the effect of moving all non-residential visitor parking onto public land and surrounding streets, with only limited street parking bays available in the vicinity. Similarly, to the above, this is expected to have adverse impacts upon the local road network with respect to street parking availability, congestion and traffic/pedestrian safety.
- The proposal includes no on-site delivery/service parking bays for the non-residential land uses and McCabe Street is not appropriately designed to allow for delivery vehicles to park on the verge.

Landscaping

Landscaping (R-Codes Vol. 2 – Table 3.3A)			
Item	Required	Provided	Shortfall
Deep Soil Areas (DSA)	10% of Site (805m ²)	805m ² (includes 170m ² on-structure DSA) plus 344m ² additional planting on-site.	N/A – complies

The amendments to the original approval with respect to landscaping are supported as the revised proposal now delivers much greater true deep-soil areas (in accordance with the R-Code definition) around the perimeter of the site due to the reduction in the basement level footprint that previously extended to boundaries. To ensure car parking is still provided as per the original approval, the applicant has redesigned the development to have two floors of basement with setbacks, rather than one basement that went boundary to boundary. The previous approval did not provide any true deep soil areas and compensated with additional on-site and on-structure planting. The revised landscaping plans are also stated to deliver 2,134m² of tree canopy across the site in the form of 87 small trees, 11 medium trees and 1 large tree across the site which will represent a great improvement in tree planting and canopy cover on the existing site which predominantly hard-stand car parking and warehouse buildings.

The landscaping is to be subject to, and secured by the following modifications to Condition No. 21 of the original approval should the amendments be supported by JDAP:

21. Prior to the occupation of the development hereby approved, the approved landscaping, including:

- i. the provision of 23 mature trees sufficient to achieve an initial screening height of 4 metres along the northern boundary of the site; and*
- ii. the provision of 1 large tree, 11 medium trees, 62 small trees and deep soil areas in accordance with the landscaping plans prepared by Aspect (dated 8 November 2021)*

shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.

Proposed Modifications Previously Approved Conditions

- i. Condition of approval No. 6 of the original approval, currently reads as follows:

6. *Prior to the issue of a building permit, the owner is to 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. The legal agreement is to specify measures to secure the proposed community benefits identified as the provision and ongoing public access to the 'Public Art Walk', the 'Outdoor Cinema Screen' and a suitable portion of the 'Community Space' required to facilitate these benefits, to the satisfaction of the City of Fremantle.*

The Applicant proposes modifications to the condition wording to update the 'Community Space' wording which is now defined as 'Raised Lawn Area adjoining the Cinema Screen' on the revised plans. This City has no objection to this change in wording given the updated titling of the space and as such, is willing to accept the condition wording be modified as follows should the JDAP be minded to approve the application:

6. *Prior to the issue of a building permit, the owner is to 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. The legal agreement is to specify measures to secure the proposed community benefits identified as the provision and ongoing public access to the 'Public Art Walk', the 'Outdoor Cinema Screen' and 'Raised Lawn Area adjoining the Cinema Screen' required to facilitate these benefits, to the satisfaction of the City of Fremantle.*

- ii. Condition 9 of the original approval, currently reads as follows:

9. *Notwithstanding condition 2, no roof top plant or equipment is to be located outside of the 'A/C Condenser Platform' (footprint and height) as identified on plans A2-10 Rev B, A4-01 Rev C and A4-02 Rev C dated 14 October 2020, to the satisfaction of the City of Fremantle.*

The Applicant is seeking to amend this condition as the approved rooftop plant equipment footprint is now too difficult to achieve with the reduction in basement footprint to facilitate deep soil zones. The Applicant has advised that most of the rooftop equipment comprises of mechanical AC units that must be adequately ventilated to operate. Supporting information has been provided by a Mechanical Engineer (Floth) with a technical memorandum that supports this aspect of the application (refer **Attachment 10**). Additionally, the centralized hot water plant is also proposed to be roof mounted. An air to water heat pump is an energy efficient system to provide large quantities of hot water and are ideally suited to the roof because they need high exposure. Further information has been provided by a Hydraulic Engineer (Iconic) with a technical memorandum that supports this aspect of the application (refer **Attachment 11**).

Clause 4.8.1.3 of the LPS4 provides that *“excluding development within the Residential zone, Council may permit a minor projection above the highest part of a development, subject to the development satisfying both of the following criteria—*

- a. The minor projection being no more than 4 metres above the highest part of the main building structure; and*
- b. The cumulative area of the minor projection being no more than 10 per cent of the total roof area of the building.*

For the purpose of this clause, ‘minor projection’ will be interpreted as including plant and equipment such as air conditioning units, lift overrun rooms, flagpoles, aerials and decorative architectural features, but not rooms or other facilities intended for regular human use such as rooftop decks or swimming pools”.

The revised rooftop plant equipment footprint, while increased, is to be fully screened and centrally located on the building roofs and setback from the edges of the roof to minimise its visibility and contribution to perceived bulk of the buildings where viewed from the public realm at pedestrian scale. The Applicant has also provided comparative perspective imagery to show how the revised roof plant would appear compared with the original approval, demonstrating there would only be a very marginal difference in appearance, as viewed from the public realm at a pedestrian scale.

As such, should JDAP be minded to support the additional plant equipment footprint, condition 9 could be reworded as follows:

9. *Notwithstanding condition 2, no roof top plant or equipment is to be located outside of the ‘A/C Condenser Platform’ (footprint and height) as identified on plans DA12 Rev A, DA14 Rev A, and DA15 Rev A dated 29 October 2021, to the satisfaction of the City of Fremantle.*

iii. Conditions 17 & 18 of the original approval currently read as follows:

17. *Prior to the issue of a building permit, the applicant/owner is to submit a One Planet Living Action Plan that is certified by Bioregional Australia or a One Planet Living Integrator setting out how the development will achieve One Planet Living Principles, to the satisfaction of the City of Fremantle. The One Planet Living Action Plan is to be adhered to for the life of the development; and*
18. *Prior to occupation, the applicant/owner is to submit a copy of documentation from Bioregional Australia or a One Planet Living Integrator*

stating that the development as constructed accords with the One Planet Living criteria, to the satisfaction of the City of Fremantle.

The Applicant has advised that whilst the One Planet Living framework is helpful for setting up the sustainability strategy of a project, it is not fit for purpose for the ongoing maintenance of the principles at building level. The Applicant advises that they are seeing One Planet Living being used successfully within councils and companies, but the framework is not specific enough or applicable enough when being applied to construction of buildings.

Instead, the Applicant proposes that the project be allowed to align with the City's Local Planning Policy 2.13 (Sustainable Building Design) through either a certified Green Star rating OR One Planet Living recognition, as becomes fit for purpose, and that the corresponding conditions be amended to reflect the requirements of LPP 2.13. The applicant has submitted an Advice Note from Cundall (**Attachment 6**) to support need for the Green Star rating sustainability system for this application.

It is noted that within the Advice Note from Cundall (**Attachment 6**), the project is targeting a 5-star Green Star rating, where LPP 2.13 generally only requires alignment with a 4-star Green Star rating. Notwithstanding, it is noted that LPP 3.11 provides that where development in zones D, H2 and H3 of the McCabe Street Area seek to exceed the maximum height limits prescribed by the policy, any development must achieve a set of criteria, one of which being:

“The development shall be designed and constructed in such a manner so as to achieve a rating of not less than 5 Star Green Star using the relevant Green Building Council of Australia Green Star rating tool or equivalent”

While the development is outside of these zones, given the excessive height sought beyond what is permitted by the policy as discussed above, it is considered appropriate to apply the 5 Star Green Star rating requirement to this proposal.

Given the proposed modifications will still require compliance with the City's LLP 2.13 and the proposal seeks to achieve the 5-star Green Star rating as required in LLP 2.13, the proposed modifications to the wording of conditions 17 and 18 as follows are acceptable to the City should the JDAP be minded to approve the application:

17. *Prior to the issue of a building permit, 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 5 Stars or equivalent, to the satisfaction of the City of Fremantle; and*
18. *Prior to occupation, the applicant/owner is to submit a copy of documentation from the Green Building Council of Australia or a suitably qualified professional stating that the development as constructed achieves*

a Green Star rating of at least 5 Stars or equivalent, to the satisfaction of the City of Fremantle.

Conclusion:

The key issues of this amended development proposal are the increase in the overall building height and the significant shortfall non-residential parking provided on site with respect to relevant Local Policy and Scheme requirements. Both of these aspects formed recommended reasons for refusal of the application by the City in the original application and these issues are simply exacerbated by the proposed amendments as discussed in detail above. For this reason, the City cannot support the proposed amendments, with particular respect to building height and car parking, as outlined in the recommended reasons for refusal.

Alternative Recommendations

Should JDAP determine that the amended proposal is acceptable, please find an alternative recommendation with modified condition wordings as appropriate.

That the Metro Inner-South JDAP resolves to:

Approve amendments to DAP Application reference DAP/20/01821 and accompanying development plans (refs. DA01 Rev A; DA02 Rev A; DA03 Rev A; DA04 Rev B; DA05 Rev A; DA06 Rev A; DA07 Rev A; DA08 Rev A; DA09 Rev A; DA10 Rev A; DA11 Rev A; DA12 Rev A; DA13 Rev A; DA14 Rev A; DA15 Rev A; DA16 Rev A; DA17 Rev A) and Landscaping Plans (ref. P20002-LA-102) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 4 of the City of Fremantle's Local Planning Scheme No. 4 Scheme No. for the proposed minor amendment to the approved mixed use development 8 Storey Mixed Use Development (Multiple Dwellings, Grouped Dwellings, Shop, Restaurant) at No. 19-21 McCabe Street, North Fremantle, subject to the following amended conditions

Amended Conditions

2. This decision constitutes planning approval only for plans DA01 Rev A; DA02 Rev A; DA03 Rev A; DA04 Rev B; DA05 Rev A; DA06 Rev A; DA07 Rev A; DA08 Rev A; DA09 Rev A; DA10 Rev A; DA11 Rev A; DA12 Rev A; DA13 Rev A; DA14 Rev A; DA15 Rev A; DA16 Rev A; DA17 Rev A (all dated 29 October 2021) and Landscaping Plans (ref. P20002-LA-102, dated 28 October 2021) and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.

6. Prior to the issue of a building permit, the owner is to 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. The legal agreement is to specify measures to secure the proposed community benefits identified as the provision and ongoing public access to the 'Public Art Walk', the 'Outdoor Cinema Screen' and

'Raised Lawn Area adjoining the Cinema Screen' required to facilitate these benefits, to the satisfaction of the City of Fremantle.

9. Notwithstanding condition 2, no roof top plant or equipment is to be located outside of the 'A/C Condenser Platform' (footprint and height) as identified on plans DA12 Rev A, DA14 Rev A, and DA15 Rev A dated 29 October 2021, to the satisfaction of the City of Fremantle.
17. Prior to the issue of a building permit, 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 5 Stars or equivalent, to the satisfaction of the City of Fremantle; and
18. Prior to occupation, the applicant/owner is to submit a copy of documentation from the Green Building Council of Australia or a suitably qualified professional stating that the development as constructed achieves a Green Star rating of at least 5 Stars or equivalent, to the satisfaction of the City of Fremantle.
21. Prior to the occupation of the development hereby approved, the approved landscaping, including:
 - i. the provision of 23 mature trees sufficient to achieve an initial screening height of 4 metres along the northern boundary of the site; and
 - ii. the provision of 1 large tree, 11 medium trees, 62 small trees and deep soil areas in accordance with the landscaping plans prepared by Aspect (dated 8 November 2021)

shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.

All other conditions and requirements detailed on the previous approval dated 20 November 2020 (as amended by the SAT Review Decision Notice (ref. DR277/2020 – dated 24 March 2021)) shall remain unless otherwise altered by this application.

**PC2202-5 WATKINS STREET, NO'S 1-12/123 (LOTS 1-12), WHITE GUM VALLEY –
PROPOSED SIX LOT GREEN TITLE SUBDIVISION – (CS WAPC161312)**

Meeting Date:	2 February 2022
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Subdivision Plan
Additional information:	1. Site Photos
	2. Applicant's Submission and Draft LDP
	3. Applicants Additional Comment – Amended Plan Designs
	4. Amended Plan (five lots)
	5. Amended Plan (four lots)

SUMMARY

A Subdivision Referral has been received by the City for an application seeking approval for a six (6) lot green title subdivision at No's 1-12/123 Watkins Street, White Gum Valley. The City will provide a recommendation only to the Western Australian Planning Commission (WAPC) on the proposal.

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:

- Site area

In addition to the submitted subdivision plan, the applicant has provided two alternate proposals with fewer lots for consideration. The application is recommended to be referred to the Western Australian planning Commission (WAPC) with recommendations for refusal for all options.

PROPOSAL

Detail

The City has received a referral from the WAPC for the freehold subdivision of a site on Watkins Street, White Gum Valley. The site is currently occupied by twelve (12) multiple dwellings which are proposed to be retained as part of the proposal. These dwellings are proposed to be retained on one lot, with five additional Single House lots off Lois Lane.

The proposed subdivision includes:

- One lot containing the existing three storey multiple dwelling building on the northern side of the lot fronting onto Watkins Street
- Five new lots (205m² each) fronting onto Lois Lane

The applicant has also submitted a draft Local Development Plan to provide indicative built form guidelines in the event that the lot creation is supported. This report does not assess the merits of the LDP and will only be required in the instance that the WAPC applies the LDP as a condition of subdivision approval. Further assessment of the LDP would be required at this point.

The applicant has provided two sets of alternative plans for review and consideration by the City and the WAPC. These plans propose four or three lots off Lois Lane and are discussed further in the report below.

Subdivision plans are included as attachment 1, with supporting documentation and alternate plans in the additional information section.

Site/application information

Date received:	10 September 2021
Owner name:	B Kenworthy
Submitted by:	Element Advisory Pty Ltd
Scheme:	Residential R20/25
Heritage listing:	Not Listed
Existing land use:	Multiple dwelling
Use class:	Multiple dwelling and Single house
Use permissibility:	D and P



CONSULTATION

External referrals

Nil required.

Internal referrals

Infrastructure

- Standard requirements for sight lines to be met.
- Lois Lane is a gazetted road. The current seal width (3.8 - 4.2m) is below what would be desirable (6.0m) however would support the existing one-way scenario up to 300 vehicles per day. 2019 volumes measured 44 vehicles per day.
- The 5 year crash data ending Dec 31 2020 shows there have been no incidents at the intersection of Lois Lane and Carrington Street.
- No objection to the additional lots has been raised from a traffic perspective.

Community

The application was advertised to surrounding properties in accordance with the requirements of the City's Local Planning Policy 1.3 due to the unusual nature of the subdivision. Letters were sent to adjoining owners and occupiers and a sign on site was installed, inviting comments to be submitted to the City by 12 November 2021. Officers also attended the White Gum Valley precinct group meeting to provide a brief update on the proposal. Six submissions were received, including a 17 signature petition. The following issues were raised (summarised):

Issue	Comment
Traffic / parking	<ul style="list-style-type: none"> • Object to the proposed five lots as they exceed the higher density permitted on site, even to retain the apartments, this should not be a reason. The LDP shows the houses as three bedroom with little open space, which would create parking demand from families with multiple cars. Further parking on Lois Lane would be dangerous.
	<ul style="list-style-type: none"> • Lois Lane has become a lot busier, with some nearby residents using it as a rat run, despite it being narrow with kids playing on it. It can be dangerous to pull out of car bays/garages as vehicles are moving at speed. To add more traffic would increase the issue and require future traffic calming measures.
	<ul style="list-style-type: none"> • Lois Lane is a busy laneway with 30-35 vehicles parking in designated spaces, with an existing apartment complex and childcare centre also having their parking accessed from the laneway. It is a public thoroughfare for cars, pedestrians, bicycles etc with no verge/footpath. Some vehicles use the laneway as a short cut to Carrington St, sometimes at speed, making it unsafe for pedestrians.
	<ul style="list-style-type: none"> • The applicant's submission makes reference to Liveable Neighbourhood requirements and Planning Bulletin 33/2017, however the laneway is not the minimum 6m (it is >4m in places) and recommends no more than 300 vehicles per day for a 6m wide road
	<ul style="list-style-type: none"> • Any additional traffic generation from additional lots / density should be onto Watkins Street not Lois Lane
Density	<ul style="list-style-type: none"> • The proposal should be applauded to work to increase density and retain existing structures rather than demolishing buildings. The retention and development of the existing multi storey residential

	building provides important low cost and diverse housing options for people on low incomes living in the area. It also reduces the carbon footprint associated with demolition and rebuilding. Support the option of retention of the existing building and creation of higher density rear blocks. However further consideration and modification of the LDP should be considered to reduce the building footprint and number of bedrooms to increase open space on the blocks and reduce the impact of car parking and amenity to residents in Lois Lane
	<ul style="list-style-type: none"> Concern that approval of this proposal might result in other similar lots in the area also being subdivided setting a precedent of high density which this area cannot cope with.
	<ul style="list-style-type: none"> The proposed lot size (minimum and average) is completely out of character with the residential properties on Lois Lane, and should not be supported.
Alternative options	<ul style="list-style-type: none"> Would prefer demolition of the existing apartments and redevelopment of the whole site for seven new lots
	<ul style="list-style-type: none"> Object to the proposed five lots as they exceed the higher density permitted on site, even to retain the apartments, this should not be a reason. The LDP shows the houses as three bedroom with little open space, which would create parking demand from family's with multiple cars. Further parking on Lois Lane would be dangerous.
	<ul style="list-style-type: none"> The alternative proposal of seven lots is favourable, however would prefer six lots to allow for more trees and open space. Despite this requiring demolition of the existing apartment building, this would be welcomed. Any replacement buildings should be ecologically sensitive, minimising water and energy consumption and reuse of materials
	<ul style="list-style-type: none"> Neighbours have not been notified of the other applications the developer refers to
Amenity	<ul style="list-style-type: none"> Lois Lane is an active community spot where neighbours regularly meet for drinks and stop for a chat, with kids playing in the street, with most houses owner occupied. Considering the size of No.123 Watkins Street, would hope that the owners would plant trees/landscaping and encourage residents together. However the block is uninviting and empty with tenants causing multiple problems in the area. The owner is completely detached from the local community and have no interest in being a part of it.
	<ul style="list-style-type: none"> Concerned that the proposed two storey units would block light to adjacent property, particularly solar panels. Would prefer the apartments be demolished and single storey unit development be built.
	<ul style="list-style-type: none"> Squeezing a further five townhouses onto Lois Lane, with associated parking and traffic issues is likely to stretch the goodwill of existing residents and lead to conflict.
	<ul style="list-style-type: none"> The proposal is a poor planning outcome for users and does not meet the aims of LPS4 to ensure that development promotes a sense of community and promotes a safe and healthy environment.

	<ul style="list-style-type: none"> The proposed subdivision should be assessed on its planning merits and not on the basis of the applicants' 'threat' to proceed with another subdivision / development outcome, as it would be wrong to assume there are on two possible development outcomes on this site.
Dwelling / Apartment upgrade	<ul style="list-style-type: none"> The setback of the proposed development is insufficient to comply with LPP2.9, the development should front onto the much wider Watkins Street.
	<ul style="list-style-type: none"> The developer's justification that they should be granted increased density for renovating the existing apartments doesn't make sense as they are not linked as the developer will likely sell off the new lots if created and may not ever upgrade the apartment block
Other	<ul style="list-style-type: none"> The advertising period was insufficient / incorrect and further consultation should have been provided
	<ul style="list-style-type: none"> The drainage sump to the east of 123 Watkins St is a deep hole, with the draft LDP showing development right up to the lot boundary with no setback

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

- Subdivision applications are referred to the City by the WAPC, to provide comment only. In this instance, the proposal was advertised to garner neighbour sentiment on the proposal due to its significant departure from the allocated density prior to presenting it to Planning Committee.
- The alternative seven lot green title subdivision involves the demolition of the apartment building and seeks creation of seven lots (three lots fronting Watkins Street, and four lots fronting Lois Lane), that meet the minimum and average lot size requirements at the R25 density. This application was given conditional approval by the WAPC on 20/12/21.
- The draft LDP would be required to be formally considered through a separate process, therefore it is reviewed at a high level only at this stage.
- Lois Lane is a gazetted road. The current seal width (3.8 - 4.2m) is below what would be desirable (6.0m) however would support the existing one-way scenario up to 300 vehicles per day. 2019 volumes measured 44 vehicles per day.
- The 5 year crash data ending Dec 31 2020 shows there have been no incidents at the intersection of Lois Lane and Carrington Street.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

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

- Site area

The above matters are discussed below.

Background

The subject site is located on the southern side of Watkins Street in White Gum Valley. To the south of the subject site is Lois Lane. The site has a land area of approximately 2630m² and is currently a three storey multiple dwelling (12 units) development. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed nor located within a Heritage Area.

Lois Lane is a gazetted road, with a width of 3.8 - 4.2m. Due to the narrow width, there is an informal 'one way' system, with vehicles entering from the western end, and exiting onto Carrington Street at the eastern end. There are a number of existing subdivided lots which front onto Lois Lane. It is noted that there has been some inconsistency with previous subdivisions as some have a pedestrian access leg to Watkins Street or Solomon Street, and some do not.



Existing lot layout - area bounded by Watkins St, Minilya Ave, Solomon St & Carrington St

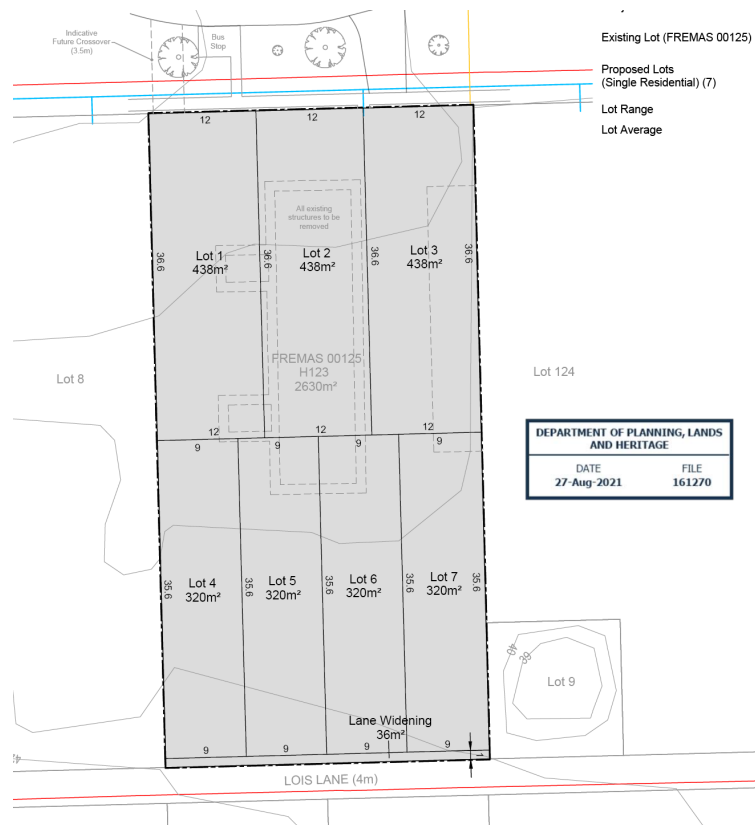
The applicant and the City have had numerous discussions about the proposed subdivision and redevelopment of the site since approximately 2015. In 2015 a request was sent to the City to initiate an amendment to LPS4 to rezone No.123 Watkins Street from R20/25 to R60. The City did not initiate an amendment at this time. In 2018, consultants again requested the City initiate an amendment to LPS4 to rezone the

subject site from R20/25 to R40. The City advised that there was a general presumption against spot rezonings and again did not proceed with a scheme amendment.

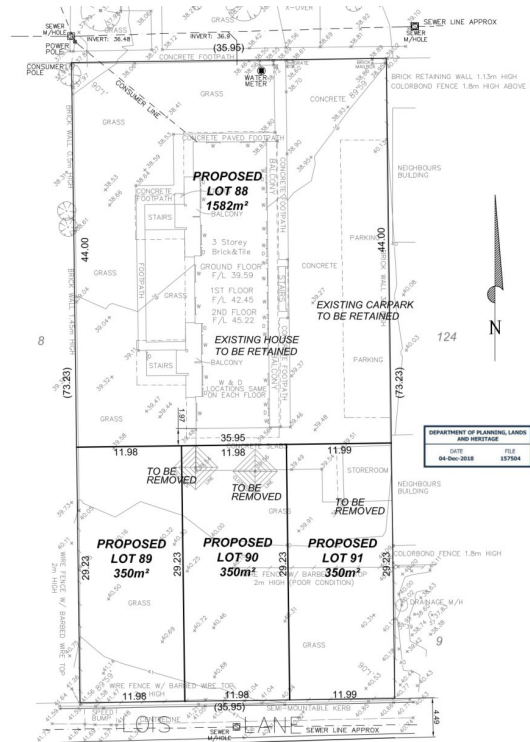
Further discussion between the applicant and the City occurred in late 2020 and early 2021 regarding the intent to lodge this subdivision application, whereby the City advised that the City does not have the power to recommend approval to non-compliant subdivisions.

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

- WAPC161270 – seven lot green title subdivision – conditional approval granted 20/12/21. The subdivision approval involves the demolition of the existing apartment building, and creation of three lots fronting Watkins Street to the north and four lots fronting Lois Lane to the south. All lots meet the minimum and average site area requirements. Future dwellings on these lots would be subject to assessment against the requirements of the R-Codes and Local Planning Policies.



- WAPC161268 – Amalgamation of strata lots – conditional approval granted 16/12/21
- WAPC157504 – Four lot green title subdivision (including retention of the multiple dwellings) – Refused 28/2/19 – Reasons for refusal given by the WAPC were:
 - i. Lots did not fulfil site area requirement; and
 - ii. Would set an undesirable precedent for subdivision of other similar lots



On the 14 January 2022, the applicant, the City and the WAPC had a meeting to discuss the concerns relating to the lodged six lot subdivision the subject of this report. Further to that meeting, the applicant has provided two additional subdivision designs for review and consideration by the City and the WAPC.

Land Use

A Single house is a 'P' use in the Residential Zone, which means that the use is permitted subject to meeting the requirements of the R-Codes. Multiple dwellings are a 'D' use in the Residential Zone, the multiple dwellings are existing.

The subject site has a split density coding of R20/25 therefore as the proposal seeks subdivision at the higher density coding, the requirements of Local Planning Policy 2.2 – Split Density Codes and Energy Efficiency and Sustainability Schedule would be applicable.

Site area

Element	Requirement	Proposed	Comment
Minimum Lot size (R25)	Min 300sqm	Multiple dwellings - n/a Single house - 205sqm	Does not comply
Average lot size (R25)	350sqm	Average 154sqm	Does not comply
Minimum frontage	8m	7.2m	Does not comply



Proposed subdivision layout

The proposed lot sizes do not meet the deemed to comply requirements of the R-Codes in the following ways:

- The average lot size for both single houses and multiple dwellings in the R25 coded area is 350sqm.
- The existing twelve unit multiple dwelling development already exceeds the average lot size of the R-Codes and is an anomaly.
- The additional five lots creates significantly undersized lots for the density, as well as a significantly decreased average lot size when compared to the existing development on site.

The proposal therefore requires assessment against the design principles of the R-Codes. The design principles allow the WAPC only to approve a lesser minimum and/or average site area than that specified provided that the proposed variation would be no more than 5% less in area, **and** if it meets at least one of a number of other criteria. It is noted that the minimum and average lot size variation sought exceeds 5% meaning that the proposal does not meet the design principles.

In addition to the design principles only providing authority for the WAPC to vary site area, there is no capacity under LPS4 to support the variation as follows:

- Clause 4.4.1 of LPS4 will not support the creation of freehold or survey strata lots with an area less than that prescribed under Table 1 of the R-Codes unless otherwise permitted by the Scheme.
- Clause 4.4.6.1 is not applicable as this relates to single house lots only.

- Clause 5.7 (small infill development 'Freo Alternative') is also not applicable as the application site is not located within the designated Special Control Area.

Notwithstanding the comments above, the applicant argues that due to the age of the City's Local Planning Scheme the *Planning and Development Act 2005 (P&D Act)*, Section 138 *Commission's functions when approving subdivisions etc* outlines that the WAPC may give its approval for a subdivision that conflicts with the provision of a local planning scheme if:

- The local planning scheme was not first published, or a consolidation of the local planning scheme has not been published in the preceding 5 years and the approval is consistent with a State planning policy that deals with substantially the same matter*
- The approval is consistent with a region planning scheme that deals with substantially the same matter*
- In the opinion of the Commission -*
 - The conflict is of a minor nature; or*
 - the approval is consistent with the general intent of the local planning scheme*
- the local planning scheme includes provisions permitting a variation of the local planning scheme that would remove the conflict; or*
- in the case of an application under section 135, the local government responsible for the enforcement of the observance of the scheme has been given the plan of subdivision, or a copy, under section 142 and has not made any objection under that section; or*
- the approval is given in circumstances set out in the regulations.*

The applicants report requests consideration under e) but notes that a) could also apply.

In relation to a), the City's Local Planning Scheme No.4 was adopted in March 2007 and was most recently amended in November 2021. In 2019, the City undertook a Scheme Review as required by the Regulations. It did not identify the need for, or recommend, zoning or density coding changes for this area of White Gum Valley. Since its adoption, the City has been proactive in maintaining its planning scheme through the strategic investigation of issues and amendment to the scheme in response to those issues. Changes to density and various projects responding to housing diversity, namely amendments that dealt with Small Secondary Dwellings and the Freo Alternative, have been included and implemented. It is therefore not considered that part a) of the Act's clause applies.

In relation to e), the WAPC can only approve a subdivision if the local government does not make an *objection*. In considering this it is worth noting that the City has a number of strategic objectives that aim to promote and increase housing diversity (Strategic Community Plan) The retention of the multiple dwellings on site is a good outcome, resulting in the retention of an alternate housing type and size for the location. However, there is no present reason why these dwellings cannot be kept, even without the superficial upgrade, without the subdivision going ahead.

However, a key consideration for this proposal is the density set out by LPS4. This was established via a rigorous statutory process and went through the required community engagement – it is not unreasonable for the community to expect development outcomes

consistent with that density. The existing multiple dwellings (built around 1965-1970), are an established anomaly, but are mitigated by the large amount of open space around them.

The consistent approach from the City has been to recommend refusal or not support further subdivision of this site. It is recommended, that in addition to recommending refusal as per the R-Codes, that the City objects to the subdivision as submitted due to its inconsistency with the established zoning of the area.

Notwithstanding this, the applicant has provided two alternate subdivision designs with less lots proposed.

• *Five lot scenario*



Element	Requirement	Proposed	Comment
Minimum Lot size (R25)	Min 256sqm	Multiple dwellings - n/a Single house – 256sqm	Does not comply
Average lot size (R25)	350sqm	Average 164sqm	Does not comply
Minimum frontage	8m	9m	Complies

The five lot scenario proposes to retain the existing multiple dwellings, and create four new lots facing onto Lois Lane. The proposed lot size is 256square metres which still does not achieve the minimum lot size for the R25 density coding of the site. This

proposal would be akin to proposing a subdivision at the higher density code of R30 (required minimum is 260sqm).

The City is unable recommend approval against the R-Codes for this proposal for the same reasons as the original six lot proposal outlined in the report above. However, while the lots are smaller, this design achieves four lots along Lois Lane which is consistent with the recently approved subdivision for the site. The reason the lots are smaller, is due to the retention of the multiple dwelling block, whereas, the approved subdivision includes demolition which means the lots can be longer (and therefore compliant with minimum lot sizes). The addition of four lots would therefore be consistent with the traffic generated by the approved proposal along Lois Lane and have the added benefit of retaining the multiple dwellings.

Given the lots are smaller than the minimum site area required for the area, should the WAPC be of a mind to approve this subdivision, City officers recommend that a LDP be created for this site that considers the site constraints and demonstrates that high quality, sustainable development can be delivered.

Notwithstanding that the City would be recommending refusal for this, in accordance with Section 138 in the Planning Act, for the reasons listed above, Officers recommend choosing not to object to this scenario.

- *Four lot subdivision*



Element	Requirement	Proposed	Comment
Minimum Lot size (R25)	Min 300sqm	Multiple dwellings - n/a Single house – 341sqm	Complies
Average lot size (R25)	350sqm	Average 175sqm	Does not comply
Minimum frontage	8m	12m	Complies

The three lot scenario proposes to retain the existing multiple dwellings, and create three new lots facing onto Lois Lane. The proposed lot size is 341square metres which achieves the minimum lot size for the R25 density coding of the site while still retaining the multiple dwellings.

It is noted that the applicant has outlined a number of upgrades in line with the Residential Design Codes Volume 2 to the existing apartment building, however with a subdivision density of R25, the Volume 2 requirements are not applicable for multiple dwellings in areas coded less than R40, and these upgrades are in effect considered to be a bonus, improving the current development.

In this scenario, as the subdivision is still not meeting the average lot size, the R-Codes and LPS4 still require that the City recommend refusal. However, the lots meet the minimum lot size and would therefore be capable of delivering product consistent with the density.

As such, it is considered appropriate to also not object to this design. Given the lots meet the minimum site area required, they are capable of meeting the R-Codes and an LDP is not recommended in this instance.

Upgrade of Existing Apartments

The application site is zoned under LPS4 as R20/25, with the existing apartments, as outlined above, being an existing anomaly in this zoning. Multiple dwellings in areas coded below R40, such as this site, refer to the Residential Design Codes Volume 1 rather than Volume 2 (the apartment codes).

It is noted that the applicant proposes the retention and upgrading of the existing apartment building to comply with the Residential Design Codes Volume 2 as a key part of the proposal. The applicant ascertains that the apartments provide an important affordable supply of housing in the area. The upgrade works are proposed to include replacement windows and new window awnings, new balcony screens and planting on balconies, new fencing to Watkins Street, PV cells on the roof, a new bin store, new decking area to provide seating and BBQ facilities to apartment occupants, new bike racks and re-landscaping including trees and new pedestrian footpath from new lots to Watkins Street.

It is unclear where a replacement or alternative clothes drying area would be provided for the apartments or whether a storage area or individual stores for the apartments will be provided.

The submission does not address the relationship between the existing apartments and the new dwellings. The draft LDP indicates 5.6m from the northern elevation of the indicative building envelope, and a 2.0m walkway between the apartment building and new lot boundary, therefore visual privacy can be made compliant.

It is noted that as the Residential Design Codes Volume 2 do not technically apply to this site, any apartment upgrades to this higher standard would be a bonus but could not be enforced without a Legal Agreement in place.

Draft Local Development Plan (LDP)

The City requested that the applicant provide a draft LDP with a subdivision application to demonstrate a mechanism for the City to have more certainty around the proposed built form outcome of the new lots. The *Planning and Development (Local Planning Schemes) Regulations 2015* sets out instances when an LDP may be prepared in clause 47

- a) *The Commission has identified the preparation of a local development plan as a condition of a plan of subdivision of the area; or*
- b) *A structure plan requires a local development plan to be prepared for the area; or*
- c) *An activity centre plan requires a local development plan to be prepared for the area; or*
- d) *The Commission and the local government considers that a local development plan is required for the purposes of orderly and proper planning*

It is noted that Clause 47 b) and c) are not relevant in this instance. If the WAPC were minded to approve the subdivision, then the City would request a condition of subdivision be the preparation of an LDP for the two larger proposals.

The applicant references the 'Fremantle Alternative' (Clause 5.7 of LPS4) as the inspiration behind the design, however Officers do not believe this is the most appropriate or applicable design requirements. Notwithstanding that the site is outside the Special Control Area 5.7 on the Scheme Map, the small infill development criteria include one car bay, a minimum of 70% open space and minimum 25% of the site being deep planting zone, which the draft LDP does not achieve.

The City would require the draft LDP to be improved to provide better future amenity of occupiers of the proposed dwellings and to improve the relationship with the primary frontage of these dwellings being Lois Lane.

CONCLUSION

The proposed subdivision seeks a reduction in lot size significantly below the minimum requirements of the R-Codes. The draft LDP does not provide sufficient satisfaction to the City that the design outcome / quality of the built product will offset an increased density development (equivalent of nearly R40). Whilst the LDP is subject to formal adoption through a separate process, the draft document should be able to demonstrate

that a superior development will occur. The applicant's intent to upgrade the existing apartment block is welcomed, however is not reason enough for lots to be created so far from the allocated density on site.

The City would, for the same reasons as above, not recommend support of the alternative five lot subdivision proposal. The alternative four lot subdivision also cannot be technically supported by the City due to it not meeting the minimum and average lot sizes for the R25 density coding. However, the City could choose to 'not object' to this proposal, leaving the WAPC with the ability to approve the proposal under that particular trigger in the Act if they deemed appropriate.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle
- Provide for and seek to increase the number and diversity of residential dwellings in the City of Fremantle

Green Plan 2020

There are no existing trees on site

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

- A. REFER to the Western Australian Planning Commission with a recommendation for REFUSAL under the Metropolitan Region Scheme and Local Planning Scheme No. 4, and advise that the City objects to the proposed six (6) lot Green title subdivision at No.1-12/123 (Lot 1-12) Watkins Street, White Gum Valley for the following reasons:**
- The proposal is inconsistent with the requirements of the Residential Design Codes in respect to minimum and average site area.**
 - Approval of the application would set an undesirable precedent for the further subdivision of other similar lots in this locality which would undermine the objectives and provisions of the State Planning Framework and the City of Fremantle Local Planning Scheme No.4 for lots subject to the same density coding.**

B. REFER to the Western Australian Planning Commission with a recommendation for REFUSAL under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the proposed five (5) lot Green title subdivision at No.1-12/123 (Lot 1-12) Watkins Street, White Gum Valley for the following reasons:

- i. The proposal is inconsistent with the requirements of the Residential Design Codes in respect to minimum and average site area.**
- ii. Approval of the application would set an undesirable precedent for the further subdivision of other similar lots in this locality which would undermine the objectives and provisions of the State Planning Framework and the City of Fremantle Local Planning Scheme No.4 for lots subject to the same density coding.**

Notwithstanding this, the City advises that it does not object to the subdivision and provides the following conditions without prejudice:

- i. The subdivision being in accordance with the amended plans received 17 January 2022, including any amendments placed thereon by Council, other than any modifications that may be required by the conditions that follow.**
- ii. Other than buildings, outbuildings and/or structures, specifically the Multiple Dwellings, shown on the approved plan for retention, all buildings, outbuildings and/or structures present on proposed lots at the time of subdivision approval being demolished and materials removed from the lot(s).**
- iii. Local Development Plan(s) being prepared and approved for lots shown on the plan dated 17 January 2022 (attached) that address:**
 - a. Sustainable development principles**
 - b. Access and parking**
 - c. Waste management**
 - d. Deep soil planting and landscaping**
 - e. Lot boundary and laneway setbacks**
- iv. The laneway adjoining the site along the southern boundary is to be widened by 1 metre and the widening accurately shown on the diagram or plan of survey (deposited plan) and vested in the Crown under Section 152 of the *Planning and Development Act 2005*, such land to be ceded free of cost and without payment of compensation by the Crown.**
- v. The portion of laneway abutting the southern boundary of the site and any land required for its widening being constructed and drained to its full width at the landowner/applicants cost and the remaining portion of the laneway from the boundary of the site to the nearest constructed road being made trafficable.**

- vi. A restrictive covenant, to the benefit of the local government, pursuant to section 129BA of the *Transfer of Land Act 1893* (as amended) is to be placed on the certificates of title of proposed lot(s) 1-7 advising of the existence of a restriction of the use of the land. The restrictive covenant is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation of the development hereby approved. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows;

'No new development is to take place which is not designed in accordance with the City of Fremantle Energy Efficiency and Sustainability Schedule, unless otherwise approved by the local government.'

Advice notes:

- i. The landowner/applicant is advised that no street verge trees are to be removed without separate approval from the City of Fremantle. Street verge trees are to be retained and protected from damage, including unauthorised pruning, unless otherwise approved by the local government. In this regard, the landowner/applicant is advised to liaise with the City of Fremantle prior to commencement of subdivisional works.
 - ii. No works are to occur within the verge without the prior approval of the City of Fremantle.
- C. REFER to the Western Australian Planning Commission with a recommendation for refusal under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the proposed four (4) lot Green title subdivision at No.1-12/123 (Lot 1-12) Watkins Street, White Gum Valley for the following reasons:**
- i. The proposal is inconsistent with the requirements of the Residential Design Codes in respect to minimum and average site area.
 - ii. Approval of the application would set an undesirable precedent for the further subdivision of other similar lots in this locality which would undermine the objectives and provisions of the State Planning Framework and the City of Fremantle Local Planning Scheme No.4 for lots subject to the same density coding.

Notwithstanding this, the City advises that it does not object to the subdivision and provides the following conditions without prejudice:

- vii. The subdivision being in accordance with the amended plans received 17 January 2022, including any amendments placed thereon by Council, other than any modifications that may be required by the conditions that follow.

- viii. Other than buildings, outbuildings and/or structures shown on the approved plan for retention, including the Multiple Dwellings, all buildings, outbuildings and/or structures present on proposed lots 1-3 at the time of subdivision approval being demolished and materials removed from the lot(s).
- ix. The proposed rear lots being provided with a 1.5 metre wide pedestrian access leg(s) clear of any encroachments or projections associated with the existing dwelling/s including pipework, water heater systems, air-conditioning units, eaves or other such projections associated with the existing dwelling(s).
- x. The laneway adjoining the site along the southern boundary is to be widened by 1 metre and the widening accurately shown on the diagram or plan of survey (deposited plan) and vested in the Crown under Section 152 of the *Planning and Development Act 2005*, such land to be ceded free of cost and without payment of compensation by the Crown.
- xi. The portion of laneway abutting the southern boundary of the site and any land required for its widening being constructed and drained to its full width at the landowner/applicants cost and the remaining portion of the laneway from the boundary of the site to the nearest constructed road being made trafficable.
- xii. A restrictive covenant, to the benefit of the local government, pursuant to section 129BA of the *Transfer of Land Act 1893* (as amended) is to be placed on the certificates of title of proposed lot(s) 1-7 advising of the existence of a restriction of the use of the land. The restrictive covenant is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation of the development hereby approved. Notice of this restriction is to be included on the diagram or plan of survey (deposited plan). The restrictive covenant is to state as follows;
'No new development is to take place which is not designed in accordance with the City of Fremantle Energy Efficiency and Sustainability Schedule, unless otherwise approved by the local government.'

Advice notes:

- iii. The landowner/applicant is advised that no street verge trees are to be removed without separate approval from the City of Fremantle. Street verge trees are to be retained and protected from damage, including unauthorised pruning, unless otherwise approved by the local government. In this regard, the landowner/applicant is advised to liaise with the City of Fremantle prior to commencement of subdivisional works.
- iv. No works are to occur within the verge without the prior approval of the City of Fremantle.

**PC2202-6 CLIFF STREET, NO. 6 (LOT 4) FREMANTLE - CHANGE OF USE TO
TOURIST ACCOMMODATION AND ADDITIONS AND ALTERATIONS
TO EXISTING BUILDING (TG DA0209/21)**

Meeting Date:	2 February 2022
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Amended development plans
Additional information:	1. Site Photos 2. Heritage assessment 3. Waste Management Plan

SUMMARY

Approval is sought for the addition of an upper floor to the existing building at No. 6 Cliff Street, Fremantle, and a change of land use to Tourist Accommodation for self contained accommodation units.

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), Local Planning Policies. These discretionary assessments include the following:

- On site car parking
- Land use
- Building height

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a change of use to Tourist Accommodation and additions and alterations to an existing building at 6 Cliff Street, Fremantle. The proposed works include:

- Internal fitout changes to accommodate eight self-contained Tourist Accommodation Units, each with a bathroom and cooking facilities.
- The addition of an upper floor behind the existing pyramidal roof to a height of 14m above ground level.
- The addition of fire rated windows into the existing southern boundary wall.

The applicant submitted amended plans on 6 October 2021 to confirm the inclusion of cooking facilities for the units and alter the interface of the additions with the existing pyramidal roof shape. The applicant also provided 3D perspectives of the proposed addition as viewed from Cliff Street and Phillimore Street.

The amended plans included a reduction in the extent of modifications being made to the pyramid roof feature to retain the hips at the rear of the roof, making this feature clearly legible. The applicant also provided additional information regarding the detail and

Amended development plans are included as attachment 1.

Date received:	14 May 2021
Owner name:	H Aziz
Submitted by:	R Fittock
Scheme:	City Centre
Heritage listing:	Level 1B, West End Heritage Area
Existing land use:	Office
Use class:	Tourist Accommodation
Use permissibility:	D



External referrals

Heritage Service (DPLH)

The application was referred to DPLH (Heritage) as the property is located within the Fremantle West End and adjoins an individually State Heritage Listed property, meaning that the City's heritage assessment delegation did not apply. The DPLH considered the works in the context of the proximity to Wilhelmsen House and found that the proposal did not impact on this significance.

Fremantle Ports (FP)

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

Design Advisory Committee (DAC)

Although the development proposal includes an upper floor addition that increases the overall height of the building to above 11 metres, the proposal itself does not involve a building of 11 metres in height or greater in itself and accordingly the proposal does not satisfy the criteria to be reviewed by the City's Design Advisory Committee prior to a determination being made.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal sought discretion with respect to the provision of on site car parking for the proposed land use. The advertising period concluded on 11 June 2021, and two submissions were received, with one submission supporting the proposal with no concerns raised. The following issues were raised in the second submission (summarised):

- The submitter raised concerns with the submitted waste management plan as it would result in bins being placed on Phillimore Street, potentially disrupting businesses and resulting in visual clutter. The submitter requested that bins be placed on Cliff Street for collection.
- The submitter was concerned that windows to the western elevation may overlook the Phillimore Chambers.
- The submitter considered the proposed extension to the top of the building to appear bulky and unattractive.

The following comments are provided by officers in relation to the matters raised in the submission.

- The waste management plan submitted with the development has been reviewed and is supported by the City's waste team and locating the bins on Cliff Street would require the bins being taken via the rear lane, along Phillimore Street and onto Cliff Street.
- The proposal does not include west facing windows to the upper floor.

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. The following matters are considered to be relevant to the exercise of discretion in relation to this proposal:

- On site car parking
- Land use
- Building height

The above matters are discussed below.

Background

The subject site is located on the eastern side of Cliff Street in Fremantle. The site has a land area of approximately 119m² and is currently vacant but was previously occupied for use as an office. The site is zoned City Centre under LPS 4. The site is individually heritage listed and located within the West End Heritage Area.

The site is occupied by an existing building constructed between 1892 and 1900 and is one half of a pair of two, two storey buildings. The attached heritage assessment provides a full development history for the site including modifications made in the 1970s and 1990s.

No recent development proposals have been considered for the subject site, however it is noted that in 2020, the adjoining building (4 Cliff Street) was approved for use as a residence and approval was given for unauthorised works to this building.

Land Use

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

- (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 use provides for temporary accommodation in the City Centre, supporting the surrounding range of shopping, social, recreation and entertainment services.
- The use itself is not considered to compromise the heritage significance of the subject site, nor the West End.
- The limited size of the individual rooms on site is considered to contribute to a lessened environmental noise impact, in that the units are unlikely to be let out for larger groups of travellers who may make noise.
- Waste generated by the business is capable of being accommodated generally in accordance with the existing waste management methodology for the site.

Building Height

The subject site is located within LPS 4 Sub Area 1.3.1 and therefore subject to the following height requirements:

In considering a proposal for an additional storey above the 11 metre permitted wall height under LPS4 sub area 1.3.1, the following matters need to be considered:

Element	Officer Comment
The upper level being sufficiently setback from the street so as to not be visible from the street(s) adjoining the subject site,	The upper floor is set back to satisfy the 'not visible from the street requirement in providing the upper floor set back from the existing pyramidal roof structure (refer diagram below).
Maximum external wall height of 14 metres (inclusive of roof parapet and spacing between floors).	The building provides a 14m wall height to the top of the roof parapet.
That the proposal is consistent with predominant, height patterns of adjoining properties and the locality generally,	<p>A number of properties are noted as providing a similar or greater height:</p> <p>1 High Street – Highest visible point 44 Marine Terrace – Highest point of spire 39 High Street – Highest visible point 7 Collie Street – Highest visible point 44 Marine Terrace – highest surveyed ridge line Little High Street townhouses</p> <p>It is considered that there is a pattern of buildings in the locality which have been constructed to the 14m building height.</p>
The proposal would not be detrimental to the amenity of adjoining properties or the locality,	Due to its setback from the primary street and location adjacent to the roof of the Phillimore Chambers and adjoining courtyard, the addition is not considered to have a significant impact upon the amenity of adjoining properties. The provided 3D imagery demonstrates that the visibility of

	the addition from Phillimore Street will be limited.
The proposal would be consistent, if applicable, with conservation objectives for the site and locality generally, and	The proposal has been considered by the City's Heritage Officers and the officers of the DPLH and found to be satisfactory with respect to its impact upon the West End, existing building on site, and adjoining individually State Heritage listed place.
Any other relevant matter outlined in Council's local planning policies.	The specific requirements of the West End policy are discussed further in this report.

In accordance with LPS4, 'visible from the street' is defined as follows:

"based on an assumed line of sight measured at a perpendicular angle to the boundary of the development site and the street or public open space, at an assumed point of 1 metre less than the street width and 1.6 metres above ground level. An area of public open space will be considered to have an assumed street width of 20 metres for the purpose of this definition."

The below diagram demonstrates that the proposal satisfies the requirement that the upper floor not be 'visible from the street' as defined in Local Planning Scheme 4. The measurement is taken from the opposite side of the street from a viewer height of 1.6m, noting a permissible wall height of 11m at the front property boundary.

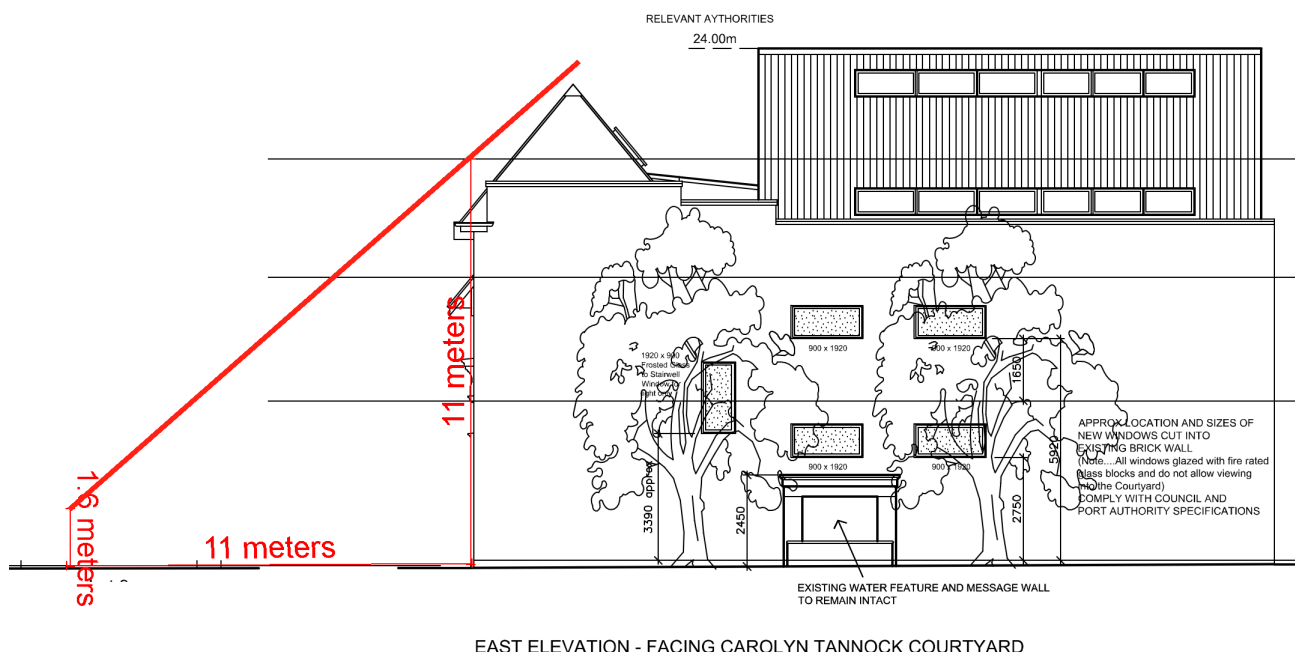


Image 1: Annotated plan showing the visibility of the additions from the street



Image 2: perspective diagram showing the addition as viewed from Cliff Street

In relation to the above perspective diagram, it is noted that a clear view of the addition as shown above is only available along a short section of Cliff Street as the view is generally blocked by the existing buildings roof and the adjoining three storey Notre Dame building at 6 High Street. Additional streetscape photos from Cliff Street are provided as additional information.



Image 3: perspective diagram showing the addition as viewed from Phillimore Street (grey strip above Phillimore Chambers parapet).

West End

Development on the subject site is subject to the requirements of Local Planning Policy 3.21, the West End Heritage Area Policy, with the site located in the Esplanade Edge precinct (D). The proposal is generally considered to satisfy the requirements of this policy with the following elements of the policy requiring consideration. The applicant's heritage consultant also provided a response to the proposal addressing the City's concerns with the development.

Provision	Requirement	Assessment
1.2.1	Places which are individually listed on the City's Heritage List or on the State Register should conserve elements contributing to their individual significance as well as the collective significance of the buildings of the West End.	The proposed amended plans which reduce the impact of the additions upon the distinctive pyramid roof form to the front of the building are considered worthy of support.
3.1.4	Development reflects the building height and proportions characteristic of the West End.	In accordance with the height assessment, the building is considered to appropriately address the requirements relating to building height for the locality.
4.1.3	The general roofscape and form of the precinct are maintained.	The limited visibility of the addition and its significant

		setback from the street should allow for the existing roofscape to be maintained.
5.1.1	New development reflects the classical proportions and character of adjacent building and the streetscape whilst remaining discernible as contemporary. The contrast should be clear but subtle.	The new development portion is well set back from the street, and where visible the new development should be clearly delineated from the existing building fabric.
6.1.2	New development is compatible with the precinct, sits comfortably alongside existing buildings, and assists in interpreting the history of the area.	The proposed addition has been considered by both the City's Heritage officers and State heritage officers and supported due to its limited impact upon the subject building, streetscape, and locality.

On site car parking

<i>Element</i>	<i>Requirement</i>	<i>Proposed</i>	<i>Discretion</i>
Car parking bays	1/unit or 1/bedroom Total: 8 bays	1 bay (existing)	7 bays
Delivery bays	1/administration centre Total: 0 bays (no on site administration)	0 bays	N/A
Bicycle parking racks	Not applicable	N/A	N/A

The proposed provision of car parking for the development is considered worthy of support for the following reasons in accordance with the discretionary criteria of LPS4:

- The site is located in close proximity to the Fremantle train line and bus port, providing ready access to public transport facilities for inhabitants.
- Tourists are unlikely to use a private car during their time in Fremantle.
- The subject building is heritage listed and works to demolish a portion of the building to accommodate further on site car parking may not be supported.
- The site, in its previous use as an office, exhibited a 6-parking bay shortfall and likely would have attracted a greater number of vehicles parked all day in Fremantle in comparison to the proposed use. The increase in the parking provision shortfall of one parking bay is considered to be limited and worthy of support.

In relation to the provision of delivery bays for the property, it is noted that no specific requirement is imposed by LPS4 as the development does not provide an on site administration centre. However considering the constraints upon the site and limited loading area available it is considered appropriate to require the submission of a delivery management plan to allow for the delivery of linen and visits by cleaners.

Heritage Impact

The City's Heritage Assessment is supportive of the subject application, noting that should further works be required to the pyramid roof be necessary in order to make the roof area able to be occupied that further plans be received by the City for review. In this regard a general condition is recommended requiring that all works be undertaken in such a manner as to minimise any impact onto existing heritage fabric. Should significant changes to the existing roof form of the building be required, this would be subject to further approval from the City of Fremantle as a variation application.

Waste

The applicant submitted a waste management plan (WMP) with the development proposal confirming the accommodation on site of eight 120 litre general rubbish bins and eight 120 litre recycling bins. The WMP proposed that the bins were to be presented on Phillimore Street for collection. This waste management plan was reviewed by the City's Waste team and supported, noting that the applicant could consider the inclusion of FOGO in their proposal.

It is noted that a submitter has requested that waste collection take place from Cliff Street, however as the bin store is located off the rear ROW which is accessed from Phillimore Street, it is considered that collection from Phillimore Street would comprise the most efficient collection location, rather than the bins being ferried to Cliff Street and back as no direct access from the bin store to Cliff Street is available. On this basis the submitted waste management details are considered worthy of support.

Fremantle ports buffer area

The application was referred to Fremantle Ports for comment as the site is within the catchment area of the Port, resulting in additional development requirements. Ports responded advising that the requirements of LPP 2.3 should be made a condition of development approval, generally these requirements relate to the finish of openings and air conditioner shutdowns. In accordance with LPP 2.3 it is recognised that full compliance with the policy requirements in cases involving the adaptation and reuse of buildings of heritage significance is not always achievable. Accordingly a modified version of the standard condition of development approval listed in this policy is recommended, as the proposed works are to an existing heritage building which is limited in its ability to make major modifications to windows and air conditioning facilities. The condition is modified such that any new works and elements are to satisfy the requirements of the policy, without making undue modifications to existing elements.

CONCLUSION

In accordance with the above considerations, the change of use to Tourist Accommodation and the proposed additions and alterations to the building are considered to appropriately address the requirements of Local Planning Scheme 4 and Council policies. On this basis, 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, change of use to tourist accommodation and additions and alterations to existing building at No. 6 (Lot 4) Cliff Street, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 6 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 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 approved waste management plan submitted with the development application shall be implemented at all times to the satisfaction of the City of Fremantle. Any modifications to the waste management plan shall be agreed to by the City prior to their implementation.**
- 5. Prior to the issue of a building permit for the development hereby approved, the applicant shall submit a delivery management plan detailing the timing and frequency of deliveries to the subject site, to the satisfaction of the City of Fremantle. All deliveries to the property shall be undertaken in accordance with the approved delivery management plan, unless otherwise agreed to with the City of Fremantle.**
- 6. 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.**
- 7. Prior to the issue of a Building Permit or Demolition Permit for 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.**

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 for the development hereby approved, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:**

- a) New or replaced 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) New Air conditioners shall provide internal centrally located ‘shut down’ points and associated procedures for emergency use.**

Roof insulation in accordance with the requirements of the Building Codes of Australia.

- 9. Prior to the issue of a Demolition Permit or Building Permit for 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.**

- 10. The pedestrian access and vehicle gate, as indicated on the approved plans, shall open and close within the subject site only and shall not impede the use of laneways adjoining the subject site.**

11. Prior to occupation/ use of the development hereby approved, the boundary wall 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.

12. 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) In relation to condition 5, the applicant is to provide the details of delivery and service vehicles accessing the site including their vehicle size and the timing of deliveries. The delivery management plan shall also nominate the loading area for the delivery vehicle or on site access arrangements.
- ii) The applicant is advised that in the future the adjoining courtyard to the south of the site may be developed up to the property boundary, resulting in the proposed windows being blocked.
- iii) The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Cliff Street road reserve. An application for obstruction permit can be found via www.fremantle.wa.gov.au.
- iv) The proponent must make application during the Building Permit application stage to Environmental Health Services via Schedule 3 – Application for registration of a lodging house as a requirement of the City of Fremantle’s Health Local Laws 1997. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- v) Any removal of asbestos is to comply with the following – Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the Occupational Safety and Health Act 1984 and accompanying regulations and the requirements of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002

(2005)]; Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce. <http://www.docep.wa.gov.au>

- vi) All noise from the proposed development must comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* (as amended), such as:
1. mechanical service systems like air-conditioners, exhaust outlets, motors, compressors and pool filters;
 2. vehicles;
 3. amplified acoustic systems; and
 4. patron noise.

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

- vii) A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.
- viii) 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.

**PC2202-7 BROMLEY ROAD, NO. 32 (STRATA LOT 1) HILTON – PATIO ADDITION
TO EXISTING GROUPED DWELLING (TG DA0459/21)**

Meeting Date: 2 February 2022
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 addition of a patio in front of the existing dwelling at 32 Bromley Road, Hilton.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought. The application seeks discretionary assessments against the Hilton Local Planning Policy (LPP 3.7). These discretionary assessments include the following:

- **Lot boundary setback (south)**
- **Heritage impact**

The application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for the addition of a patio to an existing Grouped Dwelling at 32 Bromley Road, Hilton. The proposed works comprise the addition of a patio over an existing low deck in front of the dwelling.

Development plans are included as attachment 1.

Site/application information

Date received: 28 October 2021
Owner name: M Ryder
Submitted by: Perth Patio Magic
Scheme: Residential R20/25
Heritage listing: Hilton Heritage Area
Existing land use: Grouped Dwelling
Use class: Grouped Dwelling
Use permissibility: D (Existing)



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 a reduced lot boundary setback to the southern site boundary. The advertising period concluded on 29 November 2021, and no submissions were received.

Further consultation was undertaken by the City in relation to the addition being located forward of the dwelling alignment, ending on 21 January 2021 with no responses having been received.

OFFICER COMMENT

Statutory and policy assessment

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

areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Lot boundary setback (south)
- Heritage impact

The above matters are discussed below.

Background

The subject site is located on the eastern side of Bromley Road in Hilton. The site has a land area of approximately 376m² and is currently occupied by an existing dwelling with a front deck. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed but is located within the Hilton Heritage Area.

The site is generally flat and occupied by an existing original Hilton house which has been recently upgraded and restored, including a large deck in front of the dwelling. The original parent lot was subdivided in approximately 2016 to create a new lot to the rear of the site accessed by the shared common property driveway. Through the subject subdivision application, the area in front of the dwelling was noted as the area for the outdoor living area of the subject site.

Heritage impact

In accordance with LPP 3.7, additions and alterations to existing dwellings in the Hilton Heritage Area should be located to the side or rear of the existing dwelling. In this instance it is noted that the proposal comprises cover over the outdoor living area to the front setback area of the site and that due to the subdivision layout for the parent property there is little to no opportunity to provide a shaded outdoor living area to the side or rear of the dwelling.

In accordance with the attached heritage assessment, the proposed patio is considered to unduly impact the heritage significance of the existing dwelling, as well as the Bromley Road Streetscape. It is noted that in principle, the concept of a shade structure to the front garden of the dwelling can be supported, however this addition would need to have a minimal impact upon the heritage building fabric, as well as the presentation of the place from the street so as to satisfy the conservation objectives of the Hilton Heritage Area policy (LPP 3.7) and protect the heritage values of the subject site.

Of primary concern to the City's Heritage Officers was that the location of the patio over the existing eaves, gutter line and roof of the dwelling would impact the heritage values of the site in comparison to a structure separated from the building. In comparison to other patios which have been approved in the locality, the proposed structure would comprise the dominant feature in front of the dwelling and would detract from its presentation to the streetscape and heritage area.

It is noted that some allowance can be given in LPP 3.7 for the upgrading of houses in the heritage area to provide a significantly higher level of energy efficiency through solar passive design. This has generally been interpreted as allowing for window awnings to the front of dwellings, rather than larger modifications that substantially change the character of the front of a dwelling such as the subject proposal.

The heritage officers noted in their assessment that the following amendments could potentially be supported:

- Lowering the existing deck to be level with the original porch floor and constructing a lower pitch patio roof that would be level with the existing roof eaves. This would allow the patio structure to be attached to the fascia of the roof or building below.
- Constructing a low pitched patio structure adjacent to the existing house without attaching the building to the dwelling.

The applicant was invited to explore alternative patio designs which might address the above considerations, however they elected to retain the proposed patio as originally submitted without amending their plans.

For the reasons outlined above, the addition is considered to result in an undue impact onto the heritage significance of the Bromley Road Streetscape and therefore is recommended for refusal.

Lot boundary setback (south)

Element	Requirement	Proposed	Extent of Variation
Southern setback	1.5m	1.1m	0.4m

The proposed southern lot boundary setback is considered to satisfy the relevant design principles of the R-Codes for the following reasons.

- The patio is an open sided structure of limited building bulk, and adjoins the neighbouring driveway and carport structure, both areas of the adjoining lot are not considered to be unduly sensitive to building bulk.
- The shade cast by the addition will be limited due to the low height of the patio, and any midwinter shade is to fall over the neighbouring driveway, rather than sensitive major openings onto habitable rooms or outdoor living areas.
- The patio is over the existing deck in front of the dwelling and there will be little to no change with respect to the visual privacy impact of the works.

On the basis of the above considerations, if the patio were considered to be an appropriate heritage outcome for the site, the reduced southern lot boundary setback is considered worthy of support.

CONCLUSION

In accordance with the above assessment, it is considered that the development will unduly impact the heritage significance of the existing dwelling, as well as the Bromley Road streetscape. For this reason, the application is recommended for refusal.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the additions (patio) to existing Grouped Dwelling at No. 32 (Strata Lot 1) Bromley Road, Hilton, as detailed on plans dated 28 October 2021, for the following reasons:

1. 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) (k) (the built heritage conservation of any place that is of cultural significance) and (m) (the compatibility of the development with its setting) of the Deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
2. The proposal is inconsistent with the City of Fremantle's Planning Policy *Local Planning Policy 3.7 – "Hilton Garden Suburb Precinct" Heritage Area Local Planning Policy* as the proposed patio addition is located in front, and over the roof of the existing dwelling and will have an adverse impact upon the presentation of this heritage place and its contribution to the Hilton Heritage Area due to the dominance of the addition.

PC2202-8 MARINE TERRACE, NO. 26A (LOT 8) FREMANTLE – ADDITIONS AND ALTERATIONS TO EXISTING MIXED USE DEVELOPMENT (TG DAP003/21)

Meeting Date: 2 February 2022
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 additions and alterations to the existing mixed-use building at 26a Marine Terrace in Fremantle. The proposal comprises alterations to the existing building and the addition of an upper floor to the existing three storey building which currently comprises a ground floor commercial tenancy and two single level apartments.

As the development value exceeds \$2 million, the applicant has opted to have the application determined by the Metro Inner-South Joint Development Assessment Panel (JDAP). The City's Responsible Authority Report (RAR) is referred to Planning Committee for comment.

The application is recommended for approval, subject to conditions.

PROPOSAL

Detail

Approval is sought for alterations and additions to an existing mixed-use building at 26a Marine Terrace, Fremantle. The proposed works include:

- Establishment of improved utility spaces on the ground floor comprising larger storage units and bin stores.
- Modification to the residential entry lobby to remove existing walls for accessibility.
- Refurbishment to existing front façade comprising:
 - New solid entry door and side screen.
 - Replacement of rendered finish to ground floor with Corten steel cladding.
 - The addition of perforated screens to current balconies.
 - Mosaic tiling to the existing masonry pier.
 - Introduction of a historical date plaque.
- Provision of a new fourth level living room addition and external terrace to front and rear elevation with planters to rear terrace.

The applicant submitted amended plans on 11 November 2021 to remove an extension to the existing lift shaft at the front of the building from consideration and internal rearrangements to accommodate an internal lift structure.

The applicant submitted further amended plans on 12 January 2022 in order to make changes to the façade of the building as follows:

- The introduction of two false piers between existing sets of windows on the southern façade.
- Deletion of mosaics to front façade of building.
- Deletion of colour back glass to the underside of existing windows adjacent to the lift.
- Window break up altered to ground floor commercial tenancy to align with upper floors.
- Windows in top floor living and dining area to continue rhythm of lower floors.

Amended development plans are included as attachment 1.

Site/application information

Date received:	17 August 2021
Owner name:	B & J Jones
Submitted by:	Allerding and Associates
Scheme:	City Centre
Heritage listing:	Individually listed (Level 2) and located within the existing West End heritage area
Existing land use:	Shop, Multiple Dwelling
Use class:	As above
Use permissibility:	P & D (Both existing)



OFFICER'S RECOMMENDATION

Council

SUPPORT the Officer's Recommendation to **APPROVE**, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the additions and alterations to existing mixed use building at 26a (Lot 8) Marine Terrace, Fremantle, subject to the conditions listed in the responsible authority report.

Form 1: Responsible Authority Report (Regulation 12)

**Marine Terrace, No. 26a (Strata Lot 8) Fremantle –
Additions and alterations to existing Mixed Use Development**

Form 1 – Responsible Authority Report (Regulation 12)

DAP Name:	Metro Inner-South JDAP	
Local Government Area:	City of Fremantle	
Applicant:	Allerding and Associates	
Owner:	B Jones & J Jones	
Value of Development:	\$2 million <input type="checkbox"/> Mandatory (Regulation 5) <input checked="" type="checkbox"/> Opt In (Regulation 6)	
Responsible Authority:	City of Fremantle	
Authorising Officer:	Manager Development Approvals	
LG Reference:	DAP003/21	
DAP File No:	DAP/21/02057	
Application Received Date:	17 August 2021	
Report Due Date:	5 November 2021	
Application Statutory Process Timeframe:	90 Days	
Attachment(s):	1. Location Plan 2. Amended Development Plans and Elevations 3. Referral Responses 4. Heritage Assessment 5. Council Minutes	
Is the Responsible Authority Recommendation the same as the Officer Recommendation?	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	Complete Responsible Authority Recommendation section <i>*to be updated upon lodgement of RAR</i>

	<input type="checkbox"/> No	Complete Responsible Authority and Officer Recommendation sections
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Responsible Authority Recommendation

That the Metro Inner-South JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/21/02057 is appropriate for consideration as a "Mixed Use Development" land use and compatible with the objectives of the zoning table in accordance with Clause of the City of Fremantle Local Planning Scheme No. 4;
2. **Approve** DAP Application reference DAP/21/02057 and accompanying plans (DA.01-DA.17, Dated 12 January 2022) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions the City of Fremantle Local Planning Scheme No. 4, subject to the following conditions:

Conditions

1. This approval relates only to the development as indicated on the approved plans dated 12 January 2022. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.
2. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
3. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Any damage shall be rectified to the satisfaction of City of Fremantle.
4. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
5. Prior to the issue of a building permit for the development hereby approved the proposed retractable screens to the lift lobbies shall be amended to be provided over the balcony opening only the satisfaction of the City of Fremantle.
6. Prior to the issue of a Building Permit or Demolition Permit for 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;
- 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.

7. Prior to the issue of a Building Permit for the development hereby approved, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:
 - c) New or replaced 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.
 - d) New Air conditioners shall provide internal centrally located ‘shut down’ points and associated procedures for emergency use.
 - e) Roof insulation to new floor in accordance with the requirements of the Building Codes of Australia.

8. Prior to the issue of a Demolition Permit or Building Permit for 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.

9. Prior to the issue of a Building Permit for the development hereby approved, the design and materials of the development shall adhere to the requirements set out within City of Fremantle *Local Planning Policy 2.18 – New Residential Developments in the City Centre Zone – Noise from an Existing Source*. Specifically, the development shall provide the following:
 - a) to all external openings (windows and doors):
 - i) airtight rubber seals to provide acoustic protection; and
 - ii) sliding windows shall be substituted with awning windows as they are able to achieve a positive compression seal; and

- iii) standard 6mm glass shall be substituted with sealed thickened laminated glass (no less than 10mm); or
 - iv) standard 6mm glass shall be substituted with acoustic double glazing incorporating a 12mm thick pane of laminated glass set in a sealed metal frame with a 100mm air gap to the other pane of glass;
 - b) to all external walls:
 - i) shall achieve a sound rating of Rw 45 dB or greater;
 - c) to all floors and ceilings:
 - i) A 150mm thick concrete slab with either carpet or acoustically installed timber flooring or tiles; or
 - ii) Installing high density insulation batts into the cavity of a lightweight, suspended and floating ceilings or floors to absorb sound; or
- Building components are isolated using resilient compounds such as rubber, neoprene or silicone for the purpose of reducing the transfer of noise.

10. Prior to occupation of the development hereby approved, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be prepared to the satisfaction of the City of Fremantle and registered against the Certificate of Title of every residential dwelling, to notify owners and prospective purchasers of any dwelling that:

- the land is located in or adjacent to, an area where non-residential uses may exist or be approved and, as a result, the land may be affected by activities and noise not normally associated with residential development.
- is located in close proximity to existing freight railway line and may be subject to noise, odour and activity not normally associated with typical residential zoned land.

All costs and incidentals relating to the preparation of and registration of the Section 70A notification, including related City of Fremantle Solicitors' costs, shall be met by the owner of the land.

11. Prior to occupation/ use of the development hereby approved, the boundary wall located on the east and west 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.

12. 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. 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.

- ii. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the road reserve. An application for obstruction permit can be found via www.fremantle.wa.gov.au.
- iii. 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.
- iv. Fire separation for the proposed building works must comply with Part 3.7.2 of the Building Code of Australia.

Reasons for Responsible Authority Recommendation

To be amended post – Planning Committee.

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme - Zone/Reserve	Central City
Local Planning Scheme	Local Planning Scheme 4 (LPS4)
Local Planning Scheme - Zone/Reserve	City Centre
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan - Land Use Designation	N/A
Use Class and permissibility:	Multiple Dwelling & Shop – D, P (Both existing)
Lot Size:	303m ²
Existing Land Use:	Multiple Dwelling & Shop
State Heritage Register	Yes (West End, Fremantle)
Local Heritage	<input type="checkbox"/> N/A <input checked="" type="checkbox"/> Heritage List <input checked="" type="checkbox"/> Heritage Area
Design Review	<input checked="" type="checkbox"/> N/A <input type="checkbox"/> Local Design Review Panel <input type="checkbox"/> State Design Review Panel

	<input type="checkbox"/> Other
Bushfire Prone Area	No
Swan River Trust Area	No

Proposal:

The subject site is currently occupied by a three storey building comprising two apartments (Multiple Dwellings) to the upper floors and a commercial tenancy to the ground floor. Access is provided to the rear of the site via a rear private laneway off Mouat Street.

Approval is sought for alterations and additions to an existing mixed-use building at 26a Marine Terrace, Fremantle. The proposed works include:

- Establishment of improved utility spaces on the ground floor comprising larger storage units and bin stores.
- Modification to the residential entry lobby to remove existing walls for accessibility.
- Refurbishment to existing front façade comprising:
 - New solid entry door and side screen.
 - Replacement of rendered finish to ground floor with Corten steel cladding.
 - The addition of perforated screens to current balconies.
 - Mosaic tiling to the existing masonry pier.
 - Introduction of a historical date plaque.
- Provision of a new fourth level living room addition and external terrace to front and rear elevation with planters to rear terrace.

The applicant provided amended plans on 11 November 2021 to address concerns expressed by the City in regard to the height of the building up to the front boundary. The applicant lowered the height of the lift shaft and made internal alterations to accommodate a secondary internal lift to access the top floor.

The applicant submitted further amended plans on 12 January 2022 in order to make changes to the façade in accordance with the City's advice as follows:

- The introduction of two false piers between existing sets of windows on the southern façade.
- Deletion of mosaics to front façade of building.
- Deletion of colour back glass to the underside of existing windows adjacent to the lift.
- Window break up altered to ground floor commercial tenancy to align with upper floors.
- Windows in top floor living and dining area to continue rhythm of lower floors.

Proposed Land Use	Multiple Dwelling (and Shop?) (Additions to existing)
Proposed Net Lettable Area	127m ²
Proposed No. Storeys	One additional storey with roof terrace
Proposed No. Dwellings	No additional dwellings

Background:

The subject site is listed as part of the former location of the Fremantle Navy Club. Additions and alterations have been completed to the building in the late 1980s and in the 1990s the third floor was added above the two storey building. The existing vacant shopfront is accessed via stairs on the adjoining property (24 Marine Terrace). The attached heritage assessment provides a summary of the historical development activities on site.

The subject property is located within the State Heritage listed Fremantle West End and is subject to specific height requirements under Local Planning Scheme 4. Generally, an 11m wall height is permitted, with an additional floor (14m wall height) being allowed provided that this floor is set back so as to not be readily visible from the street.

Under Scheme Amendment 82, the requirement to set back the additional floor was proposed to be removed, with new additions and buildings being able to be built up to the street provided a satisfactory conservation/heritage outcome is achieved among other conditions. The Scheme Amendment is currently being considered by the Western Australian Planning Commission after being endorsed for adoption by the Council. The final wording of the amendment removes the allowance for the additional floor to be built up to the street boundary on Heritage Listed properties. Accordingly as the subject site is individually listed, if the Scheme Amendment were finalised the height requirements applicable to the subject site and directly adjoining properties would not alter, but they would potentially change for the properties in the West End which are not individually listed.

Legislation and Policy:

Legislation

- *Planning and Development (Local Planning Scheme Regulations) 2015*
- Local Planning Scheme No. 4

State Government Policies

- SPP 7: Design of the Built Environment
- SPP 7.3: Residential Design Codes Volume 2

Local Policies

- | | |
|------------------------------|---|
| • Local Planning Policy 1.3 | Public Notification of Planning Proposals; |
| • Local Planning Policy 1.10 | Construction Sites; |
| • Local Planning Policy 2.3 | Fremantle Port Buffer Area Development |
| Guidelines; | |
| • Local Planning Policy 3.21 | West End Policy |
| • Local Planning Policy 2.18 | New residential developments in the City Centre |
| zone | |

Consultation:

Public Consultation

Consultation was undertaken via letters with surrounding landowners in relation to the proposed building height between 23 August and 9 September 2021, with no submissions being received. While the plans have been amended since this time, as they were amended to reduce building bulk and height on the street, the application was not re-advertised.

Department of Planning, Lands and Heritage (Heritage Services)

The application was referred to the Department as the subject site is located within the Fremantle West End, and the subject site adjoins a property which is individually State Heritage Listed (Former Court House, 22 Marine Terrace).

The referral response confirmed that the proposal, in accordance with the submitted plans, is supported by DPLH. The application was considered by DPLH in the context of the impact of the works on the heritage significance of the West End of Fremantle as well as the former Court House building.

City Heritage Officer Comment

The City's heritage officers initially raised concerns with respect to the height of the proposed additions, especially in relation to the height of the lift shaft up to the front boundary. The applicant sought to make amendments to the subject proposal removing the majority of the lift shaft from consideration.

The City's Heritage Officers also completed an assessment of the amended proposal, finding that the application still had a limited impact upon the integrity of the West End heritage area. Accordingly, the proposal would only be supported on heritage grounds on the basis of the following conditions:

- The perforated screens covering the wall between the large openings to the lift lobbies are removed.
- Roofs, shade structures and rooms may not be constructed on the roof deck in future.

In relation to the first condition, this is included in the recommended conditions of development approval, this element is not able to be supported in accordance with the attached heritage assessment as the screens impacted the design of the front of the existing building and would not align with the classical proportions common in the West End. In relation to the second recommendation, this was not able to be included as a condition of approval as this would both prejudice future development proposals, but also potentially prejudice changes in development requirements for the area.

The Heritage Officer's report is provided as additional information.

Design Review Panel Advice

As the proposal does not involve a completely new development of 11 metres in height or greater, the proposal does not satisfy the criteria to require review by the City's Design Advisory Committee prior to a determination being made.

Planning Assessment:

Land use

The land uses operating on the subject site (Multiple Dwelling and Shop) are only intended to be modified through this development to increase the overall area of the top floor apartment and to undertake modifications to the appearance of the building. The total number of apartments and tenancies is not proposed to change. Accordingly, no further consideration of the subject land uses is considered to be required.

Building Height

Provision	Requirement	Proposal	Assessment
LPS4Sub Area 1.3.1 – West End – Building Height	Despite the general height requirements outline in 1.1 above, building height shall be limited to a maximum height of three storeys (maximum external wall height of 11* metres as measured from ground level with a maximum roof plain pitch of 33 degrees). Council may consent to an additional storey subject to— <ul style="list-style-type: none"> a) the upper level being sufficiently setback from the street so as to not be visible from the street(s) adjoining the subject site, b) maximum external wall height of 14* metres, and c) compliance with clause 1.2. above. *Inclusive of roof parapet and spacing between floors. 	Four Storeys 12.6m high lift shaft 14.34m wall height, with roof deck balustrade at 15.84m.	See comments below.

In considering a proposal for an additional storey above the 11 metre permitted wall height under LPS4sub area 1.3.1, the following matters need to be considered:

Element	Officer Comment
The upper level being sufficiently setback from the street so as to not be visible from the street(s) adjoining the subject site,	This matter is discussed further below.
Maximum external wall height of 14 metres (inclusive of roof parapet and spacing between floors).	The proposed additions result in an overall building height which exceeds 14 metres, with the balustrading to the proposed roof deck exceeding 15m in height, however this element is considered worthy of support due to its location at the centre of the subject site and set back from the street, this matter is discussed further below.

<p>That the proposal is consistent with predominant, height patterns of adjoining properties and the locality generally,</p>	<p>In support of the application, the developer has noted a number of properties in support of the development, being the following sites which seek to establish a height pattern in the area and broader West End locality:</p> <ul style="list-style-type: none"> • 1 High Street – Former Tramways building • 39 High Street – Orient hotel • 7 Collie Street – Collie Street carpark • 44 Marine Terrace – Esplanade Hotel • 7 Henry Street- Former Workers Club • 8 Pakenham Street – Quest Hotel <p>It is considered that there is a pattern of buildings in the locality with an element of wall height which exceeds the standard building height requirements for minor elements of the building and roofs, with these elements generally being set back from the street (Plan extract provided below).</p> <p>In considering the immediately adjacent properties, no property is of a similar or greater height to the proposed additions, however the majority of the addition is considered to be appropriately set back from the primary street to ameliorate its impact on the street and locality.</p>
<p>The proposal would not be detrimental to the amenity of adjoining properties or the locality,</p>	<p>The upper floor element is set back from the primary street boundary and adjoins the roof area of both adjoining properties without imposing upon habitable spaces or outdoor living areas.</p> <p>The increase in the height of the lift shaft is noted, however this minor element does not directly impose on the outdoor living areas or habitable spaces of neighbouring properties and is considered a minor increase to enhance the amenity of the upper floor roof terrace.</p>
<p>The proposal would be consistent, if applicable, with conservation objectives for the site and locality generally, and</p>	<p>In accordance with the recommended façade changes discussed in the heritage impact section of the report, the development is considered to comprise a positive addition to the overall context of the West End which responds well to the heritage character of the locality.</p>
<p>Any other relevant matter outlined in Council's local planning policies.</p>	<p>The specific requirements of the West End policy are discussed further in this report.</p>

Visible from the street

In accordance with Local Planning Scheme 4, 'visible from the street' is defined as follows:

"based on an assumed line of sight measured at a perpendicular angle to the boundary of the development site and the street or public open space, at an assumed point of 1 metre less than the street width and 1.6 metres above ground level. An area of public open space will be considered to have an assumed street width of 20 metres for the purpose of this definition."

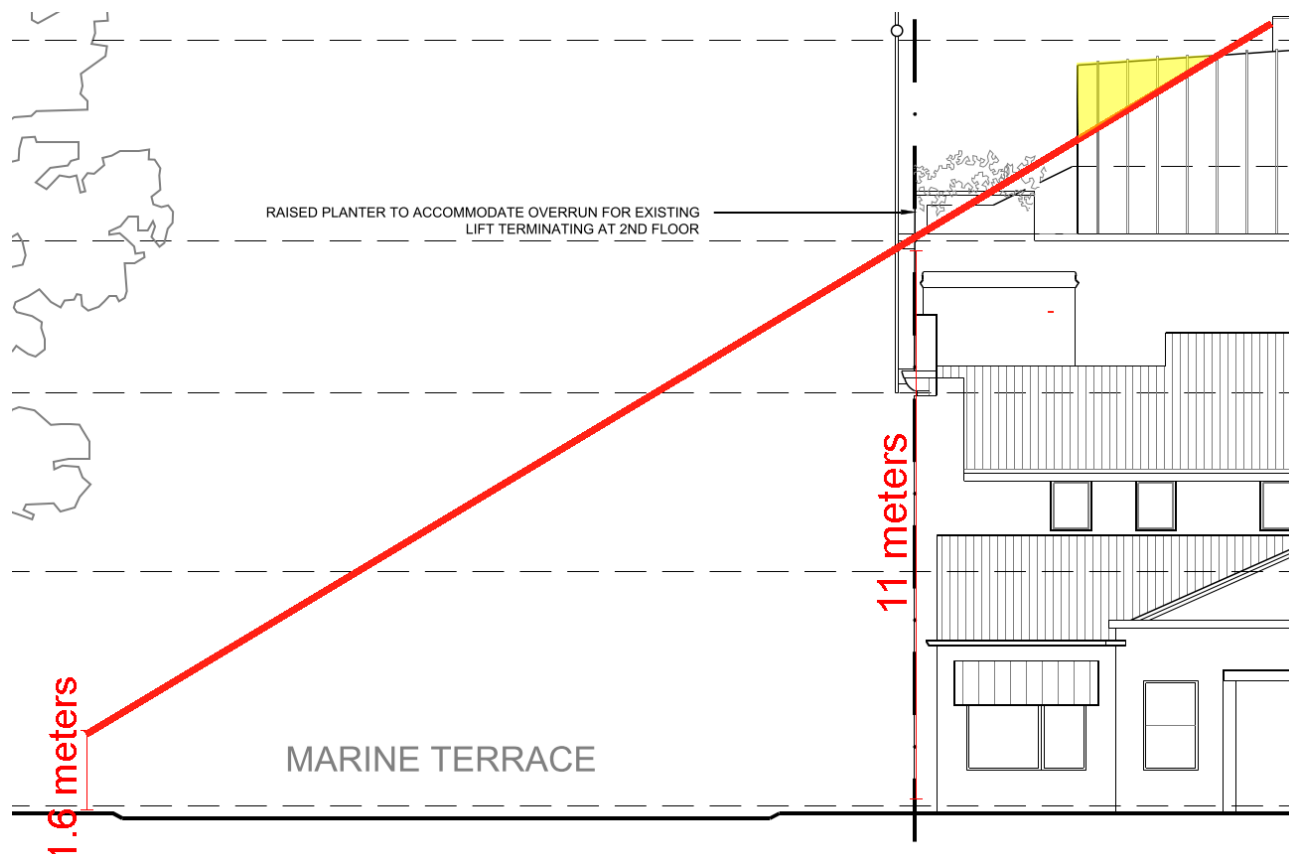


Image 1: Annotated plan showing the planter and lift run visibility of the additions from the street taking into account the height of the existing building façade.

In regard to compliance with this requirement, the planter addition to the lift shaft to accommodate the lift overrun, although visible from the street is considered acceptable in accordance with the LPS4(cl. 4.8.1.3) allowance for a minor projection no more than 4m above the highest part of the building that takes up no greater than 10% of the roof area.

In considering a variation to the building height requirements of LPS4 in cases where adjacent buildings depict a height greater than that specified in the general or specific requirements of Schedule 7 of the Scheme, the maximum height requirements can be varied in cases where the following criteria are met:

- 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,*
- d) any other relevant matter outlined in Council's local planning policies.*

In this instance there are two buildings which exceed the building height provisions of LPS4. Firstly the existing building onsite has a street façade height of 11.7m. Notwithstanding this the other building which is considered to trigger a cl. 4.8.1 assessment is 44 Marine Terrace, The Esplanade Hotel. This site is clearly able to be read in connection and context of this subject site especially when viewed from the Esplanade Park. Therefore, there is scope to consider a variation under cl. 4.8.1.

Aerial image below shows the separation of the two sites. The table below also expands on the a-d sub criteria assessment of clause 4.8.1.



Element	Officer Comment
a) Impact of the variation on the amenity of adjoining properties and locality	<p>With respect to the glass balustrading, this element is of negligible building bulk as a glass element which will have a limited impact on the appearance of the building as viewed from the street.</p> <p>The portion of the additional floor which projects into the 'visible from the street' area shown in image 1 above is considered to be a small area mainly consisting of clear balcony balustrade, minor projections (planters), and eaves resulting in no undue impact to the streetscape or the amenity of the adjoining eastern and northern properties.</p>
b) Degree to which the height of external walls graduate the scale	The portion of the building which exceeds the 14m building height (max 14.3m) is generally minor and centrally located with

between buildings of varying heights within the locality	thin the development footprint. The max height is generally consistent with an allowable area of roof which could be permitted to the upper floor under the 33 degree roof pitch. Additionally the portion of the building which exceeds the listed height requirement is consistent with other minor building elements scattered over the greater West End Conservation Area and immediate locality
c) Conservation of the cultural heritage values of buildings on site and adjoining	In accordance with the attached heritage assessment, the development is considered to appropriately respond to the heritage significance of the West End, and the West End policy. The proposed addition is considered to be appropriately set back from the street to limit its impact.
d) Matters outlined in Council Local Planning Policies	Discussed further in the West End Policy assessment.

In 2021, the Council considered a Local Planning Scheme amendment to remove the requirement for the upper storey of buildings (up to 14m) be set back from the street from the height requirements applicable to the West End. This amendment remains under consideration by the WAPC, however following initial consultation, the Council elected to retain the setback requirement for properties which are heritage listed. In the case of the subject property, which is Level 2 Heritage Listed by the City of Fremantle, this Scheme amendment would not impact the height and setback requirements applicable to the subject site, resulting in the requirement that upper floors remain set back from the street.

In conclusion, it is considered that although the development proposed will exceed the building height requirements applicable to the subject site, the development readily satisfies the discretionary criteria of LPS 4 due to the minor nature of the additional height.

LPP 3.21 – West End Policy

Development on the subject site is subject to the requirements of Local Planning Policy 3.21, the West End Heritage Area Policy, with the site located in the Esplanade Edge precinct (D). The proposal is generally considered to satisfy the requirements of this policy with the following elements of the policy requiring consideration. The applicant's heritage consultant also provided a response to the proposal addressing the City's concerns with the development.

Provision	Requirement	Assessment
1.2.1	Places which are individually listed on	The amended proposal is considered to appropriately address the heritage

	the City's Heritage List or on the State Register should conserve elements contributing to their individual significance as well as the collective significance of the buildings of the West End.	<p>significance of the subject building and the broader locality in setting back the upper floor of the building so as to not be readily visible from the street and undertaking to amend the proposed façade of the building so as to better reflect the design elements common in the West End and reduce the overall prominence of the subject building.</p> <p>It is considered that setting the fourth floor back from the Marine Terrace site boundary will reduce the impact of the proposed development in the vicinity of the building.</p>
3.1.4	Development reflects the building height and proportions characteristic of the West End.	<p>The amended proposal which has introduced consistent proportioning across the façade of the building has generally been supported, however it is recommended that the proposed retractable screens be removed from the proposal as they are considered to interfere with the proportions of the building.</p> <p>In relation to the proposed flag staff, this is noted as an addition which can be considered acceptable as it does not contribute to the bulk and massing of the additions.</p>
4.1.3	The general roofscape and form of the precinct are maintained.	<p>The proposed addition has been set back to not be readily visible from the primary street with the exception of a portion of the building which is considered to be minor and able to be supported in accordance with other similar building elements in the immediate locality.</p> <p>While the fourth floor will be visible from the Esplanade Reserve opposite, the new façade has been designed as a discrete, minimalist form which ties in with the geometry of the existing façade below. The roof deck and service platform has been neatly designed to minimise impact of plant and equipment.</p>
5.1.1	New development reflects the classical proportions and character of adjacent building and the streetscape whilst remaining discernible as contemporary. The	It is considered that the modifications to the existing façade are worthy of support as the existing façade is not particularly well composed as it was constructed in three stages, and the amended design is considered to respond to the local heritage context and to not dominate or dramatically contrast with the adjacent heritage buildings.

	contrast should be clear but subtle.	<p>The initial proposal has been modified to remove applied finishes and materials that broke up the façade into interlocking planar elements which would have contrasted with the rhythm created by the solid/ void layout of the surrounding heritage buildings and the balance of the interwoven horizontal and vertical elements. These changes have improved the way that this building sits in the heritage streetscape but the design would benefit further if the perforated screens covering the wall between the large openings to the lift lobbies were also removed leaving only the screens to openings.</p> <p>On this basis, it is recommended that a condition of approval be provided to reduce the extent of the proposed screens to the balcony openings only.</p>
6.1.2	New development is compatible with the precinct, sits comfortably alongside existing buildings, and assists in interpreting the history of the area.	<p>The amended proposal is considered to be designed so as to limit its impact upon the heritage significance of the locality and the West End precinct, with a number of design elements removed from consideration in the final set of amended plans so as to reduce the overall prominence of the redesigned façade upon the immediate area and ensure that the proportions of the façade more readily reflect classical principles.</p>

Amended Plans

In response to concerns raised with the proposal in relation to building height and façade design, the applicant undertook to amend the proposal plans, providing for a development proposal which better addresses the heritage conservation objectives and building height requirements of the locality.

The initial proposal included an increase in the height of the existing lift shaft to accommodate access to the proposed upper floor of the building, with this element of the proposal being removed, and the lift access between the floors of the upper apartments internalised following the City's advice that the upper floor was not able to be supported to be built up to the front boundary of the site. The applicant reduced the height of the lift shaft to accommodate the minimum height required for the replacement lift and included a planter box on top of the lift. The amended height of the building up to the primary street was considered worthy of support due to the remainder of the upper floor being appropriately set back from the primary street.

The City's Heritage officers also raised concerns in relation to the proposed façade design, in that the proposed amendments to the façade would complicate the appearance of the building and create an obtrusive element in the streetscape of Marine Terrace. The applicant provided further amended plans seeking to simplify the appearance of the redesigned building façade through the removal of a number of openings, additional building finishes such as mosaics and the realignment of window openings so as to provide for greater consistency across the building. In the final heritage assessment, it was found that the extent of the proposed screens across the open lift lobbies would not be able to be supported due to their providing additional complication to the façade of the building. A condition of approval is recommended to reduce the extent of these screens to cover only the existing lift lobby opening.

Conditions of development approval are also recommended in regard to the clean finish of new boundary wall elements in accordance with the City's policy LPP 2.4, and conditions requiring that the apartment addition be finished so as to be appropriately protected from noise from non-residential sources in the City Centre area in accordance with LPP 2.18. A condition requiring the application of title notifications in regard to potential noise experienced by the building due to its location close to the freight rail line and non-residential land uses is recommended in accordance with LPP 2.18.

Residential Design Codes

While the subject proposal is to be considered against the requirements of the Residential Design Codes Volume 2, it is noted that the apartment portion of the proposal relates to an expansion of the amenities and facilities available to the inhabitants of the upper floor apartment on site. The proposal is considered to readily address the following principles of the Residential Design Codes in the context of an adaptive reuse proposal which seeks to predominantly make use of an existing building which was not designed to the current R-Code requirements:

- The amended façade design improves the public domain interface of the building, repairing and improving the overall streetscape appearance of the building.
- The proposal expands the living area on site and provides additional outdoor living areas to the property. The new upper floor outdoor living area is unscreened and open to winter sunlight.
- The proposed upper floor provides opportunities for cross ventilation with openings on both sides of the building.
- The inclusion of a lift in the two storey apartment provides for universal access and use of the apartment.
- The proposal is considered to improve the utility and amenity of the subject building through adaptive reuse without unduly compromising the heritage significance of the building or locality.

In this regard it is considered that the general principles of the residential design codes have been satisfied in providing for a suitable standard of amenity for the resident owners, without unduly infringing upon the amenity of residents of adjoining properties.

LPP 2.3 – Fremantle ports

The application was referred to Fremantle Ports for comment as the site is within the catchment area of the Port, resulting in additional development requirements. Ports responded advising that the requirements of LPP 2.3 should be made a condition of development approval, generally these requirements relate to the finish of openings and air conditioner shutdowns. In accordance with the requirements of LPP 2.3 for heritage properties, a modified version of the standard condition of development approval listed in this policy is recommended, as the proposed works are to an existing building which is limited in its ability to make major modifications to windows and air conditioning facilities. The condition is modified such that any new works and elements are to satisfy the requirements of the policy, without making undue modifications to existing elements.

Conclusion:

The proposed development seeks to exceed the height requirements applicable to the subject site and immediate locality. It is considered that in this instance the discretionary criteria of LPS4 with regard to building height have been met, and that as a result the development would not have an undue negative impact upon the streetscape and locality by virtue of its overall building height.

The amended proposal is likewise considered to appropriately respond to the heritage values of the site, adjoining property and broader locality.

Accordingly, the application is recommended for approval.

PC2202-9 JAMES STREET, NO.12 (LOT 857), FREMANTLE - SECTION 31 STATE ADMINISTRATIVE TRIBUNAL RECONSIDERATION FOR A WALL SIGN (DA0027/21)

Meeting Date: 2 February 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: Revised Development Plans
Additional Information
1: Justification Letter
2: Refused Development Plans
3: Site Photos

SUMMARY

Approval is sought for a wall sign addition at No.12 (Lot 857) James Street, Fremantle.

On 27 April 2021, the City considered the application under officer delegation and made a decision to:

A) REFUSE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Wall Sign Addition to existing building at No.12 (Strata lot 2) James Street, Fremantle, for the following reasons:

- 1. *The proposal is inconsistent with the City of Fremantle's Local Planning Policy 2.14: Advertisements, having regard to character and amenity of the area and third-party advertising use of the signs in accordance with Cl. 67(g) of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.***

In September 2021, the applicant appealed the decision to the State Administrative Tribunal (SAT). The parties were invited to participate in onsite mediation (9 November 2021), which included the participation of the owners of adjoining western land and owners of the business associated with the proposed signage.

Following the mediation, the SAT issued a direction inviting the City to reconsider an amended proposal. This amended proposal is the subject of the current report.

The applicant has submitted an amended proposal that includes the following amendments and additional information:

- Reduced sign size from 5.95m² (3.3m w x 1.8m h) to 3.3m² (2.35m w x 1.4m h)
- Wording of the signage and its directional purpose

The amended proposal is recommended for conditional planning approval.

PROPOSAL DETAIL

Approval is sought for a wall sign to be erected on the western side of the existing building at No.12 James Street, Fremantle.

The City (officers acting under delegation) refused to grant approval for the original signage as the proposal was considered to be inconsistent with the City of Fremantle's Local Planning Policy 2.14: Advertisements, having regard to the character and amenity of the area, and the third party nature of the sign.

The applicant opted to lodge an appeal of the decision with the State Administrative Tribunal (SAT). Following SAT Mediation, the applicant submitted amended plans on 19 January 2022.

The amended application has reduced the size sign (its area) in half and provided additional information and clarification of detail and intent of the sign. An explanation has been provided as to why the sign isn't considered to be a third-party sign given the two sites' existing built form and unusual shared carparking arrangement between 8 and 12 James Street. Whilst technically these are two different properties they operate as a shared mixed use development in terms of vehicle access and parking. The applicant states the sign's purposes is to provide clear direction for the existing small bar on the neighbouring site located to the rear of these properties.

Revised development plans and applicant's justification are included as attachment 1 and additional information 1. The non-illuminated sign includes a flat (PVC Banner and channel system) sign mounted to the wall of the building.

Site/application information

Date received:	18 January 2021
Owner name:	James and Jocelyn Everett
Submitted by:	Ravi Mehta
Scheme:	Mixed Use (R25)
Heritage listing:	Level 3 not in heritage area
Existing land use:	Office
Use class:	Office
Use permissibility:	P





CONSULTATION

External referrals

The original and amended proposal was not required to be referred to any external agency.

Community

The original application was not required to be advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015.

OFFICER COMMENT

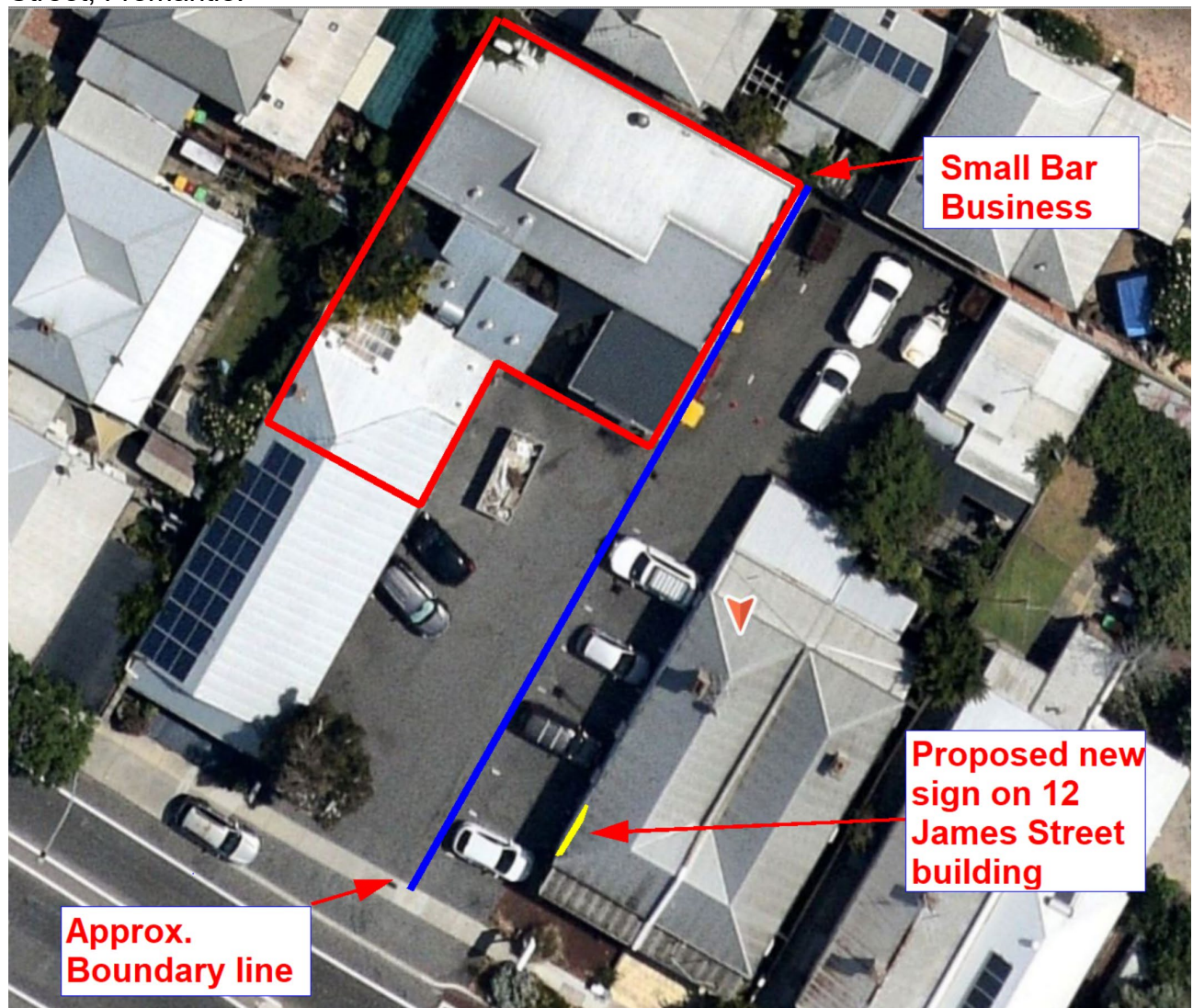
Statutory and policy assessment

The amended proposal has been assessed against and is compliant with all relevant provisions of LPS4 and Council's LPP2.14 – Advertisements policy (LPP 2.14), except for the third party nature of the sign.

Background

The site contains two side by side duplex buildings, that are former dwellings now converted to Offices.

The adjoining western site No.8 James Street has an existing Small bar facility known as the 'Funkee Monkee' operating in the rear building onsite. A large, bituminised carpark exists between the buildings and the adjacent commercial premises at Nos.12-14 to the east, with this facility shared during business hours across the three premises (see aerial image below). This tenancy has two other signs already approved for the site. One being a rooftop mounted sign to the rear building roofline of No.8 James Street and an illuminated box pylon sign recently approved as part of DA0026/21 for No.8 James Street, Fremantle.



On 9 September 2021, the applicant appealed the City's decision to refuse the sign to the State Administrative Tribunal (SAT). The parties were invited to participate in SAT mediation, which included the participation of the owners of the adjoining western land and owners of the 'Funkee Monkee' business.

Following mediation, the applicant submitted revised plans and a written justification on 19 January 2022 which are the subject of this report.

SIGNAGE

The proposed signage is considered to comply with all relevant provisions of clause 1 of LPP 2.14, except for the provision relating to 'third party' signs.

LPP2.14 clause 1 (h) states that:

Advertisements will not be approved on private land which include the name, logo, or symbol of a company or other organisation that does not own or substantially occupy the site or building on which the advertisement is located.'

The applicant has stated the unusual layout, shared car parking arrangement and general business operations on both No.8 and 12 James Street actually operate and appear as a combined Mixed use development site. Furthermore, the applicant contends the purpose of the sign is primarily directional signage and mainly targeted towards easterly heading approaching customers, as the operating Small Bar business is hidden at the rear of the neighbouring site, which is unusual and difficult to locate for new patrons.

Given the unusual layout of the two sites and the harmonious business history and operations over 8 and 12 James St, it is acknowledged that this sign is easily associated with the broader business operations over the combined Mixed-use nature over these properties. The key intent of this particular provision of LPP2.14 is to prevent unnecessary signage clutter randomly congesting visual amenity in such areas by vastly spreading over multiple sites of an area. The sign addresses the large carpark area of the Small bar which is shared across the two sites, and has directional information outlining the location of the rear Small Bar. However, Council could consider that as the properties are on separate certificates of title the strict interpretation of the LPP2.14 provisions has not been met and be inclined to not support the amended proposal for the reasoning.

Notwithstanding the above third-party matter, the applicant has also opted to significantly reduce the size of the sign to basically half of the original dimensions (total display area reduced from 5.95m² to 3.3m²), which is a positive change and is acceptable to the City Officers in terms of addressing the original general visual amenity concerns for the immediate area.

Fundamentally, the application needs to be considered against the provisions of the *Planning and Development (Local Planning Scheme) Regulations 2015* (clause 67: Matters to be considered), LPS4 zone objectives and the discretionary criteria of *LPP2.14 – Advertisement policy*. Such consideration when assessing signage relates to traffic safety, heritage impacts and general amenity outcomes, including present and future expected amenity.

With regard to driver distraction/ traffic safety considerations, the static nature and non-illuminated status of the sign is not considered by officers to raise any safety concerns.

In terms of assessing heritage impacts, the amended application has been reviewed by the City's Heritage Officers who have raised no concerns regarding the type, size, positioning of the sign, nor its limited potential to impact the heritage significance of the

site as it merely is replacing a larger existing banner sign on the building today. The City's Heritage Officers raised some original concerns to the proposed fixings and penetrations into the wall of the building. The applicant has advised the intent to install the banner sign includes a tracking system with small drill hole framing the sign. Overall, the proposed style of signage was considered to have a minimal fabric impact, resulting in negligible impact to the heritage significance of the building onsite.

Notwithstanding the above and with regards to assessing general amenity impacts, given the sign is essentially replacing an existing larger wall sign, the potential to significantly impact nearby residents and business owners by way of visual amenity and general clutter is considered minimal.

Approval of the amended proposal is recommended subject to such 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, wall sign at No. 12 (Strata Lot 2) James Street, Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the plans dated 24 January 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.**

**PC2202-10 SUMPTON STREET, NO. 6 (LOT 152), HILTON – RETROSPECTIVE
ANCILLARY DWELLING ADDITION TO EXISTING SINGLE HOUSE (ED
DA0370/21)**

Meeting Date: 2 March 2022
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site Photos

SUMMARY

Retrospective approval is sought for Ancillary Dwelling Addition to Existing Single House at No. 6 Sumpton Street, Hilton.

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

- Elements of LPP 3.7 ‘Hilton Garden Suburb Precinct Heritage Area’

The application is recommended for conditional approval.

PROPOSAL

Detail

Retrospective approval is sought for an ancillary dwelling addition to an existing Single House at No. 6 Sumpton Street, Hilton. The ancillary dwelling placed on the site is in the form of a pre-constructed ‘tiny house’ that has an internal floor area of only 17m², an overall width of 2.485m and maximum roof height of 4.355m.

The unauthorised addition was brought to the City’s attention in May 2021 and the Compliance Officer instructed the Applicant to remove the structure or seek retrospective approval for the addition, as is the subject of this report.

‘Tiny house’ is a generic term used to describe a range of types of accommodation associated with a particular lifestyle choice, but WA planning and building legislation does not recognise the term as a specific building type or land use. In this instance, due to the manner of construction and use of the structure, it complies with the definition of ‘ancillary dwelling’ contained in Volume 1 of the Residential Design Codes and accordingly the application the subject of this report has been assessed as such.

The applicant submitted amended plans on 13 January 2022 with the following key changes after discussion with City officers regarding non-compliant aspects of the existing dwelling:

- Increased secondary street setback (from Snook Crescent) of the ancillary dwelling from 1.5m to 3.0m to comply with LPP 3.7;

- Provision of an additional off-street parking bay to meet deemed-to-comply requirements of the R-Codes; and
- Deletion of the initially proposed outbuilding/workshop addition in the north-western corner of the site. It is noted that this structure does not exist on site.

Development plans are included as attachment 1.

Site/application information

Date received:	31 August 2021
Owner name:	Amanda Lousie Roden
Submitted by:	Benjamin Foster
Scheme:	Residential (R20)
Heritage listing:	Hilton Heritage Area
Existing land use:	Single House
Use class:	Single House with Ancillary Dwelling
Use permissibility:	Permitted



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The advertising period concluded on 28 September 2021, and one (1) submission was received. The following issues were raised (summarised):

Submitter Comment	Officer Comment
<p>Supportive of the 1.5m secondary street setback as if the ancillary dwelling was setback further into the site, it would increase overlooking of sensitive areas of my property due to its height and the north-west facing window on the upper level, which faces directly at my rear yard.</p>	<p>Amended plans were requested that included a 3.0m secondary street setback in accordance with requirements of LPP3.7 and to reduce the prominence of the structure within the streetscape.</p> <p>Even with the increased secondary street setback, the upper north-west facing window is setback over 14m from the adjoining northern site in lieu of the 4.5m required by the R-Codes (section 5.4.1) Deemed-to-comply requirements.</p> <p>Given the opening and setback achieve the deemed-to-comply requirements, with almost three times the minimum requirement, there is no statutory obligation or requirement for this opening to be screened/obscured yet the neighbours may come to a private agreement in this regard.</p>
<p>Concerns the roof of area of the ancillary dwelling will be used as 'terrace' raising further concerns over privacy.</p>	<p>The roof of the ancillary dwelling is not considered a habitable space and a condition of approval is recommended to ensure the roof spaces are not used as such, at any time.</p>
<p>Concerns over the proposed additional building of a separate workshop (within one metre of our dividing fence line) to include a WC, shower, and laundry with an attached patio over timber deck. The concerns are around the proposed height of the roof; the roof structure is to be angled with the leading edge at the front of the building being approximately 3.1 metres from the ground level, well above the 1.8 metre dividing fence.</p>	<p>As per the amended development plans, dated 13 January 2022 (Attachment 1), the additionally proposed outbuilding/workshop has been omitted from plans and is no longer proposed.</p>

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and Policy Assessment

The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is made against the relevant Design principles of the R-Codes. 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:

- Elements of LPP 3.7 'Hilton Garden Suburb Precinct Heritage Area'

Furthermore, while generally compliant, it is also considered appropriate to discuss the proposal in accordance with the ancillary dwelling provisions of the R-Codes (section 5.5.1 and visual privacy considerations (section 5.4.1)).

The above matters are discussed below.

Background

The subject site is located on the western corner of the intersection of Sumpton Street and Snook Crescent in Hilton. The site has a land area of approximately 743m² and is currently occupied by a single house that addresses the street corner and this unauthorised ancillary dwelling, subject of this application. The site is zoned Residential and has a density coding of R20. The site is not individually heritage listed though is located within the Hilton Heritage Area.

A search of the property file has revealed there is not any relevant development approval history, however, of relevance is the original compliance matter (ref. RMH21/0300 - Complaint - Tiny House (caravan) being lived in - 6 Sumpton St.) that has resulted in this retrospective application for development approval for the ancillary dwelling addition that was placed on site without prior approval of the City.

Ancillary Dwellings (R-Codes section 5.5.1)

Section 5.5.1 of the R-Codes permits ancillary dwellings, associated with a single house and on the same lot where they meet relevant of deemed-to-comply requirements or respective design principles. The following table evaluates the proposal in terms of compliance with the relevant deemed-to-comply requirements of the R-Codes for ancillary dwellings:

Requirement	Proposed	Officer Comment
The lot is not less than 350m ² .	The lot area is 743m ² .	Complies.
There is a maximum plot ratio of 70m ² .	Ancillary dwelling plot ratio is 17m ² .	Complies.
Parking is provided in accordance with clause 5.3.3 of the R-Codes.	An additional car parking space is provided for the ancillary dwelling.	As per the amended development plans, dated 13 January 2022, an additional off-street parking space is provided

		for the ancillary dwelling – Complies.
Ancillary dwelling is located behind the street setback line.	Ancillary dwelling is located behind the street setback of the existing single house, setback from the secondary street.	Refer to street setback discussion pursuant to LPP3.7 below.
Ancillary dwelling not to preclude the single house from meeting the minimum open space and outdoor living area requirements.	76% open space provided in lieu of 50% required; and Existing single house outdoor living area 163m ² in lieu of required 30m ² .	Complies.

In accordance with the above table, it is demonstrated that the ancillary dwelling satisfies the relevant deemed-to-comply requirements of the R-Codes and can therefore be supported on the subject site, subject to compliance with any other relevant policy, as discussed below.

LPP 3.7 ‘Hilton Garden Suburb Precinct Heritage Area’

Streetscape Requirements (Clause 1.1 of LPP3.7)

Element	Requirement	Proposed
Secondary Street Setback	Buildings shall be setback a minimum distance of 3.0m from the secondary street.	As per the amended development plans, dated 13 January 2022, the ancillary dwelling is setback 3.0m from the secondary street frontage (Snook Crescent).

In the plans initially submitted with the application, the ancillary dwelling was setback only 1.5m from the secondary street frontage which did not comply with LPP 3.7 requirements. The location of the ancillary dwelling was not supported by Officers as it was seen to negatively impact upon the streetscape and the open garden setting of Snook Crescent.

This was communicated to the applicant and to address the concerns, amended development plans, dated 13 January 2022, were provided that increased the secondary street setback of the ancillary dwelling to 3.0m to comply with LPP 3.7 requirements. Upon review of the amended development plans, the City’s Heritage Officer confirmed:

The proposed new 3m setback from the secondary street boundary (Snook Crescent) will reduce the impact of this structure on the heritage streetscape of Snook Crescent and will reduce its impact on the character and heritage values of the Hilton Garden Suburb Heritage Area.

On the basis of the amended development plans, the increased secondary street setback to 3.0m is supported by Officers and complies with LPP 3.7 requirements.

Notwithstanding the above, it is noted that the application is for retrospective approval and the structure has been in place, without development approval, since at least May 2021 with an existing street setback that is not supported by the City. As such, officers consider it appropriate to recommend a condition of approval that stipulates a time restriction on the time allowed for the relocation of the ancillary dwelling to achieve the acceptable setback (as per amended plans recommended for approval) in a timely manner, refer recommended conditions below.

External Wall Height

Element	Requirement	Proposed
External Wall Height	The maximum external wall height shall be 3.5 metres (equivalent to single storey and a loft).	The external wall height of the ancillary dwelling is 4.355m, representing a 855mm variation.

While the external wall height of the ancillary dwelling exceeds what is generally permitted under LPP 3.7, the wall height is considered acceptable for the following reasons:

- The ancillary dwelling is located behind and subservient to the primary main dwelling on the subject site. The main dwelling is an original timber house that is considered to be a place that contributes to the Hilton Heritage Area and is not to be altered by this proposal;
- The ancillary dwelling presents as a single storey structure from the public realm;
- The ancillary dwelling is limited in width (2.485m) with minimal presentation to the street; and
- As per the amended development plans, is to be setback a compliant 3.0m from the secondary street boundary, thereby further reducing the prominence of the modest structure within the streetscape.

As such, the additional wall height is supported on balance and on the basis of the above, pursuant to LPP 3.7.

Roof Form

Element	Requirement	Proposed
Roof Form	Roofs shall be hipped or gabled with a minimum roof pitch of 27.5 degrees and a maximum roof pitch of 35 degrees	The ancillary dwelling has a flat roof.

While the roof form of the ancillary dwelling varies what is usually permitted by LPP 3.7, the roof form is considered acceptable for the following reasons:

- The ancillary dwelling is located behind and subservient to the primary main dwelling on the subject site. The main dwelling is an original timber house with a hipped roof that is considered to be a place that contributes to the Hilton Heritage Area and is not to be altered by this proposal; and
- Due to modest overall scale, minor width (2.485m) and increased secondary street setback of the ancillary dwelling (as per the amended development plans, dated 13 January), the prominence of structure within the streetscape is considered to be minor and will not adversely detract from the main primary dwelling and streetscape character of Sook Crescent.

As such, the roof form is supported on balance and on the basis of the above, pursuant to LPP 3.7.

Visual Privacy

Element	Requirement	Proposed
Cone-of-vision setback (upper north-west facing opening) – western neighbour (42 Snook Crescent)	4.5m	4.0m – does not comply,
Cone-of-vision setback (upper north-west facing opening) – northern neighbour (4B Sumpton Street)	4.5m	14m – Complies.

The cone-of-vision encroachment over the western neighbour (42 Snook Crescent) is considered acceptable for the following reasons:

- The cone-of-vision encroaches over an area of the neighbouring property that is within relatively narrow side setback of the dwelling and is densely vegetated with trees and shrubbery that will help to obscure any overlooking of the site;
- The area the cone-of-vision encroaches is not any part of the outdoor living area of the neighbouring house which is located further toward the rear of the property and beyond the cone-of-vision encroachment; and
- Had it not been the dense vegetation on the neighbouring site, this area of the adjoining property that the cone-of-vision encroaches would also be readily visible from the public footpath.

It should also be noted that the affected neighbouring landowner also provided written consent to the visual privacy variations in a letter dated and signed, 21 August 2021. On the basis of the above design principle considerations and with additional written consent to the variation, this visual privacy variation is considered acceptable.

While it is noted that a submitter raised concerns on visual privacy grounds with respect to the proximity of the north-west facing opening to the neighbouring northern site, the opening is setback over 14m in lieu of the minimum 4.5m required by the R-Codes deemed-to-comply provisions (almost triple the minimum setback required). Given the window opening and cone-of-vision setback achieve the deemed-to-comply requirements,

there is no statutory obligation or requirement for this opening to be screened/obscured yet the neighbours may come to a private agreement/arrangement in this regard should it be pursued between parties.

CONCLUSION

As per the amended development plans and 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

Strategic Community Plan 2015-25

- Provide for and seek to increase the number and diversity of residential dwellings in the City of Fremantle.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Retrospective Ancillary Dwelling Addition to Existing Single House at No. 6 (Lot 152) Sumpton Street, Hilton subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 13 January 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. The ancillary dwelling shall be relocated to a setback of no less than 3.0m from the secondary street boundary, as per the plans hereby approved, within 90 days of the date of this decision, to the satisfaction of the City of Fremantle.**
- 3. The roof areas of the ancillary dwelling are not habitable spaces and are not to be used as such at any time.**

4. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
5. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

Advice Notes:

- i. A BA13 – Building Approval Certificate application form is required to be submitted for the unauthorised building works. A Certificate of Building Compliance (BA18) must be submitted with the application and signed and completed by a Registered Building Surveyor Contractor (private sector). A list of Registered Building Surveyors can be obtained from the Western Australian Building Commission website - <https://www.commerce.wa.gov.au/building-commission>.

PC2202-11 INFORMATION REPORT - FEBRUARY 2022

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

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

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

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

Responsible Officer: Manager Development Approvals
Agenda attachments: Nil

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

1. Application Reference
DA0352/21
Site Address and Proposal
Address – Proposed change of use to Small Bar and alterations and additions to existing building
Planning Committee Decision
<ul style="list-style-type: none"> At its meeting held on 1 December 2021, the Council resolved to refuse the application.
Current Status
<ul style="list-style-type: none"> On 5 January 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner. A Mediation session between the parties has been scheduled for 4 February 2022.

OFFICER'S RECOMMENDATION

Council receive the following information reports for February 2022:

- 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

**PC2202-12 LOCAL HERITAGE SURVEY AND HERITAGE LIST - ANNUAL
UPDATE 2021 – OUTCOMES OF CONSULTATION**

Meeting Date: 2 February 2022
Responsible Officer: Manager Strategic Planning
Decision Making Authority: Council
Agenda Attachments: Schedule of Submissions
Additional Information: Heritage Assessments

SUMMARY

The purpose of this report is to consider the outcomes of consultation on minor changes to the Local Heritage Survey and Heritage List as part of the periodic update of the Local Heritage Survey (LHS) required under the *Heritage Act 2018* and Council's Local Planning Policy 2.6.

The report recommends a number of changes to the Local Heritage Survey and Heritage List.

BACKGROUND

The *Heritage Act 2018* requires that local governments prepare and maintain a Local Heritage Survey (LHS) of places that in its opinion are, or may become, of cultural heritage significance. That survey is required to be periodically updated and reviewed. Places on the LHS are recognised but do not automatically enjoy statutory protection.

The *Planning and Development (Local Planning Schemes) Regulations 2015* ('the Regulations') Schedule 2 'Deemed Provisions for local planning schemes' part 3 make provision for the establishment and maintenance of a Heritage List and Heritage Areas which have been identified as of significance and worthy of built heritage conservation. Places on the Heritage List and in Heritage Areas have statutory protection under the planning scheme.

Council adopted its initial Local Heritage Survey (then called a Municipal Heritage Inventory) in September 2000 and subsequently adopted a Heritage List based on the Inventory through the provisions of Local Planning Scheme No. 4 (gazetted in 2007). Both have been amended a number of times since.

The City's *Local Planning Policy 2.6* outlines the process for modification to the LHS and Heritage List, including provisions for dealing with requests from property owners for inclusion, removal or amendment. This includes consideration of requests for modifications annually. The annual update forms part of the routine maintenance of these documents and complements but does not replace broader, more general reviews.

On 15 September 2021, Council considered a report on the 2021 yearly update and resolved to:

Invite comment from affected landowners on the following proposed modifications to the Local Heritage Survey (LHS) and Heritage List:

Place	Local Heritage Survey	Heritage List	Reason
<i>Houses, 286, 288, 315, 319, 321, 323, 325 & 327 High Street, Fremantle.</i>	<i>Change to "Historic Record Only".</i>	<i>Remove</i>	<i>These places were demolished as part of the High Street upgrade</i>
<i>House / Limestone Feature, 112A and B South Street, Fremantle</i>	<i>Change to "Historic Record Only".</i>	<i>Remove</i>	<i>House and Limestone feature have been demolished</i>
<i>House, 2 Ada Street, South Fremantle</i>	<i>Change to "Historic Record Only".</i>	<i>Remove</i>	<i>House has been demolished</i>
<i>House, 27 Chamberlain St O'Connor</i>	<i>Add as "Level 3"</i>	<i>Add to Heritage List</i>	<i>Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation.</i>
<i>House, 19 Little Howard</i>	<i>Add as "Historic Record Only".</i>	<i>Do not add to Heritage List</i>	<i>Heritage Assessment has confirmed that the place has been substantially modified in the Post War era, has little cultural heritage significance within the context of Fremantle and it is not worthy of conservation.</i>
<i>Shop & Attached House, 84 Hampton Road</i>	<i>Add as "Level 3"</i>	<i>Add to Heritage List</i>	<i>Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation.</i>
<i>Hi Fidelity Recording Studio (Fmr.), 63 Thompson Road, North Fremantle</i>	<i>Add as "Level 2"</i>	<i>Add to Heritage List</i>	<i>Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation</i>
<i>House, 25 Samson Street</i>	<i>Add as "Level 3"</i>	<i>Add to Heritage List</i>	<i>Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation.</i>
<i>Shop & Attached House, 31 Samson Street</i>	<i>Add as "Level 3"</i>	<i>Add to Heritage List</i>	<i>Heritage Assessment has confirmed that the place has cultural heritage significance</i>

			<i>and is worthy of conservation.</i>
<i>Commercial Building 116 Wray Avenue</i>	<i>Change from "Limestone Feature" to "Level 3"</i>	<i>Change from Limestone Feature to Commercial Building on Heritage List</i>	<i>Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation.</i>

In the event of landowners making no objection to modifications recommended to the Local Heritage Survey and Heritage List, that these changes be adopted, documented and communicated to the Heritage Council of Western Australia, and the City's records updated accordingly. Where objection is received, the recommendation be referred back to Council.

The purpose of this report is to consider the outcomes of consultation with affected landowners on the proposed updates.

Maintenance of the City's LHS and Heritage List contributes to Council's objective to *"sustain and grow arts and culture and preserve the importance of our social capital, built heritage and history"*.

OFFICER COMMENT

Consultation with affected landowners and tenants was undertaken between 3 November and 26 November 2021 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.

At the completion of consultation, 2 submissions had been received, as outlined in Attachment 1. In summary, these are:

- An objection to listing from the landowners of 84 Hampton Road, Fremantle.
- An objection to listing from the landowners of 63 Thompson Road, North Fremantle for a range of reasons, including the poor standard of the building, its incongruity with North Fremantle's character, a perceived lack of heritage or architectural quality, existing of asbestos and further development aspirations. The objection included a request for extension of time to April 2022 to allow them to obtain professional advice to support their case. In response to this request officers have advised the submitter of the timeframe for presenting this matter to the Planning Committee and Council for consideration, and opportunities for the submitter to make a deputation to elected members at these meetings prior to the agenda item being considered.

Officers have considered each submission and reconsidered each property's significance in relation to the Burra Charter criteria (as per local planning policies 1.6 and 2.6) but

remain of the view that both properties meet the thresholds for listing and are worthy of protection. No change to the recommendation is therefore proposed.

It is noted that heritage listing does not automatically preclude any change or development to a place, though it does add a constraint and layer of complexity.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The *Heritage Act 2018* requires periodic update and review of the LHS. The requirement is met by this report.

CONSULTATION

The *Heritage Act 2018* and the *Planning and Development (Local Planning Schemes) 2015 Regulations* specify consultation requirements with the landowners of all affected properties prior to modification to the Local Heritage List and Heritage List, respectively. Consultation has occurred in accordance with these requirements.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER RECOMMENDATION

Council

- 1. Note the submissions received in relation to the 2021 Local Heritage Survey and Heritage List Yearly Update as outlined in Attachment 1.**
- 2. Modify the Local Heritage Survey and Heritage List as follows:**

<i>Place</i>	<i>Local Heritage Survey</i>	<i>Heritage List</i>	<i>Reason</i>
<i>Shop & Attached House, 84 Hampton Road</i>	<i>Add as "Level 3"</i>	<i>Add to Heritage List</i>	<i>Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation.</i>
<i>Hi Fidelity Recording Studio (Fmr.), 63 Thompson Road, North Fremantle</i>	<i>Add as "Level 2"</i>	<i>Add to Heritage List</i>	<i>Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation</i>

3. **Note that changes to the listing of places where no objection was received will proceed without further reference to Council in accordance with Council's previous resolution.**

PC2202-13 PLANNING FOR TOURISM CONSULTATION SUBMISSION

Meeting Date	2 February 2022
Responsible Officer:	Director Planning & Strategic Projects
Decision Making Authority:	Council
Agenda Attachments:	Nil
Additional information:	1. WAPC draft Position Statement: Planning for Tourism 2. WAPC draft Planning for Tourism Guidelines 3. Previous item FPOL1901-3

SUMMARY

In December 2021 the State Government released for public comment a draft Position Statement and draft Guidelines on Planning for Tourism. Concurrently, the Government also announced that the Department of Local Government, Sport and Cultural Industries is investigating the implementation of a State-wide registration system for short-term rental accommodation, and comment on this proposal is also invited.

These proposals are part of the Western Australian Government's response to the recommendations of a Parliamentary inquiry into matters relating to the regulation of short-stay accommodation in WA conducted in 2019. The Council approved a submission by the City of Fremantle on the matters covered by the inquiry in January 2019, and City officers subsequently attended inquiry hearings.

Given the significant role played by short-stay accommodation in supporting Fremantle's visitor economy, it is recommended that the City makes a submission on the draft policy documents. This report sets out the content of a recommended submission for Council's consideration and approval.

BACKGROUND

In 2019 the Economics and Industry Standing Committee of the Legislative Assembly of the Parliament of Western Australia conducted an inquiry into matters relating to the regulation of short-stay accommodation in WA, with particular reference to:

- 1. The forms and regulatory status of short-stay accommodation providers in regional and metropolitan Western Australia, including existing powers available to local government authorities.**
- 2. The changing market and social dynamics in the short-stay accommodation sector.**
- 3. Issues in the short-stay accommodation sector, particularly associated with emerging business models utilising online booking platforms.**

4. Approaches within Australian and international jurisdictions to ensure the appropriate regulation of short-stay accommodation.

The Council approved a submission by the City on the matters covered by the inquiry on 30 January 2019 (refer to previous item FPOL1901-3) and City officers subsequently attended the inquiry hearings conducted by the Standing Committee.

The Committee's report was tabled in Parliament on 26 September 2019. The report made 10 recommendations, the most significant being:

- The Minister for Planning and Western Australian Planning Commission (WAPC) should update model local planning scheme land use definitions relating to different types of short-term rental accommodation, and update planning guidance to greater assist local governments in appropriately regulating short-term rentals.
- Relevant Ministers should establish an interdepartmental working group to coordinate whole-of-government policy responses to short stay accommodation.
- The working group should establish baseline requirements for a state-wide registration scheme for both hosted and unhosted short stay accommodation, including regulatory arrangements for such a scheme including information disclosure requirements for online booking platform operators and compliance and enforcement mechanisms.

The State Government published its response to the inquiry in February 2020 and adopted nearly all the Committee's recommendations, including the key ones outlined above. The recently published draft Planning for Tourism Guidelines and Position Statement, and invitation to comment on a state-wide registration scheme (via an online survey) are part of the Government's enactment of its response.

FINANCIAL IMPLICATIONS

None at this stage. Depending on the final form of a state-wide registration scheme there might be resource implications if local governments are required to perform a role in the administration and/or enforcement of registration requirements under State regulations, but this is unknown at the present time.

LEGAL IMPLICATIONS

None at this stage. Depending on the final form of a state-wide registration scheme there might be implications if local governments are required to perform a role in the administration and/or enforcement of registration requirements under State regulations, but this is unknown at the present time.

CONSULTATION

The purpose of the report is to recommend a submission by the City in response to consultation being undertaken by the State Government.

OFFICER COMMENT

Given the significant role played by short-stay accommodation in supporting Fremantle's visitor economy, and the proactive approach taken by the City since 2008 in managing certain forms of accommodation through the City of Fremantle Short Stay

Accommodation Local Law, it is considered that the City should make a submission on the draft documents.

Proposed state-wide registration scheme for providers of short-term rental accommodation

Summary of proposals:

Few written details of the registration scheme being investigated by the Department of Local Government, Sport and Cultural Industries (DLGSC) have been released. It has been indicated that the scheme would require providers of short-term rental accommodation to register their property in order to operate and advertise, including advertising and taking bookings via online booking platforms such as Airbnb. Registered operators would receive a unique registration number which would have to be included in advertising of the rental, including on online platforms. DLGSC has stated it is in discussions with online platforms to seek their support to only permit advertising of properties which provide a registration number, in the event of a registration scheme coming into operation.

It is likely that regulations under State legislation would be required to give mandatory force to a state-wide registration scheme.

Recommended comments for submission by City of Fremantle:

The City of Fremantle's Short Stay Accommodation Local Law which has operated since early 2009 requires the proprietor of a dwelling intended to be used as short-stay accommodation to register the dwelling with the City, and not to use the property for such purposes without a certificate of registration issued by the City. Registration also requires the operator to adhere to some basic conditions of responsible management.

Since the local law took effect in March 2009, the City has found it to be a generally effective mechanism to regulate the use of dwellings for short-stay accommodation purposes. Since the local law came into effect, the City has averaged less than 5 complaints per year regarding the operation of registered or alleged unregistered short-stay dwellings. In August 2017 the City conducted a cross-check of properties registered for short-stay use against properties within the City of Fremantle being advertised for rental as short-stay accommodation on online booking platforms. This did not reveal any significant disparity between the number of properties advertised for rent on platforms such as Airbnb and the number of properties registered under the City's local law. The City considers this information indicates a high level of voluntary compliance.

Based on this experience, in its submission to the 2019 Parliamentary inquiry the City expressed general support for the principle of a uniform state-wide registration system. Officers consider that the City should continue to support the introduction of such a system in its response to the current consultation. It is also recommended that the following more specific comments be made:

- A registration scheme should cover both hosted (where the property owner/proprietor resides in the property) and unhosted (where the owner/proprietor lives elsewhere) short-term accommodation.

- The proposed requirement for a unique registration number to be displayed in any advertising of a property for short-term rental is strongly supported.
- The State Government is encouraged to secure cooperation from the major online booking platforms in the implementation of a registration system, and specifically agreement that platforms will not permit advertising of a property without that property's registration number being provided for display in the advert.
- Registered properties should be listed in a whole-of state register, which should be accessible to local governments to assist them in monitoring short stay accommodation in their municipality and ensuring compliance with planning and other regulatory requirements.
- Information to be provided by accommodation operators as part of the registration scheme should include the name and 24/7 contact details for a designated accommodation manager. This information should be available to local governments as part of their access to the register. A similar provision in the City of Fremantle Short Stay Accommodation Local Law has proved effective in responding to complaints about property management and inappropriate guest behaviour and should be replicated in a state-wide registration scheme.
- Consideration should also be given to providing a public version of the register, perhaps with certain information withheld to protect privacy rights of registered accommodation operators. This could provide greater transparency and certainty to local communities about short term accommodation operating in their local area.
- Any split of responsibilities between state and local government for administering and enforcing compliance with the registration scheme needs careful consideration. Any proposal to make local governments responsible for monitoring registration compliance needs to take account of potential resourcing implications, with opportunities to offset additional workload through a cost recovery fee system for registration application being explored.
- Notwithstanding the state-wide registration scheme local governments should be able to maintain the ability to require the provision of additional information and/or apply additional operating requirements over short-term rental accommodation operating within their jurisdiction, e.g. the requirements of the City of Fremantle's Short Stay Accommodation Local Law 2008 relating to minimum duration of stay and responsible management.

Draft Position Statement: Planning for Tourism

Summary of proposals:

The Position Statement is intended to provide guidance on the appropriate location and management of all types of tourism land uses through the planning framework. It recognises the contribution made by tourism to the State's economy, but also the need to balance tourism development with protection of amenity and environmental and landscape values, and to manage potential land use conflicts.

The first part of the Position Statement sets out broad policy objectives and measures to be addressed in strategic and statutory planning decision-making, and includes a

statement that local governments are best placed to plan for tourism within their communities. The policy objectives include:

- Adopting a strategic approach to tourism land use development and management by ensuring decision-making is guided by a local planning strategy which reflects the demand for local and regional tourism.
- Identify opportunities and protect precincts/sites where demand for future tourism use has been identified.
- Plan appropriate infrastructure and services to support tourism development.
- Recognise that the commercial sustainability of tourism may require flexibility in product mix and site design. Promote co-location of complementary and compatible tourism land uses to create identifiable tourism precincts.
- Ensure land use impacts between tourism activities and other land uses (including residential areas) are appropriately managed.

The second part of the Position Statement addresses specific issues relating to short-term rental accommodation. The Position Statement uses this term as the collective name given to single dwellings, units (grouped dwellings) or apartments (multiple dwellings) usually built for residential purposes which are offered for short-term letting. The Position Statement distinguishes between short-term rentals which are hosted (where a permanent resident is present) or unhosted (where guests have exclusive use of an entire house, unit or apartment). The Position Statement proposes that the Planning (Local Planning Schemes) Regulations should be amended to include the following new or revised land use definitions in the Model Provisions for planning schemes:

Proposed land use term	Proposed meaning	Dwelling type under the R-Codes
Hosted accommodation (Note: new definition)	<i>means a dwelling or ancillary dwelling, or a portion thereof, used for the purpose of short-term accommodation, with a permanent resident who is present overnight for the duration of the stay either in the dwelling or ancillary dwelling.</i>	Single house, ancillary dwelling, grouped dwelling or multiple dwelling. Note: The WAPC considers the use of an ancillary dwelling for short-term accommodation (where the host resides in the main dwelling and the guest stays in the ancillary dwelling – or vice versa) is a hosted form of short-term rental accommodation.
Holiday house (Note: amended definition)	<i>means a single dwelling used to provide short-term accommodation</i>	Single house
Holiday unit (Note: new definition)	<i>means a grouped dwelling used to provide short-term accommodation</i>	Grouped dwelling
Holiday apartment (Note: new definition)	<i>means a multiple dwelling used to provide short-term accommodation</i>	Multiple dwelling

Land use term	Proposed meaning
Tourist development (Note: amended definition)	<i>means a building, or a group of buildings forming a complex, other than a caravan park, used to provide – (a) short-term accommodation for guests; and (b) onsite facilities for the use of guests; and (c) facilities for the management of the development</i>
Serviced apartment (Note: amended definition)	<i>means a group of units or apartments providing – (a) self-contained short-term accommodation for guests; and (b) any associated reception or recreational facilities</i>
Note: It is intended to delete the land use term 'bed and breakfast' from Schedule 1 (Model Provisions) of the LPS Regulations.	
Note: It is intended to delete the land use term 'holiday accommodation' from Schedule 1 (Model Provisions) of the LPS Regulations.	

General term	Proposed meaning
Short-term accommodation (Note: amended definition)	<i>means temporary accommodation provided on a commercial basis, either continuously or from time-to-time with no guest accommodated for periods totalling more than 3 months in any 12-month period.</i>

The Position Statement notes that the WAPC is considering recommending to the Government that the following forms of accommodation be made exempt from requiring development approval through an amendment to the Local Planning Schemes Regulations (presumably by adding them to the list of uses exempted from requiring approval under clause 61(2) of the Deemed Provisions). These exemptions would automatically apply under the planning schemes of all local governments in WA.

- **Hosted accommodation** in a single house (or ancillary dwelling), grouped, or multiple dwelling which does not exceed a maximum of four adult persons (or one family) and a maximum of two guest bedrooms. This definition would encompass traditional 'bed and breakfast' style accommodation as well as more contemporary Airbnb-style accommodation offerings.
- **Unhosted accommodation** in a single house, grouped or multiple dwelling where it is let for no more than 60 days per calendar year.

These provisions would not prevent a local government from providing a greater level of exemption from development approval through its local planning scheme or a local planning policy if it considered it appropriate to do so, but a local government could not remove or amend exemptions provided through the Deemed Provisions.

Recommended comments for submission by City of Fremantle:

- The City supports the broad policy objectives set out in the first part of the draft Position Statement. The document states that '*Local Governments are best placed to plan for tourism within their communities, with local knowledge of tourism activities, opportunities, constraints, including potential impacts and what requirements, if any, should be placed on tourism proposals*'. The general and more specific policy measures in the document align with this intent and are supported.
- The City supports the updated model provisions for tourism-related land use definitions for inclusion in Schedule 1 to the *Planning and Development (Local Planning Schemes) Regulations 2015*. This will provide consistent categories for the zoning of land, and definitions of land uses, to be applied in individual local planning schemes across WA. The proposed land use terms and definitions more accurately reflect contemporary forms of short-term accommodation.
- The City supports the proposal to exempt hosted accommodation from the requirement to obtain development approval on the basis that the operation of this type of accommodation is likely to have low impacts on local amenity, and is incidental to the permanent residential use of the dwelling. The City recognises that making this exemption subject to a cap of a maximum of four adult guests/one family and a maximum of two bedrooms being used may be an appropriate 'default setting' to use in all local government areas applied through the Deemed Provisions in the Local Planning Schemes Regulations. However, the City of Fremantle already permits accommodation of this type to be occupied by a maximum of six persons where two or more bedrooms are occupied by guests without development approval being required under the exemptions in its Local Planning Policy 1.7. The City's experience since the adoption of this exemption and the associated Short Stay Accommodation Local Law in 2009 has suggested that this level of exemption has not been problematic in Fremantle. It is suggested the final version of the Position Statement should acknowledge that local governments may consider providing exemptions from development approval for hosted accommodation at a scale larger than four adult guests/two bedrooms through provisions in their local planning scheme/local planning policy if the local government considers this is appropriate in the context of local circumstances.

- The proposal to exempt unhosted short-term rental accommodation from requiring development approval where it is let for no more than 60 days per calendar year is not supported by any justification for this time limit in the draft Position Statement. A proposal of this nature was not contemplated or deemed necessary by the 2019 Parliamentary Inquiry. The 60-day time limit appears arbitrary and of questionable benefit to operators – the majority of unhosted accommodation is operated as commercial business enterprises and on the assumption that such accommodation would need to be let for considerably more than 60 days per year to be commercially viable owners would need to obtain planning approval anyway, and therefore it is hard to see how the exemption for up to 60 days would be of any real benefit. The practicality of monitoring and enforcing compliance with the 60-day limit would also be extremely problematic for local planning authorities as they would not have access to bookings data and therefore no real alternative to very resource-intensive on-site inspections. The City therefore suggests that this exemption proposal should be abandoned, and it should be left to individual local governments to determine what level of permissibility to apply to the three unhosted accommodation land uses (holiday house, holiday unit and holiday apartment) through their local planning schemes – permitted without development approval, discretionary (permitted with approval) or not permitted – in each of the zones in their scheme area. This would allow for greater differentiation to take account of local factors such as existing land use patterns, the significance of tourism accommodation to the local economy and the extent to which use of residential properties for short-term rental puts pressure on the supply and cost of housing stock for long-term occupation.

Draft Planning for Tourism Guidelines

Summary of proposals:

The draft Guidelines supplement the Position Statement and provide more detailed guidance on the following matters:

- Local planning strategy considerations, and how the local tourism profile should inform tourism-related content in local planning strategies and schemes.
- General statutory planning considerations including how tourism development can be appropriately managed through zoning provisions in local planning schemes.
- Advice on specific types of tourism activities and development such as rural tourism and eco-tourism.
- Advice on different types of tourism accommodation, and an explanation of which forms of accommodation the proposals in the Position Statement are intended to apply to, or not apply to. The provisions of the Guidelines and Position Statement do not apply to house swapping/housesitting arrangements or personal use of a holiday home by its owner or family. They also do not apply to accommodation controlled under other legislation, such as lodging houses required to be registered with the local government under the Health Act 1911 (which includes backpacker hostels) or temporary workforce accommodation such as transportable buildings on mine sites or for seasonal agricultural workers. The Guidelines also differentiate between what it terms ‘traditional’ tourist accommodation (e.g. hotels, purpose-built tourist serviced apartments, caravan

and chalet parks) and short-term rental accommodation (i.e. the hosted and unhosted use of dwellings addressed in the Position Statement).

- **Local Laws.** The Guidelines acknowledge that some local governments (including the City of Fremantle) already have local laws requiring operators of short-term rental accommodation to register with/obtain a licence from the local government. The Guidelines state that how such existing local government requirements will interact with or be superseded by the proposed state-wide registration system is still under consideration. The Guidelines do acknowledge however that a local law might require an operator of short-term accommodation to meet certain local requirements in order to register through the State's mandatory registration scheme (e.g. parking requirements, maximum number of guests).
- **Short-term rental accommodation in residential strata developments.** The Guidelines acknowledge that strata titled complexes may be more susceptible to negative impacts of short-term accommodation use due to the proximity of neighbours, a high proportion of units being used for unhosted accommodation and reliance on shared or communal facilities. The Guidelines note that current strata titles legislation does not include model by-laws which specifically prohibit or restrict use of individual properties within the strata scheme for short-term accommodation. However, strata companies can formulate their own by-laws to control the use of individual properties for this purpose, or to prohibit such use. The Guidelines do not propose any change to the current situation whereby a planning or other legislative approval does not override the need to obtain the approval of the strata company (where required) for a particular use of a property within the strata scheme. The onus is on a property owner wishing to use a strata-titled property for short-term rental purposes to confirm the permissibility of the use under the relevant strata by-laws.

Recommended comments for submission by City of Fremantle:

- The content of the draft Guidelines on local planning strategy, scheme and general statutory planning considerations provides greater detail on the policy objectives and approaches to tourism development set out in the Position Statement. These objectives are supported. The City particularly welcomes the inclusion of the statement in section 1.7 of the Guidelines recognising how tourism-related uses can play a key role in the conservation and adaptive reuse of heritage buildings, and how heritage tourism can contribute to urban rejuvenation and provide economic benefits, given the relevance of these issues in Fremantle.
- The City supports the inclusion in the Guidelines of advice on which forms of accommodation the proposals in the Position Statement are intended to apply to, or not apply to. This should help ensure consistency of approach in assessment of relevant types of development and land use state-wide.
- The Guidelines include a statement that local governments may require applicants to prepare management plans to cover the operation of short-term rental accommodation. The Guidelines outline matters that might be contained within management plans but do not indicate what mechanism might be used to secure the provision of management plans, or how compliance with them might be monitored. A number of the issues which the Guidelines suggest management plans should address, e.g. arrangements for an accommodation manager to be contactable 24 hours per day to deal with complaints, guest check-in

arrangements, health and safety protocols, are not matters that could be managed through the development approval process (and in any event under the Government's proposals some forms of accommodation would be exempt from requiring planning approval). The City recommends that further consideration should be given to whether some of these requirements should be standard conditions of registration under the state-wide registration scheme to ensure a consistent approach to the provision and content of management plans.

- The City requests that in further considering how local laws governing short-term accommodation will interact with or be superseded by the proposed state-wide registration system the Department of Local Government, Sport and Cultural Industries should engage with local governments who already have experience in the operation of such local laws. The City of Fremantle has over ten years' experience in the operation of a local law dealing with this issue and would be pleased to be involved/offer input based on its experience to assist DLGSC in further considering this aspect of the proposals.
- The City supports the proposed guidance relating to the operation of short-term accommodation in properties forming part of strata title schemes. The City considers it is appropriate for any strata by-law requirements relating to the use of properties for short-term accommodation to be kept as a separate matter for strata companies and individual owners within strata schemes to deal with, and these requirements should continue to comply in addition to compliance with any planning or other legislative requirements governing the operation of short-term accommodation.

CONCLUSION

It is recommended that a submission be made by the City on the three elements of the Government's draft proposals, based on the contents of the Officer Comment section above. It is also recommended that a copy of the City's submission be referred to the WA Local Government Association (WALGA) for consideration in the formulation of WALGA's own submission.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council:

- 1. Endorse the submission by the Chief Executive Officer of comments by the City of Fremantle on the draft Position Statement and Guidelines on Planning for Tourism and proposed implementation of a State-wide registration system for short-term rental accommodation, based on the contents of the report on the matter included in the agenda of the Planning Committee meeting held on 2 February 2022.**
- 2. Refer a copy of the City's submission to the WA Local Government Association (WALGA) for consideration in the formulation of WALGA's own submission on the draft documents referred to in (1) above.**

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