



Minutes Planning Committee

Wednesday 2 March 2022 6pm



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1. Official opening, welcome and acknowledgement

The Presiding Member declared the meeting open at 6.07pm.

2.1. Attendance

Mayor Hannah Fitzhardinge

Cr Bryn Jones Presiding Member/North Ward

Cr Andrew Sullivan South Ward

Cr Su Groome East Ward

Cr Adin Lang City Ward

Cr Ben Lawver Hilton Ward

Cr Fedele Camarda Beaconsfield Ward

Mr Paul Garbett Director Strategic Planning and Projects

Ms Chloe Johnston Manager Development Approvals

Ms Phillida Rodic Manager Strategic Planning

Ms Michelle Gibson Meeting Support Officer

There were approximately 10 members of the public in attendance.

2.2. Apologies

Cr Geoff Graham Deputy Presiding Member/Beaconsfield Ward

2.3. Leave of absence

Nil



3. Disclosures of interests

Cr Andrew Sullivan declared a financial interest in item number PC2203-2. Owner of the subject property and applicant on Development Application.

Cr Bryn Jones declared a impartiality interest in item number PC2203-2. Long term colleague of applicant/owner.

Cr Adin Lang declared a impartiality interest in item number PC2203-2. Colleague of applicant/owner.

Cr Su Groome declared a impartiality interest in item number PC2203-2. Colleague of applicant/owner.

Cr Ben Lawver declared a impartiality interest in item number PC2203-2. Colleague of applicant/owner.

Cr Hannah Fitzhardinge declared a impartiality interest in item number PC2203-2. Colleague of applicant/owner.

4. Responses to previous questions taken on notice

Nil

5. Public question time

The following member of the public asked questions on notice in relation to item PC2203-12:

Elisabeth Megroz

Ms Megroz's questions were taken on notice and written responses will be provided in the agenda of the meeting of the Planning Committee to be held on 6 April 2022.

The following member of the public spoke in favour of the Officer's Recommendation for item PC2203:

John Meredith

The following member of the public spoke against the Officer's Recommendation for item PC2203-7:

Leigh Sinclair



The following member of the public spoke in favour of the Officer's Recommendation for item PC2203-5:

Stuart Morrice

The following member of the public spoke in favour of the Officer's Recommendation for item PC2203-6:

Hugh Whetters

The following member of the public spoke in favour of the Officer's Recommendation for item PC2203-8:

Travis McQueen

6. Petitions

Nil

7. Deputations

7.1 Special deputations

Nil

7.2 Presentations

Nil

8. Confirmation of minutes

COMMITTEE DECISION

Moved: Cr Bryn Jones

Seconded: Cr Su Groome

The Planning Committee confirm the minutes of the Planning Committee meeting dated 2 February 2022

Carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda,
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



9. Elected member communication

Nil

10. Reports and recommendations



10.1 Committee delegation

**PC2203-3 HENDERSON STREET, NO. 10 (LOT 375), FREMANTLE -
DEMOLITION OF EXISTING BUILDING AND HERITAGE WALL (WALL
TO BE DISMANTLED AND MATERIALS STORED FOR FUTURE RE-USE
ON SITE) AND CHANGE OF USE TO TEMPORARY PUBLIC CARPARK
(ED DA0471/21)**

Meeting Date: 2 March 2022

Responsible Officer: Manager Development Approvals

Decision Making Authority: Committee

Meeting attachments: 1. Amended Development Plans

Additional information: 1. Site Photos

2. Applicant's Planning Report (Includes Heritage and
Transport Technical Memorandums)

SUMMARY

Approval is sought for demolition of the existing building, heritage wall and change of use to temporary public carpark at No. 10 (Lot 375) Henderson Street, Fremantle.

The proposal is referred to the Planning Committee (PC) as the subject site is located within the WECA Heritage Area and it proposes the demolition of a wall on the City of Fremantle Heritage List of historic/archaeological significance.

While the application seeks approval for demolition of the heritage wall, the application also proposes to carefully dismantle the limestone heritage wall and safely store the materials which are to be used in a, reinterpreted, contemporary public art installation along the southern edge of the subject site, abutting the 'Old Shanghai' building at 2 Henderson Street, Fremantle.

The application is recommended for conditional approval.



PROPOSAL

Detail

Approval is sought for demolition of the existing building, heritage wall and change of use to temporary public carpark at No. 10 (Lot 375) Henderson Street, Fremantle.

The proposal is referred to the Planning Committee (PC) as the subject site is located within the WECA Heritage Area and proposes the demolition of a wall on the City of Fremantle Heritage List (historic/archaeological significance) with the following statement of significance:

A limestone wall which has historical significance as being from an earlier building; it is representative of pre-gold boom building practices in Fremantle; and has a simple aesthetic quality. It has high authenticity, and possible archaeological significance.

While the application seeks approval for demolition of the heritage wall, the application proposes to carefully dismantle the limestone heritage wall and safely store the materials which are to be used in a, reinterpreted, contemporary public art installation along the southern edge of the subject site, abutting the 'Old Shanghai' building at 2 Henderson Street, Fremantle.

The application is associated with another proposal (DAP004/21 – not yet determined) from the same applicant for the redevelopment of the subject site, proposing the following:

'Six Storey Hotel Development with Ground Floor Restaurant and Small Bar Uses and Basement Level Public Carpark'

The above application has not yet been advertised by the City as the application is currently on hold at the applicant's request, while finalised development plans are prepared for submission.

The applicant submitted amended plans for the demolition/car park application on 11 January 2022, including the following:

- Commitment to reinstate the heritage wall materials on the subject site as part of this application (following careful deconstruction of the limestone heritage wall) as



part of an interpretive, contemporary art installation along the southern edge of the subject site, abutting the Old Shanghai Building at 2 Henderson Street, Fremantle. The indicative location and interpretive art proposal are shown on the amended development plans, with details to be secured through appropriate conditions of approval.

Amended development plans are included as attachment 1.

Site/application information

Date received:	10 November 2021
Owner name:	Spicer Street Pty Ltd
Submitted by:	Urbis Pty Ltd
Scheme:	City Centre Zone
Heritage listing:	Individually Listed (Category - historic/archaeological), WECA Heritage Area and adjacent to properties on the State Register of Heritage Places
Existing land use:	Public Car Park and Showroom
Use class:	Public Car Park (Temporary)
Use permissibility:	A





CONSULTATION

External referrals

Heritage Service (Department of Planning Lands and Heritage)

The application was referred to Heritage Services as the subject site is within proximity to two properties on the State Register of Heritage Places:

- *Sail and Anchor Hotel*, 64 South Terrace, Fremantle; and
- *Warders' Cottages (fmr)*, 7-41 Henderson Street, Fremantle.

Heritage Services have advised the proposal does not impact the identified cultural heritage significance of the Sail and Anchor Hotel or Warders' Cottages (fmr) and have not recommended any conditions or advice notes.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), as proposal involves demolition of a wall on the City of Fremantle Heritage List. Advertising included a letter mailout to all adjoining landowners and occupiers and the erection of two signs on the subject site advertising the proposal to the public. The advertising period concluded on 24 January 2022, and 1 submission was received.

The following issue was raised:

- The existing numbat mural on the building should remain. It must remain intact, and in place, as it's visibility and artistic and cultural significance is difficult to replicate.

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

- While officers acknowledge that the numbat mural on the eastern wall of the former 'The Pine Warehouse' building is a known feature in the area, the mural on the existing building is not statutorily protected by any appropriate mechanism and therefore the loss of the mural cannot be prevented. The heritage significance of the site is not linked



to this feature, rather relates to a limestone wall on a different elevation. Furthermore, the City's Manager of Art and Culture has advised that the mural was originally commissioned by the City in 2011 as part of the Fremantle Festival and on the basis that it was an 'ephemeral' work that was not intended to be permanent.

Furthermore, demolition of the existing building on the subject site is part of the applicant's plan for the redevelopment of the wider site. The applicant has also advised that demolition is said to be necessary for the removal of potential historical hazardous materials and to allow any future proposal to have an activated interface along the Henderson Street Mall frontage of the subject site.

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 subject site is located on the western side of Henderson Street. The site has a land area of approximately 1392m² and is currently comprised of an uncovered Public car park (private operator) and the former 'The Pine Warehouse' building. The site is zoned 'City Centre Zone'. The site is individually listed (Category - historic/archaeological), is within the WECA Heritage Area and adjacent to properties on the State Register of Heritage Places (The Sail and Anchor Hotel and former Warders' Cottages).

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

- DA0289/19 - Signage addition to an existing Public Car Park – Approved 26 September 2019.
- DAP80010/13 - Demolition of Existing Building and Development of a Five Storey Office & Retail Development – Approved 9 June 2015.

This application is associated with another proposal for the subject site (DAP004/21 – not yet determined) from the same applicant for the wider redevelopment of the subject site, and is proposing the following:



Six Storey Hotel Development with Ground Floor Restaurant and Small Bar Uses and Basement Level Public Carpark

The above application has not yet been advertised by the City as the application is currently on hold (at the applicant's request) while finalised development plans are prepared by the applicant for submission.

Land Use

A Public Carpark is an 'A' 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 and the application has been advertised in accordance with Schedule 2, clause 64 of the Regulations.

In considering a discretionary use, the Council will have regard to the matters to be considered in the Regulations. In this regard the following matters have been considered:

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

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

- The car park will provide parking for nearby businesses and/or landowners. Given that the immediate locality is characterised with heritage listed buildings and there is little room for individual buildings to each develop their own sufficient on-site car parking, the proposal could help alleviate the on-site tenant parking shortfalls of nearby developments;



- The temporary public car park will be an extension of the existing Public Carpark on the subject site (providing an additional 32 new car parking spaces; 4 motor/cycle scooter parking spaces and 4 bicycle parking racks);
- The land use is compatible and complimentary to the same existing use that is already existing and operational across a majority of the subject site;
- The additional car parking on the subject site is not expected to have any adverse amenity impact upon adjoining properties as the carparking will be at ground level only; and
- No submissions were received in relation to the car parking land use.

However, the City's Integrated Transport Strategy 2015 acknowledges that there is an oversupply of off-street parking in central Fremantle and there is no urgent need for the provision of additional general public parking for visitors. The Strategy recognises that there is a need to plan for where such facilities might be provided for in the future. In this regard the Strategy discusses an approach that would see parking being provided on the periphery of the central city so that users would not be required to drive through the centre of the city to access parking. This approach is considered to minimise the impact of vehicles on the high amenity, pedestrian priority of the city centre.

It is for this reason, the public carparking is considered appropriate and recommended for approval on a temporary basis only. The temporary carparking is considered an appropriate 'meanwhile' use of the subject site in anticipation that the wider site will eventually be redeveloped with a comprehensive development that delivers greater benefit and enhanced activation of the subject site and immediate locality; as is proposed as part of the concurrent application for the subject site (ref. DAP004/21), discussed above. The two-year timeframe is considered appropriate to allow for the construction of the temporary carpark, allow time for a determination to be made on the concurrent comprehensive redevelopment application (ref. DAP004/21), associated conditions be cleared and works to commence upon the redevelopment application.

On the basis of the above, the proposed temporary Public Carpark use is recommended for approval under the Regulations and LPS 4, subject to an appropriate condition limiting the maximum period the temporary carpark use will be valid for to two (2) years.



Demolition

Part 3 of the Deemed Provisions prescribes the matters to which the Council is required to afford due regard in considering a proposal. Included amongst these matters are any potential impacts that a proposal may have on the heritage values of an existing place and/or area.

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

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

Officers held in-principle support for the demolition (or deconstruction) of the heritage listed wall on the basis the materials are to be safely stored for future re-use (along with any worthy archaeological material) as part of a new interpretive public artwork proposal associated with the future redevelopment of the subject site (hotel development proposal, application ref. DAP004/21; not yet determined). In this scenario, an on-balance decision is being made to recommend acceptance of the demolition of the wall for the greater benefit that the new development and artwork would provide for the surrounding heritage buildings and cityscape once they come forward.

Notwithstanding, Officers had concerns that with the demolition and proposed hotel applications being separate, there was potential that should the demolition proposal be granted and the hotel proposal not eventuate for whatever reason; the heritage assets may be lost and the reinterpretative artwork using the materials not come forward. As such, to avoid this potential outcome, officers advised the applicant that the demolition of the heritage wall as part of this application alone could not be supported and it would have to either form part of the hotel development application; or, this demolition application include a commitment and indicative plans to reinstate the heritage wall on the subject site.

The applicant agreed to commit to the reinstatement of the wall on the subject site as part of this demolition application and provided amended development plans (dated 11 January 2022) which provide an indicative proposal and location for the reconstruction of the wall as part of an interpretive contemporary art installation abutting the Old Shanghai Building



(2 Henderson St.). While the amended development plans show only an indicative proposal at this stage, further details are to be secured by appropriate conditions of that will require further details be submitted to, and approved by the City of Fremantle, prior to the issue of a demolition permit.

On the basis of the amended development plans and subject to appropriate conditions of approval, the proposal is acceptable pursuant to the provisions of clause 4.14 of LPS4.

CONCLUSION

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

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones Seconded: Cr Adin Lang

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of Existing Building, Heritage Wall (Wall to be Dismantled and Materials Stored for Future Re-Use on Site) and Change of Use to Temporary Public Carpark at No. 10 (Lot 375) Henderson Street, Fremantle, subject to the following conditions:



1. This approval relates only to the development as indicated on the approved plans, dated 11 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. Prior to the issue of a Building Permit or Demolition Permit 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) Gentries;
 - 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;
 - m) Works affecting pedestrian areas;
 - n) Pedestrian and site management during demolition & new pavement works for temporary carparking;

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.

3. Prior to the issue of a Demolition Permit, a detailed methodology shall be submitted to, and approved by the City of Fremantle outlining how the limestone heritage wall on to the subject site will be carefully deconstructed so as not to irreparably damage any original or significant fabric of the wall and provide details of how and where these materials shall be safely stored prior to their reuse as part of a public artwork installation on the site.

This methodology shall be included in the approved Demolition and Construction Management Plan (refer Condition 2 above) and be adhered to throughout the demolition of the existing building and construction of the new public artwork installation on the site, to the satisfaction of the City of Fremantle.



Upon completion of the above, photographic evidence shall be provided that shows the materials safely stored and labelled appropriately within the nominated storage location, to the satisfaction of the City of Fremantle.

4. Prior to the issue of a Demolition Permit, full details and plans of the proposed 'art wall installation using historic wall limestone' indicatively shown on the development plans hereby approved, shall be submitted to, and approved by the City of Fremantle.

The art wall proposal shall be constructed in accordance with the approved details and be completed within six (6) months of the completion of the demolition, to the satisfaction of the City of Fremantle.

5. An archival record of the heritage wall will be prepared and submitted to the City of Fremantle for approval prior to the commencement of any works. The archival record should consist of the following:

- Measured Drawings;

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

- Site plan (1:500 or 1:200);
- Elevations (1:100 or 1:50); and
- Photographs

Digital photographs are to be taken of the building (once vacated). Photographs are to be in colour, of a high quality, and are to show the current state of the place. Each image should be clearly labelled, with a description of what is depicted in the photograph and the date it was taken. The photographs are to include:

- i. 5x demolished, showing its setting including the streetscape;
- ii. photographs of the four external facades, all rooms and any special architectural features;
- iii. the plans are to show the position, direction and number of each photograph.

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 operation of the public carpark hereby approved, 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.
8. The approval of the temporary carpark use is valid for a period of not more than two (2) years from the date of this decision. Following this time, the temporary carpark shall cease to operate to the satisfaction of the City of Fremantle.
9. 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 demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.
- ii. In regard to the condition requiring a Construction and Demolition 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.

- iii. In regard to the condition requiring a Construction and Demolition Management Plan, the following comments from the City's Infrastructure/Engineering teams should be addressed and clear within plans/details submitted for approval as part of the Construction and Demolition Management Plans:



- a) Pedestrian access from proposed path along southern boundary should observe grades to meet DDA compliance along its length and for the connection to Henderson Street;
- b) Interface works along Henderson St shall not present a tripping hazard for pedestrians; and
- c) The proposed eastern car bays (Henderson St) are not overhang into pedestrian realm.

If you have any queries The Infrastructure Business Services department can be contacted via info@fremantle.wa.gov.au or 9432 9999

AMENDMENT 1

Moved: Cr Adin Lang

Seconded: Cr Ben Lawver

Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for the demolition of existing building and heritage wall (wall to be dismantled and materials stored for future re-use on site) and change of use to temporary public car park at No. 10 Henderson Street, Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to present detailed plans that demonstrate the installation of the limestone wall art work within the proposed, new development.

Lost: 2/5

For:

Cr Adin Lang, Cr Ben Lawver

Against:

Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda

Cr Andrew Sullivan, Cr Su Groome,



AMENDMENT 2

Moved: Cr Adin Lang

Seconded: Cr Fedele Camarda

Amend condition 4 to read as follows:

4. Prior to the issue of a Demolition Permit, full details and plans of the proposed 'art wall installation using historic wall limestone' indicatively shown on the development plans hereby approved, shall be submitted to, and approved by the City of Fremantle. **The art wall proposal shall be constructed in accordance with the approved details and be completed within 18 ~~six (6)~~ months of the completion of the demolition or upon completion of below ground level works forming part of an approved new building on the site, whichever occurs soonest,** to the satisfaction of the City of Fremantle

Amendment carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda,
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**

Reason for change

To allow the applicants additional time to construct the 'art wall installation using historic wall limestone'.

AMENDMENT 3

Moved: Cr Su Groome

Seconded: Mayor, Hannah Fitzhardinge

Amend the description of the development in the Officers Recommendation to read as follows: Demolition of Existing Building, *Conservation Management of Heritage Wall (Wall to be Dismantled and Materials Stored for Future Re-Use on Site)* and Change of Use to Temporary Public Carpark.



Amendment carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda,
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**

Reason for change:

To clarify the proposed works to the heritage wall.

COMMITTEE DECISION ITEM P2203-3
(Amended officer's recommendation)

Moved: Cr Bryn Jones Seconded: Mayor, Hannah Fitzhardinge

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of Existing Building, *Conservation Management of Heritage Wall* (Wall to be Dismantled and Materials Stored for Future Re-Use on Site) and Change of Use to Temporary Public Carpark at No. 10 (Lot 375) Henderson Street, Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 11 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. Prior to the issue of a Building Permit or Demolition Permit 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;
- m) Works affecting pedestrian areas;
- n) Pedestrian and site management during demolition & new pavement works for temporary carparking;

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.

3. Prior to the issue of a Demolition Permit, a detailed methodology shall be submitted to, and approved by the City of Fremantle outlining how the limestone heritage wall on to the subject site will be carefully deconstructed so as not to irreparably damage any original or significant fabric of the wall and provide details of how and where these materials shall be safely stored prior to their reuse as part of a public artwork installation on the site.

This methodology shall be included in the approved Demolition and Construction Management Plan (refer Condition 2 above) and be adhered to throughout the demolition of the existing building and construction of the new public artwork installation on the site, to the satisfaction of the City of Fremantle.

Upon completion of the above, photographic evidence shall be provided that shows the materials safely stored and labelled appropriately within the nominated storage location, to the satisfaction of the City of Fremantle.

4. Prior to the issue of a Demolition Permit, full details and plans of the proposed 'art wall installation using historic wall limestone' indicatively shown on the development plans hereby approved, shall be submitted to, and approved by the City of Fremantle. The art wall proposal shall be constructed in accordance with the approved

details and be completed within 18 months of the completion of the demolition or upon completion of below ground level works forming part of an approved new building on the site, whichever occurs soonest, to the satisfaction of the City of Fremantle

The art wall proposal shall be constructed in accordance with the approved details and be completed within six (6) months of the completion of the demolition, to the satisfaction of the City of Fremantle.

- 5. An archival record of the heritage wall will be prepared and submitted to the City of Fremantle for approval prior to the commencement of any works. The archival record should consist of the following:**
- Measured Drawings;**

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

- Site plan (1:500 or 1:200);**
- Elevations (1:100 or 1:50); and**
- Photographs**

Digital photographs are to be taken of the building (once vacated). Photographs are to be in colour, of a high quality, and are to show the current state of the place. Each image should be clearly labelled, with a description of what is depicted in the photograph and the date it was taken. The photographs are to include:

- i. 5x demolished, showing its setting including the streetscape;**
- ii. photographs of the four external facades, all rooms and any special architectural features;**
- iii. the plans are to show the position, direction and number of each photograph.**

- 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 operation of the public carpark hereby approved, 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.

8. The approval of the temporary carpark use is valid for a period of not more than two (2) years from the date of this decision. Following this time, the temporary carpark shall cease to operate to the satisfaction of the City of Fremantle.

9. 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 demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.

ii. In regard to the condition requiring a Construction and Demolition 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.



- iii. In regard to the condition requiring a Construction and Demolition Management Plan, the following comments from the City's Infrastructure/Engineering teams should be addressed and clear within plans/details submitted for approval as part of the Construction and Demolition Management Plans:

- a) Pedestrian access from proposed path along southern boundary should observe grades to meet DDA compliance along its length and for the connection to Henderson Street;
- b) Interface works along Henderson St shall not present a tripping hazard for pedestrians; and
- c) The proposed eastern car bays (Henderson St) are not overhang into pedestrian realm.

If you have any queries The Infrastructure Business Services department can be contacted via info@fremantle.wa.gov.au or 9432 9999

Carried: 7/0

Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda,
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver



PC2203-5 JOSLIN STREET, NO. 16 (LOT 1132) - ALTERATIONS AND CHANGE OF USE TO GROUPED DWELLING TO EXISTING BUILDING AND TWO STOREY GROUPED DWELLING (TG DA0425/21)

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

SUMMARY

Approval is sought for restoration works, additions and alterations to the existing dwelling at No. 16 Joslin Street, Hilton and the addition of a new two storey Grouped Dwelling to the rear of the site.

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:

- **Fencing height**
- **Building height (external wall)**
- **Lot boundary setback (west)**

The application is recommended for conditional approval.

PROPOSAL

Detail

An application was submitted on 28 September 2021 for demolition of an existing dwelling and addition of two Grouped dwellings at No. 16 Joslin Street, Hilton. As a result of initial feedback from officers that the demolition works would not be supported, the applicant



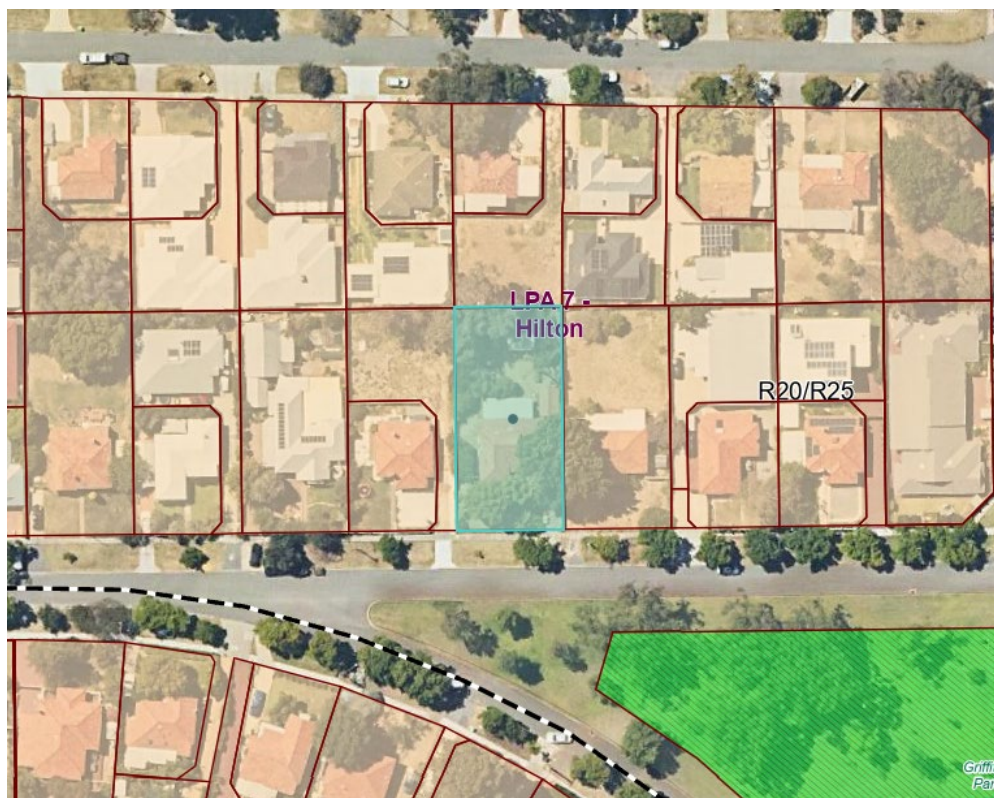
has submitted amended plans (16 December 2021) that now seek approval for restoration works, additions, and alterations to the existing dwelling and the construction of a two storey Grouped Dwelling to the rear of the site. The proposed works include:

- Existing dwelling
 - Removal of existing asbestos cladding and replacement with new cladding.
 - The addition of a bedroom and bathroom to the side of the dwelling.
 - A new front fence around the site.
 - Window alterations.
 - Roofline alterations to the rear of the dwelling.
- New dwelling
 - Two storey dwelling accessed via the existing driveway access point.
 - Two car garage, three bedrooms, living area, and media room to ground floor.
 - Upper floor comprising a bedroom, ensuite and office.
 - Pool and terrace to rear yard.

Amended development plans are included as attachment 1.

Site/application information

Date received:	28 September 2021
Owner name:	H Atherton & S A Morrice
Submitted by:	Paramount Design
Scheme:	Residential R20/25
Heritage listing:	Hilton heritage area
Existing land use:	Single House
Use class:	Grouped Dwelling
Use permissibility:	D



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 initially involved the demolition of an existing dwelling in a heritage area, in addition to some matters which varied the applicable planning requirements. The advertising period concluded on 29 October 2021, and two submissions were received. The following issues were raised (summarised):

- The submitters were concerned that the height of the proposed dwelling will block sunlight to their property including their living areas, back yard, alfresco, and bedroom.
- The submitter was concerned that the site cover proposed across the site was not consistent with the Hilton 'garden suburb' requirements.
- The submitters objected to the proposed demolition of the existing dwelling, noting that the replacement of the existing dwelling with a rebuilt structure was not



consistent with other properties in the immediate area which had sought to restore the existing dwellings.

In response to the above, the applicant submitted revised plans to remove the proposed demolition from consideration and confirmed that open space and overshadowing was deemed to comply.

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

- It is noted that initial consultation was also undertaken on the basis that the existing dwelling to the subject site would be demolished and rebuilt in a different configuration. Following the City's heritage advice the development was amended to retain the existing dwelling and undertake additions and alterations to the building.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

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

- Fencing height
- Building height (external wall) – rear dwelling
- Lot boundary setback (west)

The above matters are discussed below.



Background

The subject site is located on the northern side of Joslin Street, Hilton. The site has a land area of approximately 905m² and is currently occupied by an existing Single house. 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 exhibits multiple trees in front of the existing dwelling and to the rear of site, the majority of which are to be removed in the proposed development. The Residential Design Codes require that a new tree be provided to the rear lot, and a condition of development approval is recommended to ensure that this is installed. Two existing patios and a single garage are proposed to be demolished.

The site has a fall of approximately 2m from front to back, with retaining walls required to support the excavated finished level of the proposed dwelling to the rear of site.

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

- DA0297/21 – Demolition of existing Single house and construction of Two Storey Single House.

This proposal was withdrawn following heritage advice that the demolition of the existing dwelling would not be able to be supported.

- DA419/08 – Subdivision of subject property – the City recommended that the subdivision of the parent property be approved.

Indicative subdivision layout

In accordance with the requirements of LPP 3.7 for the Hilton heritage area, the subdivision form provides one dwelling behind another, with a minimum frontage of greater than 16m provided to the front lot. The accessway is provided as common property to enable shared access.

The proposed lot layout achieves both the minimum (350m²) and average (450m²) lot area requirements applicable at the lower R20 density coding that applies to the site. On this basis it would not be necessary to recommend conditions related to LPP 2.2 relating to the City's energy efficiency and sustainability schedule as the site does not need to utilise the higher applicable density (R25) to create compliant lots.



A formal application for subdivision has yet to be lodged with the WAPC.

Heritage Impact

The submitted plans were not supported as they proposed full demolition of the existing house which was found to have at least some significance in the context of the Hilton Heritage Area.

The City's heritage officers have reviewed the amended proposal and the intention to retain the existing home with some additions and alterations are generally supported. The heritage assessment is provided as additional information to this report. However, the heritage assessment notes that the proposed front fence is not supported in accordance with the requirements and discretionary criteria of LPP 3.7, and on this basis a condition of approval is recommended to require that the fence satisfies the Hilton policy requirements. Further assessment of the proposed fence is provided later in this report.

The amended proposal is supported as a positive heritage outcome in accordance with the following comments:

Original heritage Hilton house:

- The retention and conservation of this original Hilton house is to be commended including:
 - o The removal of the later sleepout and reinstatement of the open front verandah
 - o The replacement of the asbestos and batten cladding and weatherboard dado with new material in matching profile
 - o The retention and restoration of original external doors and windows
 - o The retention of the original roof form and eaves detail
- The proposed new side addition is supported as the room and verandah is set back over 1000mm behind the front wall of the building and is constructed using materials that are sympathetic with the character of the existing house
- The proposed internal works are acceptable as they will not detract from the heritage values of the house and the streetscape of Joslin Street

Proposed new house to rear of block



- The proposed new house is supported as it will have minimal heritage impact on the streetscape of Joslin Street as it is largely concealed by the original heritage house at the front of the block.

Local Planning Scheme 4 Cl. 4.14

With respect to the extent of demolition to the existing dwelling on the front lot, the removal of the existing cladding and alterations to the sides and rear of the building are considered worthy of support in accordance with LPS 4 cl. 4.14 as these are elements of limited heritage significance and the main dwelling will remain intact. The removal of the rear patios and garage are likewise supported due to their limited heritage significance.

Land Use

A Grouped dwelling is a 'D' use in the Residential Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval. In considering a 'D' use the Council will have regard to the matters to be considered in the *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 proposed lot arrangement satisfies the density requirements of the R-Codes and layout requirements of LPP 3.7 and will retain the existing dwelling on site with a new lot to the rear.
- The development satisfies the site area requirements at the lower applicable

density coding (R20) resulting in no need to apply conditions under LPP 2.2 in accordance with the City's Energy Efficiency and Sustainability Schedule.

- As discussed below, the areas of the development which do not meet the relevant R-Codes deemed-to-comply or Council policy requirements are limited and considered to be worthy of support, subject to conditions.

Lot boundary setback (west)

Element	Requirement	Proposed	Extent of Variation
Lot boundary setbacks	Lot 2: Ground floor, Bed 3-Kitchen: 1.5m	Lot 2: 1.27m	0.23m

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

- The adjoining property to the west is currently under construction, however the intended plans for this site include a carport and bin area along this property boundary, both elements which are not sensitive to building bulk impacts.
- The dwelling is set well below natural ground level along the western boundary, with the ground floor of the dwelling sitting below the height of a standard dividing fence resulting in minimal overshadowing and no privacy impact as any windows would be readily screened by a dividing fence above the necessary retaining walls.

Building height (external wall)

Element	Requirement	Proposed	Extent of Variation
Building height	Maximum wall height 3.5m	Wall height: 5.7m	Wall height: 2.2m
	Maximum roof ridge height 6.5m	Roof ridge: 7.9m	Roof ridge: 1.4m

In accordance with LPP 3.7, in instances where an external wall height or roof ridge height is proposed for a dwelling on a rear lot, the development is to comply with the deemed-to-comply requirements of the R-Codes with respect to the following criteria:



R-Codes Element	Officer Comment
Lot boundary setback	While the development does seek to vary the deemed-to-comply lot boundary setback requirements, this does not relate to the proposed upper floor which meets relevant setback requirements.
Open space	The development satisfies the relevant deemed-to-comply open space requirements.
Solar access	Due to lot orientation, the development casts shade at midwinter to the south over the subject site and is also deemed to comply.

On this basis, it is considered that the proposed building height satisfies the relevant replacement deemed-to-comply criteria of the Residential Design Codes, and it is likewise considered to satisfy the relevant design principles as follows:

R-Codes Design Principle (summarised)	Officer Comment
The development maintains adequate access to direct sun into buildings and appurtenant open spaces.	The subject lot is oriented such that shade cast by the development will fall over the subject site towards the existing dwelling at midwinter rather than over adjoining lots.
The development ensures adequate daylight to major openings into habitable rooms.	As noted above, the upper floor is set centrally on site, providing for appropriate sunlight access for existing and future dwellings on adjoining lots.
The development maintains access to views of significance.	No views of significance are considered to be restricted by development on this site.

On this basis, the proposed building height is supported.



Fencing height

Element	Requirement	Proposed	Extent of Variation
Proposed front fence	<p>A maximum height of 1.5m and a minimum of 85% visually permeable above 300mm.</p> <p>*It is noted that the Hilton policy provides a number of permitted fencing typologies, however the above is considered to be most applicable to the subject proposal.</p>	1.6m high, visually permeable above 0.8m.	<p>0.1m maximum height, 0.5m solid infills</p> <p>*It is noted that the proposal plans do not specify the visual permeability of fencing infills.</p>

The subject proposal seeks to replace the existing low, open wire fence to the front boundary of the site with a new front fence. In accordance with the requirements of the Hilton Policy, consideration of the prevailing streetscape and the other discretionary criteria of the policy is undertaken in assessing a variation to the listed policy requirements. In relation to this criteria, in this instance it is considered that there are no dwellings to assess directly over the street from the site as the property is located across from Griffiths Park.

- Properties to the west of the subject site
 - 14 Joslin Street (Immediately adjoining, west) – Low picket fence.
 - 12 Joslin Street – fencing similar to the subject proposal, solid fencing with visually permeable infill panels above constructed between 2007 and 2009.
 - 10 Joslin street – Low picket fence
- Properties to the east of the subject site
 - 18 Joslin Street (immediately adjoining, east) – no fence
 - 20 Joslin Street – 1.1-1.3m high solid fencing panels, approved to have infill panels to 1.8m, constructed in the early 2010s. There is record of approval for this fence.
 - 22 Joslin Street – 650mm high Limestone fence with picket infill panels to 1.8m, constructed in the early 2010s. There is record of approval for this fence.

Based on the above prevailing streetscape, it is considered that there may be an argument in favour of a higher fence to the front boundary than would normally be

permitted under the Hilton policy, however on balance, a compliant fence may be a more suitable approach in this instance. It is considered that the proposal may result in a streetscape which is not in keeping with the intent of the Hilton Heritage Area.

The discretionary criteria of LPP 3.7 also note that any fencing should maintain clear surveillance between the street and the dwelling. On the basis of the proposed front elevation shown below, it is not considered that an appropriate level of surveillance would be retained. The policy also notes that visually impermeable fencing (i.e. solid) above 300mm in height will not be supported.

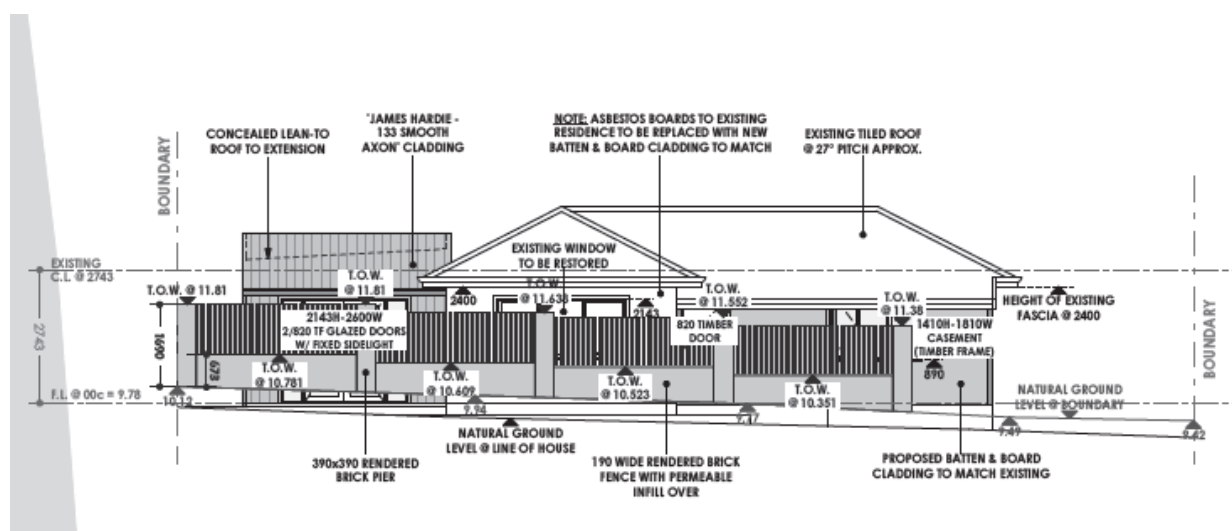


Image 1: front elevation showing proposed fence.

On this basis it is considered appropriate to recommend a condition of approval that requires that the fencing be amended to satisfy the requirements of LPP 3.7. The condition will allow for the use of any of the three fencing typologies listed in the Hilton policy.

CONCLUSION

The original proposal and earlier application which sought the demolition of the existing dwelling were not able to be supported due to the overall heritage impact of these works. The amended proposal seeks to retain and restore the existing dwelling on site while providing for additional development potential to the rear of the site in accordance with the relevant density requirements for the locality.



On the basis of the above considerations, the amended proposal which retains the existing dwelling on site is considered to be worthy of support, subject to conditions.

STRATEGIC IMPLICATIONS

Green Plan 2020

Encourage the retention of vegetation on private land.

1. The proposal plans indicate the removal of a number of trees from the subject site.
2. The proposal plans indicate the installation of a tree next to the porch of the new dwelling. A condition of approval is recommended to require its installation in accordance with the R-Codes.
3. No development approval is required for the removal of trees on private property unless they are listed on the City's Significant Tree Register.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones Seconded: Cr Andrew Sullivan

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Alterations and change of use to Grouped Dwelling to existing building and Two Storey Grouped Dwelling at No. 16 (Lot 1132) Joslin Street, Hilton, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 16 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. Prior to the issue of a Building Permit, all fencing within the Primary Street setback area of the subject site, shall be amended to satisfy the following fencing requirements:
 - 0.9m high and 20% visually permeable above 0.3m,
 - 1.2m high and 50% visually permeable above 0.3m, or
 - 1.5m high and 85% visually permeable above 0.3m.as per clause 1.5.1 of the City of Fremantle's Local Planning Policy 3.7 – "Hilton Garden Suburb Precinct" Heritage Area Local Planning Policy, to the satisfaction of the City of Fremantle.
3. Prior to the issue of a Building Permit for the development hereby approved, a detailed landscaping plan in accordance with clause 5.3.2 of the R-Codes, including information relating to species selection of the required tree to Lot 2, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.

Prior to occupation of the development hereby approved, the approved landscaping shall be completed in accordance with the approved plans and maintained for the life of the development to the satisfaction of the City of Fremantle.
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. 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.
6. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.
7. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
8. Prior to occupation/ use of the development hereby approved, the boundary wall located on the southern internal boundary between Lots 1 and 2 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

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

Advice note

- The applicant is advised that the existing verge tree is to be protected during the construction process with a minimum 2.8x2.8m fencing enclosure.
- 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.
- Fire separation for the proposed building works must comply with Part 3.7.2 of the Building Code of Australia.
- The City advises that the required landscaping plan should address the applicable provisions within Design Element 5.3.2 – Landscaping of the Residential Design Codes – Volume 1.

The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council's specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.

COMMITTEE DECISION ITEM PC2203-5

Moved: Cr Su Groome

Seconded: Cr Ben Lawver

Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for alterations and change of use to Grouped dwelling to existing building and two storey Grouped dwelling



at No. 16 Joslin Street, Hilton based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting amended plans to reduce the impact of the height of the new dwelling on the streetscape and amenity of the retained dwelling.

Carried: 6/1

For:

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda,
Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**

Against:

Cr Andrew Sullivan



**PC2203-6 HOLLAND STREET, NO.29 (STRATA LOT 1) FREMANTLE -
ADDITIONS TO EXISTING SINGLE HOUSE (JL DA0401/21)**

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

SUMMARY

Approval is sought for single storey additions and alterations to the existing Single house at 29 Holland Street, Fremantle.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received in relation to the application 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:

- **Lot boundary setback (South)**
- **Boundary wall (south and west)**
- **Outbuilding**
- **Dividing Fence Height**

The application is recommended for approval.

PROPOSAL

Detail

The proposed works include:

- A carport and storage addition to the front western boundary of site,
- A new kitchen and deck addition to the rear of site, and
- A new master bedroom, WIR and ensuite to the south-western corner of site

On 14 December 2021, the applicant lodged amended plans which addressed heritage concerns associated with the original front additions and alteration to the dwelling onsite and the detrimental impact they would have on the Holland / Forrest street heritage area.

Amended Development plans are included as attachment 1.

Site/application information

Date received:	15 September 2021
Owner name:	Sarah Boxley
Submitted by:	Kensington Design Australia
Scheme:	Residential R25
Heritage listing:	Forrest / Holland Street Heritage Area
Existing land use:	Single house
Use class:	Single house
Use permissibility:	P





CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal involved a reduced lot boundary setback to the southern and western site boundaries. The advertising period concluded on 13 October 2021, and one submission was received.

The submitter raised concerns to the western boundary wall and its ability to block light and ventilation to the existing dwelling located on the western front lot of the adjoining site.

The applicant was informed of the concerns and has opted to proceed with the current design.

OFFICER COMMENT

Statutory and policy assessment

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

- Lot boundary setback (South- Kitchen)
- Boundary walls (South and West)
- Outbuilding (Small)
- Dividing Fence Height

The above matters are discussed below.



Background

The subject site is located on the south-western corner of Holland Street and Chalmers Street, Fremantle. The site has a land area of approximately 407m² and is currently occupied by a Single house. The subject dwelling onsite is setback approximately 16m from Holland Street compared to the existing streetscape prevailing streetscape pattern of 6m for the properties to the west of site. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed but it is located within the Holland / Forrest Street Heritage Area.

A search of the property file has revealed no relevant history for the site.

Heritage Comment

The original proposal for this application included additions and modifications to the front of this house which would have adversely affected the heritage significance of this place and the heritage significance of the Holland/ Forrest Heritage Area. Following consultation, the applicant revised their plans to focus the development at the rear of the site where it would have minimal impact on the heritage values of the place and its heritage area. The revised plans are a positive result and can be supported from a heritage perspective because:

- The front façade of the house will not be modified.
- The demolition of the rear lean-to section of the house will have little impact on the heritage significance of the place and the heritage area as it has undergone much modification and does not contribute to the significance of the place or the heritage streetscapes of Holland and Chalmers streets.
- Construction of the rear additions will have little impact on the heritage significance of the place as they are in keeping with the existing house but discernibly different with a different type of wall cladding (full weatherboard). The extension is also set back from the side setback of the house which helps to define the extent of the new extension and its roof.
- The carport is now separate from the main house and is a modest structure that will not dominate and detract from the heritage house. The solid store to the side of the carport has been located against the side fence and behind the front setback of the adjacent property so it will have minimal impact of the presentation of the heritage streetscapes of Holland and Chalmers Street.



Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
South (Kitchen)	1.5m	1m	500mm

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

- The lesser setback does not result in a perception of adverse building bulk when viewed from the adjoining property as it is only a single storey addition and partially abuts the front setback area of the neighbouring site;
- The lesser setback does not contribute adversely to a loss of direct sun, light generally or ventilation to major openings of the adjoining property; and,
- The lesser setback does not result in any new merit-based decision relating to visual privacy.

Boundary Wall (South and West)

Element	Requirement	Proposed	Extent of Variation
South	Ensuite and WIR	0m	1m
	Deck	0m	1m
West	Bedroom 1	0m	1m
	Carport / Storeroom	0m	1m

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

South

- Whilst the boundary wall will result in some sunlight loss to the rear and side setback areas of the southern site, these boundary walls will only abut rear and side setback area which include non-habitable rooms of the dwelling.
- The boundary wall is not considered to contribute to a sense of confinement or building bulk at it is single storey in dimension, and,
- The boundary wall does not impact on any views of significance or existing significant vegetation.

West

- The proposal includes two boundary walls to the west. These walls range from 2.7m high (outbuilding wall) to 3.5m for rear corner ensuite and bathroom wall).
- The western neighbour has raised concerns to the height of the outbuilding wall and its ability to prevent ventilation and sunlight to the windows of the existing dwelling on this elevation.
- With regards to loss of ventilation, given this neighbouring dwelling has a 1.4m setback from this boundary, a single storey boundary wall on the western elevation of the property is not considered to significantly impact this amenity, as prevailing winds come from the south-west of site.
- With regards to the existing windows facing this portion of the addition and the impacts of solar access, the wall is located on the eastern elevation of the neighbouring property and therefore morning sun is most likely the time of day any impact would occur. Given the north south orientation of these lots, the existing vegetation scattered along the boundary today and that the wall is limited to 6 m in length and 2.7m in height, minimal further loss of sunlight is anticipated to occur. See photo of vegetation between the two properties at the proposed location for the new boundary wall.



Photo 1 – Vegetation between 27 and 29 Holland Street which is the area of new carport / outbuilding addition for 29 Holland Street).

Outbuilding (Small Outbuilding)

Deemed-to-comply	Provided	Extent of variation
no more than one outbuilding per dwelling site;	One proposed	Complies
has no more than two boundary walls;	One boundary wall (west)	Complies
does not exceed 10m in area;	13.2m ²	3.2m²
does not exceed a wall and ridge height of 2.7m;	2.4m	Complies
not located within the primary or secondary street setback area;	Located primary street setback area	Within Primary street setback
does not reduce open space and outdoor living area. requirements in Table 1. (50% allowed)	60%	Complies

The proposal is considered to meet the merit-based criteria of the R-Codes in the following ways;

- Whilst at the front of the existing dwelling, the outbuilding will not be highly visible from the primary street as its position is hard on the western boundary and only 2.2m of the structure would be visible from the street. Overall, the addition will not alter the existing streetscape character or alignment; and,
- The additional 3.2m² floor area of the small outbuilding will not result in any significant adverse impact on adjoining properties by way of impact on access to light, building bulk and scale or ventilation.

Dividing Fence (Height) South

Element	Requirement	Proposed	Extent of Variation
Dividing fence south	1.8m	2.3m - 3m	1.2m

The applicant is proposing to increase the height of the south boundary fence for a 10m portion of the boundary to address visual privacy requirements for the new rear deck addition. Image below shows the fence above 1.8m in yellow.

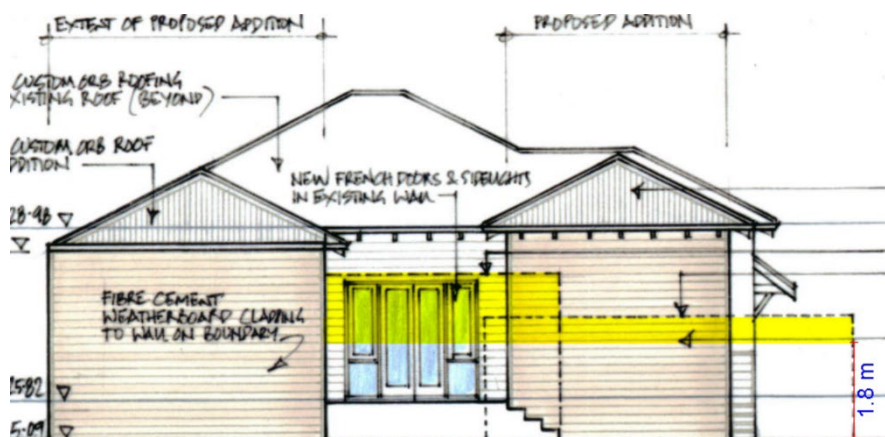


Image 2 – Shows portion of proposed fence above 1.8m

In accordance with Council's LPP2.8 Fences policy, the application was advertised to the impacted neighbours and no submission had been received from this impacted neighbour.

The proposed additional fence height (between 1.2m and 500mm above the permitted height) is supported as it will assist in providing adequate screening between the two properties outdoor living areas whilst having minimal impact by way of shadow and building bulk on this neighbouring property.

CONCLUSION

The proposed development is considered to appropriately address the relevant design requirements that apply to the subject property for the reasons stated above. For this reason, the development application is recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil



COMMITTEE DECISION ITEM PC2203-6
(Officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Adin Lang

Council:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Alterations and additions to existing Single house at No.29 Holland Street (Strata Lot 1), Fremantle, subject to the following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 14 December 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All stormwater discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. Prior to occupation/ use of the development hereby approved, the boundary walls located on the southern and western boundaries shall be of a clean finish in any of the following materials:**
 - coloured sand render,**
 - face brick,**
 - painted surface,**

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

The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.

- 4. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the**



requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

Advice Note(s):

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

Carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



**PC2203-8 WATKINS STREET, NO. 56 (LOT 38) WHITE GUM VALLEY -
VARIATION TO PREVIOUS PLANNING APPROVAL DA0512/20 (TWO
STOREY SINGLE HOUSE) (JCL VA0041/21)**

Meeting Date:	2 March 2022
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Meeting attachments:	1. Amended development plans
Additional information:	1. Site Photos 2. Previously approved plans (DA0512/20)

SUMMARY

Approval is sought for variations to a previous planning approval DA0512/20 (Two Storey Single house) at No. 56 (Lot 38) Watkins Street, White Gum Valley.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- **Building height (external wall)**
- **Boundary walls (west and east)**
- **Lot boundary (upper floor - west)**
- **Lot boundary (upper floor - east)**
- **Visual privacy (west)**

The application is recommended for conditional approval.

PROPOSAL

Detail



Approval is sought for variations to the previous planning approval DA0512/20 (Two Storey Single house) at No. 56 (Lot 38) Watkins Street, White Gum Valley. The proposed works include:

- Increasing the height of portions of the proposed dwelling, and reconfiguring the form of the roof at several points;
- Addition of roof loft space to eastern side of dwelling;
- Increasing the primary street setback of the ground floor by 0.3m to bring the built form further from the street (upper floor primary street setback unchanged);
- Shifting the western ground floor living/dining room boundary wall 0.3m to the north and extending its height by 0.2m;
- Extending the length of the ground floor kitchen eastern wall by 0.3m to the north (no new discretion sought);
- Extending the length of the open frame carport/patio (ground floor eastern boundary wall) by 4.7m to the north;
- Extending the upper floor 'Activity' room (upper floor western wall) to the north by approximately 0.3m;
- Adding a privacy screen for upper floor 'Activity' room window, which is shifted 0.3m to the north; and,
- Increasing height of portions of the eastern upper floor wall to accommodate new and amended roof forms.

Development plans are included as attachment 1.

Site/application information

Date received:	22 December 2021
Owner name:	Travis Jackson McQueen & Sarah Vanessa McQueen
Submitted by:	Travis Jackson McQueen
Scheme:	Residential R20/25
Heritage listing:	Not Listed
Existing land use:	Single house
Use class:	Single house
Use permissibility:	P





CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as variations to the deemed-to-comply provisions of the R-Codes were identified relating to Primary street setback and building height. The advertising period concluded on 18 January 2022, and 2 submissions were received. It is noted that during the advertising period, amended plans were provided to the City removing the primary street setback variation. The following issues were raised (summarised):

Submission 1:

- Don't support any increase in building height;
- Don't support any change to previously approved footprint and changes which don't comply or are non-compliant which cause loss of light to bedrooms. The proposal will result in loss of light and increase overshadowing; and,
- Proposal will affect privacy.

Submission 2:

- Upper storey bathroom poses privacy concern as it allows views into my garden; and,
- How is the shared boundary to be fenced?

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

- The comments with respect to building height are discussed in the body of the report;
- The impact of loss of light are discussed in the body of the report. It is noted that the proposal doesn't pose any new variations relating to overshadowing due to the north-south orientation of the lot; and,



- Visual privacy is discussed in the body of the report, however bathrooms are not considered 'habitable rooms' per the R-Codes, and therefore do not pose any visual privacy discretions; and,
- The proponent does not propose the removal of the existing dividing fences. Dividing fences matters are governed by the *Dividing Fences Act 1961* and any removal or construction of dividing fences requires the consent and involvement of both parties.

The remaining matters are addressed in the officer comment below.

OFFICER COMMENT

The following table outlines the key changes between the approved plans and proposed variation.

Approved discretion	Is a change proposed to the built form relating to this element?	Is there a new or altered discretion resulting from the change?
Primary street setbacks (ground and upper floor);	Yes	Ground floor setback discretion reduced
Lot boundary setbacks (east and west);	Yes	Yes- Detailed in report below
Boundary walls (east and west);	Yes	Yes – Detailed in report below
Building height;	Yes	Yes – Detailed in report below
Vehicle access;	No	No
Excavation	Yes	No
Visual privacy (west).	Yes	Yes – Detailed in report below

Statutory and policy assessment

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



principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. In this particular application the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Building height (external wall)
- Boundary walls (west and east)
- Lot boundary (upper floor - west)
- Lot boundary (upper floor - east)
- Visual privacy (west)

The above matters are discussed below.

Background

The subject site is located on the northern side of Watkins Street in the middle of the block between Montreal Street in the west, and Wiluna Avenue in the east. The site has a land area of approximately 592m² and is currently occupied by a concrete slab with outbuildings, noting the original dwelling associated with the site has been demolished as approved by DA0512/20. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed, nor is it located within a Heritage Area.

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

- DA0512/20 – *Two storey Single house* – approved on 7 April 2021 at Planning Committee. This application proposed the demolition of the existing Single house on the site and construction of a two storey Single house. One submission was received, objecting to the proposal. This application seeks to vary this approval.

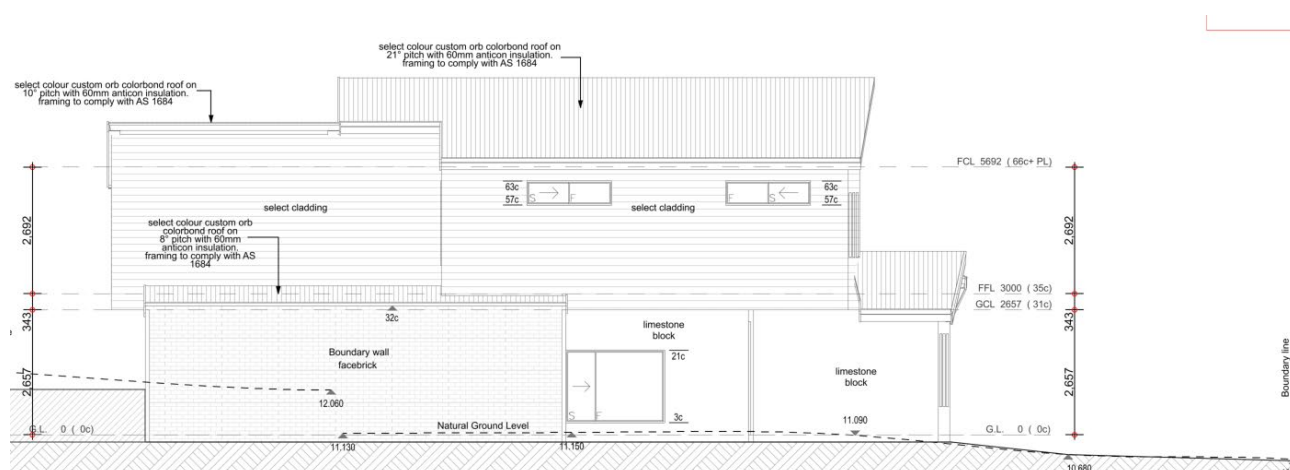
Lot boundary setback

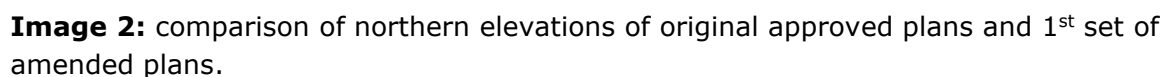
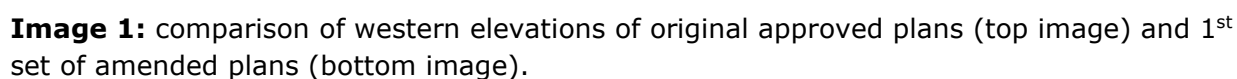
Element	Requirement	Proposed	Extent of Variation
Upper floor - west	Approved: 2m	Approved: 1.26m-2.7m	Approved: Nil to 0.8m
	New plans: 2m	New plans: 1.3m-2.8m	New plans: Nil to 0.75m

The change to this lot boundary setback variation is caused by the 0.3m extension of the approved upper 'Activity' room wall to 9m from the approved 8.7m, meaning that a slightly longer wall affects the neighbour. It is noted that the remaining section of wall along the western upper floor has a compliant setback.

Notwithstanding the change in dimensions, the upper floor (west) variation is still considered to meet the Design principles of the R-Codes in the following ways:

- The lesser setback does not result in unacceptable building bulk when viewed from the adjoining property due to:
 - The subject development having an element of floor level less than natural ground level;
 - The setbacks of the walls are marginally increased from the approved plans by 50mm at the front portion of the upper floor, up to 100mm at the rear portion;
 - The setback of the upper floor is staggered, with setbacks ranging from 1.3m through to 2.8m which assists in reducing building bulk facing this neighbour.
 - The areas of greatest sensitivity on the neighbouring property are protected by a greater lot boundary setback on this development.
 - The rear portion of the western upper floor has a changed roof form whereby the lower end of the skillion roof faces west, thereby reducing the amount of wall facing the property to the west. See images 1 and 2 below demonstrating this change. It is noted that whilst the extent of the closer section of wall is increased by 0.3m, it is considered minor, and any increase in bulk and solar access issues is offset by the amended roof form.







- The lesser setback does not contribute adversely to a loss of direct sun, light generally or ventilation to major openings due to the above, noting the altered roof form allows for, on balance, greater solar access to the western neighbours courtyard area than was previously approved; and,
- The lesser setback does not result in any new merit-based decision relating to visual privacy which cannot be addressed and supported through a Design Principle assessment.

Element	Requirement	Proposed	Extent of Variation
Upper floor - east	Approved: 1.9m	Approved: 1.5m-2.2m	Approved: Nil - 0.4m
	New plans: 2m	New plans: 1.5m-2.2m	New plans: Nil - 0.5m

The increased variation to the eastern upper floor is caused by the increase in wall face facing east due to the amended skillion roof form. This increase in wall height technically increases the setback requirement to 2m from 1.9m.

The upper floor (east) variation is considered to meet the Design principles of the R-Codes in the following ways:

- The extent of the amendments to this section are minor, involving an increased height of the wall facing the eastern neighbour due to the amended roof form;
- The lesser setback does not result in adverse building bulk when viewed from the adjoining property due to the following:
 - The section of wall abuts a large area of open space at the eastern neighbour's property, with the majority of the neighbours outdoor living area unaffected; and,
 - The section of wall provides a staggered setback of 1.5m to 2.2m.
- The lesser setback does not contribute significantly to a loss of direct sun, light generally or ventilation to major openings; and,

The lesser setback does not result in any new merit-based decision relating to visual privacy.

Boundary walls

Element	Requirement	Proposed	Extent of Variation
Ground floor - west	Approved: 1m	Approved: Nil	Approved: 1m
	New plans: 1m	New plans: Nil	New plans: 1m
Ground floor - east	Approved: 1.5m	Approved: 0.5m	Approved: 1m
	New plans: 1m	New plans: 0.5m	New plans: 0.5m



The western ground floor boundary wall has been shifted 0.3m to the north, whilst being increased in height by 0.2m. While minor, as the discretion has changed, the following Design Principle assessment is provided.

The proposed western living/dining room boundary wall is considered to meet the design principles of the R-Codes and the additional criteria of LPP2.4 in the following ways;

- The proposed boundary wall does not result in a loss of access to daylight or direct sunlight owing to its location adjoining a service corridor for the western neighbour, which also has a higher ground level than the subject site;
- This section of boundary wall is not considered to contribute to a sense of confinement or building bulk as it affects only a small portion of the boundary and the rest of the development is sufficiently setback from this boundary; and,
- The boundary wall does not impact on any views of significance or existing significant vegetation.

The increased eastern ground floor boundary wall variation is caused by the increased length of the approved carport/patio by 4.7m to the north. Therefore, the following Design Principle assessment is provided.

The proposed eastern carport/patio boundary wall is considered to meet the design principles of the R-Codes and the additional criteria of LPP2.4 in the following ways;

- The proposed boundary wall does not result in a loss of access to daylight or direct sunlight owing to its location of the eastern boundary and its adjoining a significant area of open space;
- The boundary wall is not considered to contribute to a sense of confinement or building bulk as it affects only a relatively small portion of the boundary, the rest of the development is sufficiently setback from this boundary, and the carport/patio is an open framed structure; and,
- The boundary wall does not impact on any views of significance or existing significant vegetation.

Building height (external wall)

Element	Requirement	Proposed	Extent of Variation
Building height – external wall	DA0512/20: 6m	DA0512/20: 6.2m – 6.8m	DA0512/20: 0.2m – 0.8m



	Note: Requirements per previous version of RCodes.		
	VA0041/21: 7m	VA0041/21: 7.1m – 7.4m	VA0041/21: 0.1m – 0.4m

The increased variation to building height is due to the amended roof forms posing new areas whereby the height is increased to cause discretions. Additionally, a new loft space is proposed to the approved roof form, thereby presenting new built form. Therefore, the following Design Principle assessment is provided.

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

- The application proposes a skillion roof, with the amended higher portion of the skillion roof wall, in addition to the new roof component, facing towards the east, as opposed to the west as originally proposed. The proposed roof form, while above the external wall limit, is significantly below the height of a deemed-to-comply pitched roof (9m) and is considered to be of significantly less bulk and scale;
- The north-south orientation of the land, in addition to the reconfigured roof and lower external wall height than the original proposal means the proposed wall height has limited impact on access to light to major openings and outdoor living areas of adjoining properties; and,
- There are no views of significance apparent in the locality

It is noted that since the original DA approval, the building height requirements of the RCodes have been amended to allow for a maximum external wall height of 7m, with the skillion roofs able to be 8m in height.

Visual privacy

Element	Deemed-to-comply	Provided	Extent of variation
Activity room (upper floor – west)	Approved: 6m	Approved: 2.4m	Approved: 3.6m
	New plans: 6m	New plans: 2.4m	New plans: 3.6m

This new visual privacy variation is posed due to the upper floor extension being extended to the north, thereby causing new portion of the western neighbours site to be overlooked.



The amended position of the upper floor 'Activity' room window is considered to meet the design principles of the R-Codes in the following ways:

- The cone-of-vision does not impact on any primary outdoor living areas or major openings contained of the adjoining site, as any view towards them is on an oblique angle; and,
- The predominant outlook from the opening is towards the neighbour's eastern gable end wall, which doesn't contain any major openings (one opening is present to a WC, which is not a major opening, and is viewed on an oblique angle). It is noted that given the window is shifted north, its ability to gain views into the neighbour's courtyard is further reduced from that previously approved.

It is further noted that the applicant has proposed the construction of a screening device, which would provide adequate screening of the view of the window to the western neighbours site in any case.

CONCLUSION

Based on the above Design Principle and Local Planning Policy assessments, it is considered on balance that the variations posed by the proposal are supportable. Therefore, it is recommended that the application be approved subject to the conditions contained in the officer recommendation below.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil



COMMITTEE DECISION ITEM PC2203-8
(Officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Su Groome

Council:

APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Variation to previous planning approval DA0512/20 (Two Storey Single house) granted 13 April 2021 at No. 56 (Lot 38) Watkins Street, White Gum Valley, subject to the same terms and conditions, except whereby modified by the following condition(s)

a) Condition 1 of the Planning Approval dated 13 April 2021, be deleted and replaced with the following condition:

- 1. This approval relates only to the development as indicated on the plans dated 22 December 2021. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the original decision letter, being 13 April 2021. If the subject development is not substantially commenced within a 4 year period of the original decision letter, the approval shall lapse and be of no further effect.**

Carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



**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 but did invite PC members to site to review the existing structures and speak with the applicant's heritage consultant.

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

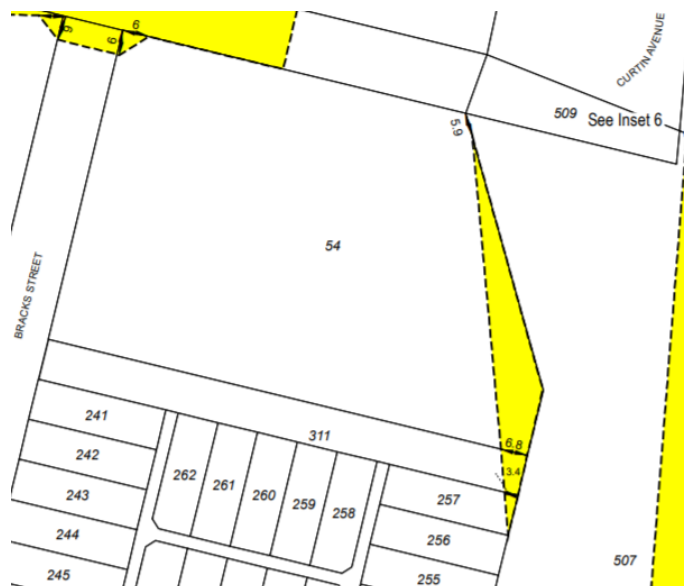


CONSULTATION

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

Moved: Cr Bryn Jones

Seconded: Cr Geoff Graham

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/>

Lost 1/6

For

Cr Geoff Graham

Against

Mayor Hannah Fitzhardinge, Cr Bryn Jones,

Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver



COMMITTEE RECOMMENDATION ITEM PC2202-2
(Amended officer recommendation)

Moved: Cr Andrew Sullivan

Seconded: Cr Su Groome

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 *as amended by conditions following*, 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. The following structures and/or buildings are excluded from the approval and shall be retained:**
 - a. Three (3) central structural bays and their internal timber trusses on the northern elevation fronting Walter Place to a depth of at least 4 truss bays.**
 - b. One (1) whole structural bay on the western side of the site fronting Bracks Street, including the portion of masonry façade on this elevation, roofing and internal walls. This bay starts approximately 40m from the intersection with Walter Place and extends for approximately 36m from this point.**
 - c. The masonry wall that extends into the interior of the site from the end of the western bay mentioned in part b (parallel with the southern lot boundary), as well as necessary supporting structures to ensure its viable retention.**
- 3. Prior to the issue of a Demolition Permit, a detailed plans and report shall be submitted that demonstrates the demolition methodology and ongoing protection of the structures required to be retained by this approval to the satisfaction of the City of Fremantle.**
- 4. Any damage to the existing verge vegetation within the Port Beach Road reservation shall be made good.**



- 5. Stormwater discharge, if any, shall not be discharged into the Port Beach Road reservation or the future Curtin Avenue reservation.**
- 6. No works are permitted within the Port Beach Road or future Curtin Avenue reservations.**
- 7. 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.

- 8. 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/>

Carried: 6/1

For

Mayor Hannah Fitzhardinge, Cr Bryn Jones,
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver

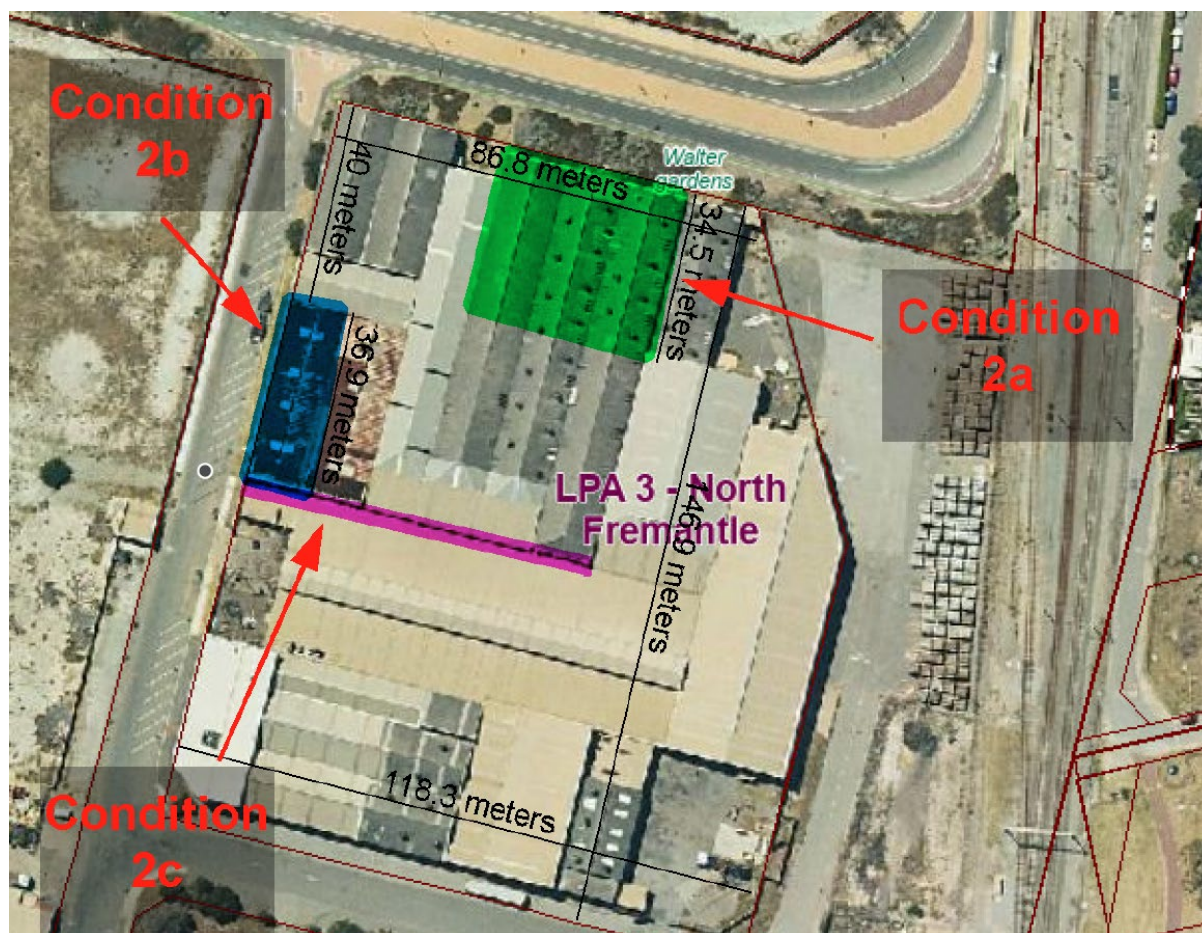
Against

Cr Geoff Graham

Cr Geoff Graham requested the item be referred to the Ordinary Meeting of Council. Seconded by Cr Bryn Jones.

ADDITIONAL OFFICER COMMENT

The following diagram is provided as supporting information to the Committee Recommendation:





AMENDMENT

Moved: Cr Andrew Sullivan

Seconded: Cr Bryn Jones

To amend condition 2, and add a part B to the committee recommendation, to read as follows.

PART A:

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. His approval relates only to the development as indicated on the approved plans *as amended by conditions following*, 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. The following structures and/or buildings are excluded from the demolition approval and **all original fabric, not including asbestos roofing or other replacement claddings**, shall be retained in place, be made structurally sound, and be maintained, all to the satisfaction of the City of Fremantle:
 - a. ~~Three (3) central structural bays and their internal timber trusses on the northern elevation fronting Walter Place to a depth of at least 4 truss bays.~~
 - b. ~~One (1) whole structural bay on the western side of the site fronting Bracks Street, including the portion of masonry façade on this elevation, roofing and internal walls. This bay starts approximately 40m from the intersection with Walter Place and extends for approximately 36m from this point.~~



- ~~c. The masonry wall that extends into the interior of the site from the end of the western bay mentioned in part b (parallel with the southern lot boundary), as well as necessary supporting structures to ensure its viable retention.~~
 - a. The three (3) central structural bays of the Massey Harris Buildings, measuring approximately 38 metres in width, and a depth of at least 25 metres measured northwards from the original Vaughan Street boundary. All other original timber trusses of the c.1928 Massey Harris Buildings are to be salvaged and stored so as to be available for re-use as part of any future conservation works, including and conservation works requiring reinstatement and/or interpretation.
 - b. The two structural bays of the J Gadsden Buildings located on the western side of the site with a frontage to Bracks Street of approximately 38 metres and a frontage to the former Vaughan Street of approximately 28 metres.
 - c. The masonry facade wall that formed the southern elevation of both the Massey Harris Buildings and J Gadsden Buildings, including the facade walls that unified these buildings together, measuring approximately 73 metres in length located on the north side of the former Vaughan Street road reserve.
- 3. Prior to the issue of a Demolition Permit, a detailed plans and report shall be submitted that demonstrates the demolition methodology and ongoing protection of the structures required to be retained by this approval to the satisfaction of the City of Fremantle.
 - 4. Any damage to the existing verge vegetation within the Port Beach Road reservation shall be made good.
 - 5. Stormwater discharge, if any, shall not be discharged into the Port Beach Road reservation or the future Curtin Avenue reservation.
 - 6. No works are permitted within the Port Beach Road or future Curtin Avenue reservations.
 - 7. 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.

- 8. 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:
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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/>

PART B:

That officers provide a further report and recommendation to Council regarding the heritage significance of the Massey Harris Buildings, J Gadsden Buildings and former Vaughan Street elevations and streetscape as part of the next available Heritage List Yearly Update.

PROCEDURAL MOTION

At 7.20pm the following procedural motion was moved:

COUNCIL DECISION

Moved: Cr Andrew Sullivan

Seconded: Cr Frank Mofflin

Refer the application to the next available Planning Committee meeting to allow Council to review the additional information provided by the applicant in relation to the heritage significance of the buildings on site.

Carried: 11/0

**Mayor Hannah Fitzhardinge, Cr Jenny Archibald, Cr Su Groome,
Cr Ben Lawver, Cr Fedele Camarda, Cr Frank Mofflin, Cr Bryn Jones,
Cr Marija Vujcic, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang**



AMENDMENT 1

Moved: Cr Andrew Sullivan Seconded: Cr Ben Lawver

Amend the Committee Recommendation to read as follows:

PART A

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. *The following structures and/or buildings are excluded from the demolition approval and all original fabric, not including asbestos roofing or other replacement claddings shall be conserved on site , be made structurally sound where necessary, and be maintained, all in accordance with a Preservation Management Plan to the satisfaction of the City of Fremantle:***
 - a. The three (3) central structural bays of the Massey Harris Buildings, measuring approximately 38 metres in east-west width, and to a minimum depth of at least 25 metres measured northwards from the original Vaughan Street boundary are to be conserved. The original fabric of this portion of the building may be temporarily dismantled and stored in accordance with the approved Preservation Management Plan. All other original timber trusses of the c.1928 Massey Harris Buildings are to be salvaged and stored so as to be available for re-use as part of any future conservation works, including any conservation works requiring reinstatement and/or interpretation.***
 - b. The two structural bays of the J Gadsden Buildings located on the western side of the site with a frontage to Bracks Street of approximately 38 metres and a frontage to the former Vaughan Street of approximately 28 metres.***



c. The masonry facade wall that formed the southern elevation of both the Massey Harris Buildings and J Gadsden Buildings, including the facade walls that unified these buildings together, measuring approximately 73 metres in length located on the north side of the former Vaughan Street road reserve. The wall is to be retained in situ.

3. Prior to the issue of a Demolition Permit, a detailed Preservation Management Plan and report shall be submitted that demonstrates the demolition methodology, specifically the removal of the timber trusses of the Massey Harris Buildings, and ongoing protection of the structures required to be retained to the satisfaction of the City of Fremantle. All works shall be undertaken in accordance with the plan. The Preservation Management Plan shall;

- a. Identify those timbers that are being removed and preserved.*
- b. Include photographs and other such information as may be required to describe, document and identify the preserved timbers.*
- c. Sets out measures to be taken by the owner and/or applicant to store and preserve the timbers.*
- d. Sets out measures for the protection of the remaining structures on site.*

4. Any damage to the existing verge vegetation within the Port Beach Road reservation shall be made good.

5. Stormwater discharge, if any, shall not be discharged into the Port Beach Road reservation or the future Curtin Avenue reservation.

6. No works are permitted within the Port Beach Road or future Curtin Avenue reservations.

7. 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.

8. 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.



9. *Prior to commencement of works the owner shall 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 that ensures the implementation and ongoing compliance with the Preservation Management Plan to the satisfaction of the City of Fremantle.*

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:

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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/>

- xii. *The proposed development on site should reflect a focus on the industries relating to the Port of Fremantle, the railways and associated industries established in the area and its former industrial character resulting from the former Leighton Marshalling Yards and industries such as the Dingo Flour Mill located in the area.*

PART B

That Officers provide a further report and recommendation to Council regarding the heritage significance of the Massey Harris Buildings, J Gadsden Buildings and former Vaughan Street elevations and streetscape as part of the next available Heritage List Yearly Update.

Amendment carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



COMMITTEE DECISION ITEM PC2203-1
(Amended officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Andrew Sullivan

PART A

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. *The following structures and/or buildings are excluded from the demolition approval and all original fabric, not including asbestos roofing or other replacement claddings shall be conserved on site , be made structurally sound where necessary, and be maintained, all in accordance with a Preservation Management Plan to the satisfaction of the City of Fremantle:***
 - a. *The three (3) central structural bays of the Massey Harris Buildings, measuring approximately 38 metres in east-west width, and to a minimum depth of at least 25 metres measured northwards from the original Vaughan Street boundary are to be conserved. The original fabric of this portion of the building may be temporarily dismantled and stored in accordance with the approved Preservation Management Plan. All other original timber trusses of the c.1928 Massey Harris Buildings are to be salvaged and stored so as to be available for re-use as part of any future conservation works, including any conservation works requiring reinstatement and/or interpretation.***
 - b. *The two structural bays of the J Gadsden Buildings located on the western side of the site with a frontage to Bracks Street of approximately 38 metres and a frontage to the former Vaughan Street of approximately 28 metres.***
 - c. *The masonry facade wall that formed the southern elevation of both the Massey Harris Buildings and J Gadsden Buildings, including the facade walls that unified these buildings together, measuring approximately 73 metres in length located on the north side of the***



former Vaughan Street road reserve. The wall is to be retained in situ.

- 3. *Prior to the issue of a Demolition Permit, a detailed Preservation Management Plan ~~and report~~ shall be submitted that demonstrates the demolition methodology, specifically the removal of the timber trusses of the Massey Harris Buildings, and ongoing protection of the structures required to be retained to the satisfaction of the City of Fremantle. All works shall be undertaken in accordance with the plan. The Preservation Management Plan shall;***
- a. Identify those timbers that are being removed and preserved.***
 - b. Include photographs and other such information as may be required to describe, document and identify the preserved timbers.***
 - c. Sets out measures to be taken by the owner and/or applicant to store and preserve the timbers.***
 - d. Sets out measures for the protection of the remaining structures on site.***

- 4. Any damage to the existing verge vegetation within the Port Beach Road reservation shall be made good.**

- 5. Stormwater discharge, if any, shall not be discharged into the Port Beach Road reservation or the future Curtin Avenue reservation.**

- 6. No works are permitted within the Port Beach Road or future Curtin Avenue reservations.**

- 7. 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.

8. 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.

9. *Prior to commencement of works the owner shall 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 that ensures the implementation and ongoing compliance with the*



Preservation Management Plan to the satisfaction of the City of Fremantle.

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/>

- xii. *The proposed development on site should reflect a focus on the industries relating to the Port of Fremantle, the railways and associated industries established in the area and its former industrial character resulting from the former Leighton Marshalling Yards and industries such as the Dingo Flour Mill located in the area.***

PART B

That Officers provide a further report and recommendation to Council regarding the heritage significance of the Massey Harris Buildings, J Gadsden Buildings and former Vaughan Street elevations and streetscape as part of the next available Heritage List Yearly Update.

Carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



Cr Andrew Sullivan vacated the meeting at 7.37pm and was absent during discussion and voting of this item.

PC2203-2 SYDNEY STREET, NO. 11 (LOT 14), SOUTH FREMANTLE - SECOND STOREY ADDITIONS AND ALTERATIONS AND ANCILLARY DWELLING ADDITION TO EXISTING SINGLE HOUSE (ED DA0488/21)

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

SUMMARY

Approval is sought for Second Storey Additions and Alterations and Ancillary Dwelling Addition to an existing Single House at 11 Sydney Street, South Fremantle.

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

- Ancillary Dwelling Provisions (R-Codes cl. 5.5.1);**
- Lot Boundary Setbacks; and**
- Boundary Walls.**

The application is recommended for conditional approval.

PROPOSAL

Detail



Approval is sought for Second Storey Additions and Alterations and Ancillary Dwelling Addition to an existing Single House at 11 Sydney Street, South Fremantle. The proposed works include:

- First floor additions and alterations to the existing dwelling on the subject site; and
- A two-storey ancillary dwelling addition in the rear south-west corner of the subject site (detached from the main dwelling).

The applicant submitted amended plans on 7 February 2022 including the following:

- Provision of an on-site parking bay, accessed from existing crossover to Sydney Street;
- Reduction in the bulk and scale as well as change in design (from gable wall to mansard style) of the proposed first floor Bedroom 2 boundary wall; and
- Visual privacy variations addressed through the deletion of proposed openings and/or obscure glazing to 1600mm above respective finished floor levels where required.

Development plans are included as attachment 1.

Site/application information

Date received:	22 November 2021
Owner name:	Andrew Charles Sullivan
Submitted by:	Andrew Charles Sullivan
Scheme:	Residential (R30)
Heritage listing:	South Fremantle Heritage Area
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as proposal does not meet some of the Deemed-to-comply requirements of the R-Codes. The advertising period concluded on 20 December, and 4 submissions were received. The following issues were raised (summarised) and shown in the below table with Officer responses:

Submission	Officer Comment
The rear “shed” on the boundary should be setback as required by the R-Codes; and we are concerned that the so-called rear “shed” is in fact accommodation.	It is acknowledged the rear building is to be used as ancillary accommodation and is assessed as such in the below officer comment section of this report along with the proposed boundary walls (please refer Ancillary Dwelling and Boundary comment sections below).



The side setback of the first floor Bedroom 1 has been reduced from 1.5 m to 1m	As per the amended development plans, all west facing openings have been removed from this wall meaning that the deemed-to-comply setback is 1.2m and this variation is assessed in the Lot Boundary Setback comment section of the report below.
There is no off-street parking provided on the lot which will cause street parking safety issues and further congestion in the street; South Fremantle street parking is already stressed.	As per the amended development plans an off-street parking bay is provided at the front of the dwelling to meet the requirement of an additional parking bay for the ancillary dwelling.
There are privacy concerns with windows overlooking the rear yard and openings of adjoining dwellings	As per the amended development plans, all cone-of-vision setbacks have been made compliant with the deemed-to-comply requirements of the R-Codes and/or obscure glazing has been provided on openings to 1600mm above respective finished floor levels.

The above comments were also communicated to the applicant as part of the officer's further information / revised plan request and these comments were addressed, in part, through the amended development plans.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and Policy Assessment

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

- Ancillary Dwelling Provisions (R-Codes cl. 5.5.1);
- Lot Boundary Setbacks; and
- Boundary Walls.

The above matters are discussed below.

Background

The subject site is located on the southern side of Sydney Street in South Fremantle, approximately 75m from South Terrace. The site has a land area of approximately 324 m² and is currently a Single House. The site is zoned Residential and has a density coding of R30. The site is not individually heritage listed though is located within the South Fremantle Heritage Area. The area is characterised primarily by 1-2 storey single houses and grouped dwellings with a number of commercial properties and uses fronting South Terrace.

A search of the property file has revealed no relevant planning history for the site.

Ancillary Dwelling

Element	Requirement	Proposed	Extent of Variation
Minimum Lot Size	The lot is not less than 350m ² in area	324m ²	26m ²
Maximum Floor Area	Maximum plot ratio area of 70m ²	72m ²	2m ²
Car Parking	One (1) additional on-site car parking bay	1 Additional on-site car parking bay provided	Nil - Complies

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

- As per the amended development plans, an on-site car parking space is provided to support the ancillary dwelling addition meaning the proposal will not cause adverse impacts on the availability of street parking or congestion on the local road network as a result of the ancillary dwelling;
- The ancillary dwelling is of a size which is subservient to the main dwelling on the subject site;
- The variation to the required minimum lot size for the ancillary dwelling is minimal and the proposal still achieves and exceeds the required overall open space across site (55% (181.3m²) open space provided compared to the minimum 45% (145.8m²) required for R30 sites) meaning the site is not considered to be overdeveloped. Furthermore, the proposal provides a generously sized, and well landscaped shared outdoor living area (84m² outdoor living area provided in lieu of the 24m² required) for the amenity of the occupiers which is considered acceptable;



- The ancillary dwelling, located in the south-west rear corner of the subject site, is to abut a non-sensitive, non-habitable large car parking area on both its western and southern flanks (refer aerial image above) and any shadow from the structure is to fall over this car parking area only. Furthermore, the ancillary dwelling is to be setback generously from any nearby major opening or sensitive outdoor living area of any adjoining residential property and as such, will not cause any adverse building bulk upon adjoining properties nor restrict outlook from any major opening or outdoor living area. As such, the proposal ancillary dwelling will not compromise the amenity of surrounding properties.

Boundary Walls

The boundary wall to the first floor Bedroom 2 is considered to meet the Design principles of the R-Codes in the following ways:

- As per the amended development plans, the proposed first floor boundary wall to Bedroom 2 has been reduced in its overall height, bulk and scale from as it was initially proposed. The wall itself has been pitched back from the lot boundary at 75 degrees (in a mansard design, opposed to a gable wall as previously proposed) so as to further reduce the impact of building bulk upon the adjoining property (13 Sydney Street, South Fremantle). As such, the bulk and scale of the wall is now considered acceptable in terms of its impact on building bulk;
- Due to the orientation of the subject site, the shadow from the proposed boundary wall is to fall and be contained within the subject site only and will not overshadow any adjoining property.

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

- The proposed southern Ancillary Dwelling boundary wall will sit adjacent to a non-sensitive, non-habitable large car parking area to rear of the subject site. As such, the proposed boundary wall will not cause any significant adverse overshadowing or building bulk impact upon the neighbouring residential properties as the car parking area ensures generous separation from adjoining sites and any sensitive major openings and/or outdoor living areas of neighbouring sites.

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

- The proposed western Ancillary Dwelling boundary wall will also sit adjacent to the abovementioned non-sensitive, non-habitable large car parking area to rear of the

subject site as well as a small portion of the rearmost corner of the adjoining property's (9 Sydney Street) rear garden. Due to the location of the boundary wall in the south-west corner of the subject site, the shadow cast will fall primarily over the car park to the rear only and a very minor portion of the rearmost corner of the adjoining property, well removed from any major opening and or sensitive outdoor living area of the adjoining property;

- Due to the location of the boundary wall in the rearmost corner of the subject site and setback generously from the adjoining dwelling (9 Sydney Street) major openings and/or sensitive outdoor living areas, the wall is not expected to cause any adverse building bulk impacts upon the adjoining property nor adversely restrict outlook from the neighbouring site.

Lot Boundary Setback

Element	Requirement	Proposed	Extent of Variation
First Floor Bedroom 1 (west)	1.2m	1.0m	0.2m

The western lot boundary setback to the first floor Bedroom 1 is considered to meet the Design principles of the R-Codes in the following ways:

- As per the amended development plans, the previously proposed western facing opening to the first floor Bedroom 1 has been deleted to allay any visual privacy concerns and reduce the required setback to that of a wall without major openings;
- The 200mm variation is considered minor in this circumstance and due to the strong north-south orientation of the subject site, the shadow from the proposed wall will fall primarily within the subject site only with only a negligible encroachment of the adjoining property that does not impact any major openings; and
- Due to the gable, triangular shape of the wall as well as the fenestration and varied materials proposed, the bulk and scale of the wall is broken up successfully so as to mitigate building bulk impacts upon the adjoining site.

CONCLUSION

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



STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2203-2 **(Officer's recommendation)**

Moved: Cr Bryn Jones Seconded: Cr Su Groome

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Second Storey Additions and Alterations and Ancillary Dwelling Addition to Existing Single House at 11 Sydney Street, South Fremantle, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans, dated 7 February 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.

2. Prior to occupation of the development hereby approved, the boundary walls located on the southern, eastern and western boundaries shall be of a clean finish in any of the following materials:

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

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



3. The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.

4. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City.

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

Advice Notes:

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.
- ii. Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.
- iii. The landowner/applicant is advised and encouraged to take measures further to the retention and protection of any established, mature trees on the site during the demolition and construction phase of the development with regard to the Australian Standard, *Protection of Trees on Development Sites* (AS4970/2009).

Carried: 6/0

Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Carmarda,
Cr Su Groome, Cr Adin Lang, Cr Ben Lawver



Cr Andrew Sullivan returned to the meeting at 7.38 pm.

**PC2203-4 COLLICK STREET, NO. 40 HILTON – ADDITIONS AND ALTERATIONS
TO EXISTING BUILDING AND CHANGE OF USE TO CHILD CARE
PREMISES (TG DAP006/21)**

Meeting Date:	2 March 2022
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Meeting attachments:	1. Amended Development Plans
Additional information:	1. Site photos 2. Applicant's supporting report 3. Traffic Impact Statement 4. Acoustic report

SUMMARY

Approval is sought for additions and alterations to the existing Place of Worship building at 40 Collick Street, Hilton and a change of land use for the building to a childcare premises.

As the development value is \$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 applicant submitted amended plans on 18 February 2022 demonstrating compliance with the recommendations of the submitted acoustic report comprising Perspex screening to the children's play area and a 0.3m high screen on top of the dividing fence to the north.

The application is recommended for conditional approval.



PROPOSAL

Detail

Approval is sought for additions and alterations to an existing place of worship building at 40 Collick Street Hilton, and a change of land use to Child Care Premises. The proposed works include:

- Change of land use to Child Care premises as defined in Local Planning Scheme 4.
- Additions to the southern side of the existing building.
- Internal fit out works to accommodate the proposed land use.
- The removal of existing parking bays to accommodate children's play areas and the reorientation of car parking.

Amended development plans are included as attachment 1. It is noted that the site plan shows the inclusion of two parking bays on Holmes Place and that these will be subject to further formal consideration and approvals by the City's Engineering and Project Delivery team, however it is noted that the City's Engineering team has provided in principle support for these bays.

The applicant submitted amended plans on 18 February 2022 demonstrating compliance with the recommendations of the submitted acoustic report comprising Perspex screening to the children's play area and a 0.3m high screen on top of the dividing fence to the north.

Site/application information

Date received:	13 December 2021
Owner name:	Perth Diocesan Trustees
Submitted by:	Dynamic Planning and Developments
Scheme:	Residential R20/25
Heritage listing:	Hilton Heritage Area
Existing land use:	Place of Worship
Use class:	Child Care Premises
Use permissibility:	A



OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones Seconded: Cr Su Groome

Council

SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions and alterations to existing building and change of use to Child Care Premises at No. 40 Collick Street (Lot 76), Hilton, subject to the conditions outlined in the responsible authority report.



Form 1 – Responsible Authority Report
(Regulation 12)

DAP Name:	Metro Inner South
Local Government Area:	City of Fremantle
Applicant:	Dynamic Planning
Owner:	Perth Diocesan Trustees
Value of Development:	\$2.1million <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:	DAP006/21
DAP File No:	DAP/21/02143
Application Received Date:	13 December 2021
Report Due Date:	4 March 2022
Application Statutory Process Timeframe:	90 days
Attachment(s):	1. Site aerial plan 2. Development plans and elevations 3. Planning Committee minutes 4. Applicants supporting report 5. Traffic Impact Statement 6. Acoustic report



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

Responsible Authority Recommendation

That the Metro Inner South JDAP resolves to:

1. **Accept** that the DAP Application reference DAP/21/02143 is appropriate for consideration as a "Child Care Premises" land use and compatible with the objectives of the zoning table in City of Fremantle Local Planning Scheme No. 4;
2. **Approve** DAP Application reference DAP/21/02143 and accompanying plans (A100 Rev D, A101 Rev AA, A103 Rev AA, A104 Rev AA – dated 18 February 2022) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of City of Fremantle Local Planning Scheme 4.

Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of 4 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.



3. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.
4. Prior to the occupation of the development hereby approved, any redundant crossovers shall be removed and the verge and kerbing reinstated to the City's specifications, at the expense of the applicant and to the satisfaction of the City of Fremantle.
5. Prior to the issue of a Building Permit for the development hereby approved, details of how the recommendations contained in the Acoustic Report (Ref: 28783-1-21446), prepared by Herring Storer Acoustics, dated 3 December 2021 and are to be implemented are to be submitted to the satisfaction of the City of Fremantle.
6. Prior to lodging an application for a building permit, storm water disposal plans, details and calculations must be submitted for approval by the City of Fremantle and thereafter implemented, constructed and maintained to the satisfaction of the City of Fremantle.
7. Prior to the issue of a building permit, a detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.
8. Prior to the occupation of the development, the approved landscaping 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.
9. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste
 - Additional management requirements to be implemented and maintained for the life of the development.

The waste management plan should give consideration to the fact the City is required to manage residential waste. As a result, the waste management plan will need to align with the waste services available to residents. The Waste



Management Plan must be implemented at all times to the satisfaction of the City of Fremantle.

10. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
11. Prior to the issue of a Building Permit for the development hereby approved, an outdoor lighting plan must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties.
12. Prior to the occupation of the development hereby approved, 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.
13. 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.
14. Prior to the issue of a Building Permit or Demolition Permit a Construction/Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:
 - a) Use of City car parking bays for construction related activities;
 - b) Protection of infrastructure and street trees within the road reserve;
 - c) Security fencing around construction sites;
 - d) Gantries;
 - e) Access to site by construction vehicles;
 - f) Contact details;
 - g) Site offices;
 - h) Noise - Construction work and deliveries;
 - i) Sand drift and dust management;
 - j) Waste management;
 - k) Dewatering management plan;
 - l) Traffic management; and
 - m) Works affecting pedestrian areas.



Dewatering application must include:-

- Written approval from department of Water and Department of Park and Wildlife
- Dewatering impact report
- Demonstrated compliance with Swan Trust Policy SRT/DE6
- Before discharge in to the City's storm water system, they need to have a sediment control and weekly monitoring plan.

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

Add below advice note with this condition

15. 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

1. It is recommended that the applicant liaise with the adjoining property owner (s) regarding the possible retention or replacement of the existing dividing fence along the common lot boundary. Please refer to the Dividing Fences Act 1961 for the rights and responsibilities of land owners regarding dividing fences. Information is available at the following website:
http://buildingcommission.wa.gov.au/bid/Dividing_Fences.aspx.
2. Further to the condition of approval requiring that all works be contained to the subject site, the applicant is advised that further approval of the final details of the on street parking bays shown in Holmes Place shall be submitted to the satisfaction of the City's Infrastructure and Project Delivery directorate prior to the implementation of these bays.
3. 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.
4. The applicant is advised that a crossover permit must be obtained from the City's Engineering Department. New/modified crossover(s) shall comply with



the City's standard for crossovers, which are available on the City of Fremantle's web site. The City's crossover specifications can be found via the following link: <https://www.fremantle.wa.gov.au/crossovers>.

5. The applicant is encouraged to maintain the adjacent verge in accordance with the City's Verge Garden Policy which can be found on the City website at: <https://www.fremantle.wa.gov.au/resident-perks>
6. Prior to commencement of development the existing trees within the road reserve and on site trees to be retained, shown on the approved plans shall be protected through the implementation of a Tree Protection Zone for protection during construction. Additional information with regard to the tree protection zone requirements can be found here:
<https://www.fremantle.wa.gov.au/residents/trees-and-verges>.
7. The applicant is advised that additional information in relation to the City's waste management requirements can be found here:
<https://www.fremantle.wa.gov.au/residents/waste-and-recycling>
8. The premises must comply with the *Food Act 2008*, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the *Food Act 2008*. For further information contact Environmental Health Services on 9432 9999 or via health@fremantle.wa.gov.au.
9. 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>



10. If construction works involve the emission of noise above the assigned levels in the *Environmental Protection (Noise) Regulations 1997*, they should only occur on Monday to Saturday between 7.00 am and 7.00 pm (excluding public holidays). In instances where such construction work needs to be performed outside these hours, an *Application for Approval of a Noise Management Plan* must be submitted to the City of Fremantle Environmental Health Services for approval at least 7 days before construction can commence.

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

11. 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.

12. The applicant is advised that any signage may be subject to a separate application for planning approval.

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme - Zone/Reserve	Urban Zone
Local Planning Scheme	Local Planning Scheme 4



Local Planning Scheme - Zone/Reserve	Residential
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan - Land Use Designation	N/A
Use Class and permissibility:	Child Care Premises – A
Lot Size:	1500m ²
Existing Land Use:	Place of Worship
State Heritage Register	No
Local Heritage	<input type="checkbox"/> N/A <input 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 proposal comprises a change of use from a Place of Worship to Child Care Premises and additions and alterations to the existing building on the subject site.



The proposal also includes the removal of existing on-site car parking bays to provide child play areas.

The existing access point from Collick Street is proposed to be retained and will be upgraded in line with the modified parking area on site. Approximately half of the paved parking area on site will be removed and replaced with a children's play area. In addition to internal alterations to effect the proposed use, the proposal includes additions to the southern portion of the building close to Holmes Place.

The proposal comprises the following:

1. Five staff bicycle parking bays.
2. Conversion of part of the existing parking area to children's play area.
3. Modification to existing car park alignment.
4. Additions to the southern portion of the existing building to accommodate additional internal floor area.
5. 1.8m high fencing around the children's play area.
6. 483m² outdoor play area (split into two spaces) and 462m² gross floor area.
7. Façade modifications to align with the proposed use.
8. Places for 63 children and 8 staff, operating 7am to 6.30pm Monday to Friday.

On 18 February 2022 the applicant submitted revised plans which included the fencing treatments as recommended in the submitted Herring Storer Acoustic report. Although the treatments do not align completely with the recommendations of the Acoustic report, the applicant has provided confirmation from their acoustic consultant that the proposed treatment will be suitable.

Proposed Land Use	Child Care Premises
Proposed Net Lettable Area	456m ²
Proposed No. Storeys	One
Proposed No. Dwellings	N/A

Background:



The subject building was constructed in the 1970s as a Place of Worship, operating as an Anglican Church. The site is serviced via a parking area accessed via a crossover on Collick Street which is proposed to be retained. In 2010 the existing parking area on site was expanded to include the previously grassed area in the southwestern corner of the site. This additional parking area is intended to be replaced by children's play area as a result of this application. In 2009 approval was given for a universal access ramp and balustrading to the building.

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

Local Policies

- | | |
|------------------------------|--|
| • Local Planning Policy 1.3 | Public Notification of Planning Proposals; |
| • Local Planning Policy 1.10 | Construction Sites; |
| • Local Planning Policy 2.8 | Fences Policy |
| • Local Planning Policy 3.7 | Hilton Heritage Area |
| • Local Planning Policy 2.14 | Advertisements Policy |

Consultation:

Public Consultation

The subject application was advertised via letters to surrounding landowners between 7 January 2022 and 27 January 2022. In response, the City received one submission which raised concerns with the subject proposal, the matters raised in the submission are discussed below.



Issue Raised	Officer comments
The childcare centre is in close proximity to another centre, and Collick Street already has a school on the street.	This is discussed in relation to Planning Bulletin 72/2009 – Child Care Centres in the officer comment section below.
There is insufficient parking on site for staff and the submitter was concerned about staff parking in surrounding streets and verges.	The provision of parking for the development is discussed in the Officer Comment section of the report.
The proposed façade design is overly coloured and will be in stark contrast to the surrounding streetscape.	The proposed development has been reviewed by the City’s heritage officers in the context of the Hilton Heritage area and considered to be worthy of support as the proposal will not decrease the heritage value of the Hilton heritage area.

The applicant also provided the following response to the submission:

- *The proximity to other centres is a commercial consideration which isn’t considered as part of the planning process.*
- *The proximity of the development to schools is encouraged by the planning system and increases the demand for childcare centres in the area.*
- *Concerns around the lack of staff parking should be alleviated with the updated site plan (attached) which depicts an additional two street parking bays in Holmes Place. This will result in a compliant provision of parking on site and sufficient parking for staff members at the facility.*
- *The façade of the development is considered to incorporate colour and other playful elements to ensure the built form is consistent with a childcare centre development. Feedback from DRP’s when we are*



dealing with childcare centres is that they are often keen to see playful facades and designs.

The applicant also provided an updated site plan indicating the retention of an existing on site tree, and the provision of two on street parking bays in Holmes Place.

Planning Assessment:

Land use

Provision	Requirement	Proposal	Assessment
Local Planning Scheme 4 cl. 3.3 – Zoning Table	Child Care Premises – A use in residential zone	Proposed Child Care Premises	See comments below

A Child Care Premises is an 'A' use in the Residential Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval and consultation has been undertaken in accordance with the Planning and Development Regulations. In considering an 'A' 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:

- (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:

- Child care premises are common in residential areas and serve the local community,
- Due to the increased incidences of working from home in recent years child care premises may have received additional patronage as parents who work from home requiring fewer distractions and inability to use
- The use is only proposed to be operational during daytime hours, resulting in limited disturbances overnight when residential properties are more typically occupied and expecting a certain level of quiet. The premises is open early in the morning and into the evening, however the applicant has put forward management strategies to assist in mitigating the potential impact to the amenity of adjoining residences during this time.
- The use is in close proximity to a number of local schools and it is not unreasonable to consider childcare services as a supporting industry to a school.

On Site Car Parking

Provision	Requirement	Proposal	Assessment
Local Planning Scheme 4 cl. 4.7 – Vehicle Parking	Car parking bays 1: Employee plus 1: 10 children allowed under maximum capacity 9 employees & 63 children – 15.3 (16) bays	Proposed: 14 parking bays	2 bay shortfall See comments below
	Delivery bays Not applicable	N/A	N/A



	Bicycle racks	5 provided	N/A
	Not applicable		

It is noted that the City's Infrastructure team have reviewed the proposal and have put forward the possibility of the installation of drop off and pick up bays being provided in Holmes Place for the development to assist in providing a greater number of parking bays for the development. This element is noted but would be subject to further approvals outside the development application process and while shown on the site plan, may not be pursued by the operator. As a result this is noted however is not directly able to be considered in the above discretionary assessment of parking provision for the development.

The proposed provision of car parking for the use is considered appropriate in accordance with the following considerations under Local Planning Scheme 4 cl. 4.7.3.1:

- The site is in close proximity to public transport services through Hilton and may be used by local parents who may walk their children to the site, resulting in a lesser need for parking.
- The driveway is designed to allow for both entry and exit from the site, meaning that parents can facilitate a quick drop off and pick up for their children, leading to the available bays generally not being in use for long periods of time and a reduction in queuing.
- The centre being open to 6.30pm suggests that pick up and drop off of children can be staggered to reduce the incidence of all parents seeking to drop off their children at once.
- The applicant has provided five staff bicycle bays over and above the Local Planning Scheme 4 requirement (0) to assist in the use of alternative transport modes by staff.
- The applicant notes the compliant provision of pick up and drop off bays for the site, resulting in efficient pick up and drop off.
- The nature of the staffing roster suggested by the applicant is such that fewer staff will be on site during pick up and drop of so staff bays can be made available for parents.

Traffic

In accordance with the relevant Planning Bulletin, the proposal is supported with the inclusion of a traffic impact statement demonstrating that the traffic impact of the subject development will be readily absorbed by the existing road network. The impact statement, prepared by Cardno found the following:



- The site is located approximately 10m from a bus stop servicing Transperth Route 160.
- Access to the site by walking and bicycle is good, with facilities under the Perth bicycle network within the immediate locality.
- The development is expected to generate approximately 50 vehicle trips in the morning peak, and 51 trips in the afternoon peak, with this level of traffic generation expected to have no impact on the surrounding road network.
- The proposed parking provision exhibits a shortfall however the development is considered to satisfy the relevant discretionary criteria of LPS4 due to the provision of public transport facilities and the centre being located close to residential dwellings.

In accordance with the submitted assessment, the development is not considered to unduly impact the locality with respect to increased traffic movements commensurate to the 63 childcare placements provided at the centre.

Hilton Heritage area

The subject site is located within the Hilton Heritage area which has an associated policy which seeks to vary a number of the requirements of the Residential Design Codes. In this instance, the requirements of the policy are noted, however as the subject proposal does not comprise residential development, the majority of the provisions of the policy do not directly apply.

In accordance with Cl. 7 of the policy, where development is associated with a non-Residential use class, the development shall be compatible with the heritage significance of the "Hilton Garden Suburb Precinct" Heritage Area as well as the relevant requirements of Local Planning Scheme 4.



In this regard the proposal has been reviewed by the City's Heritage Officers in the context of the Hilton Heritage areas and supported on the following grounds:

- The proposed works involve the refurbishment and adaptation of an existing C.1970 Anglican Church for use as a child care facility
- These works are acceptable from a heritage perspective as they will not reduce the existing heritage significance of the heritage area:
 - The building is not individually heritage listed and was constructed after the main area of residential development in Hilton was complete. The place itself has limited heritage value.
 - The works are largely internal.
 - The height and massing of the building has not been significantly increased and the changes to the exterior are largely cosmetic.

Fencing

The City's Fencing Policy LPP 2.8 is applicable all areas zoned under the City's Planning Scheme except where superseded by specific policy provisions applying to a local area, such as the Hilton heritage area. However in this case, the Hilton policy only modifies the requirements for residential development. As a result the fencing requirements for the site default to those applicable for properties in a heritage area in accordance with LPP 2.8.

The development satisfies these requirements in providing a visually permeable fence with a solid portion no higher than 1 metre. The clear Perspex above the 0.3m high solid fencing portion will remain visually permeable in accordance with the requirements of the fencing policy.

Noise

In accordance with the submitted Herring Storer noise report, the premises will satisfy the relevant noise protection requirements, with the inclusion of the following:

1. Although the proposed facility opens before 7am, the play area is not to be used before 7am resulting in the noise received at adjoining residences complying with the assigned day period noise level.
2. In relation to air conditioning, the report notes the use of existing units. If new air conditioning is installed then an acoustic assessment should be undertaken.



3. the construction of a 2.1m high dividing fence along the northern site boundary to protect from the noise of car doors,
4. Solid fencing up to 1.4m high around the children's outdoor play area to the corner of Collick Street and Holmes Place.

The applicant has provided amended plans which include points 3 and 4 above. On a general level it is noted that the premises is proposed to operate between 7am and 6.30pm only, and will accordingly be unlikely to cause noise nuisance in the evenings and early mornings when residential properties are more sensitive to noise.

The applicant is advised of their obligation to operate in accordance with the requirements of the *Environmental health (Noise) regulations* as a part of the recommended advice notes.

Signage

The proposed signage satisfies the requirements of the City's Advertisements Policy (LPP 2.14) in that the pylon sign is as high as the existing building on site, and does not limit surveillance and view between the building and street. The signage is not proposed to be illuminated or animated.

The wall sign above the building entry is likewise compliant with the policy in not projecting beyond the adjoining wall.

WAPC Planning Bulletin 72/2009 – Child Care Centres

A planning bulletin provides advice on legislation, planning practice, development control and policy positions of the WAPC. It is not a policy, rather is guidance on how certain uses or development types should be reviewed by decision makers.

In accordance with the applicant's submission, the proposed development addresses the Child Care Centre planning bulletin:

- The proposal is located in close proximity to only one other childcare centre.



- The proposed development is compatible with the Residential zoning under LPS4 and appropriately addresses the relevant potential amenity impacts of a development of this nature (noise and traffic).
- The site is of sufficient size and of flat topography, readily accommodating the development and is not located on contaminated property or on a major road or intersection.
- The design of the centre generally reflects that of the repurposed church, with minor aesthetic changes to reflect the intended new use.
- The outdoor play area has been located safely and as far away from noise sensitive residential properties as possible, with parking areas provided directly off Collick Street.

Conclusion:

In accordance with the above considerations, the proposed childcare centre is considered appropriate for approval, subject to conditions. The reuse of the existing building is considered to be a worthwhile outcome rather than its demolition and construction of a new building on site. The applicant has demonstrated that the development can operate without unduly impacting the surrounding residences with respect to noise emanating from the premises and that the traffic impact of the use will be limited and accommodated within the existing road network.

AMENDMENT 1

Moved: Cr Hannah Fitzhardinge

Seconded: Cr Adin Lang

Add a condition 16 to read as follows:

Condition 16: Prior to the lodgement of a building permit, the applicant shall provide a verge landscaping plan for the Collick Street and Holmes Place frontages to be approved. Prior to occupation of the development, the landscaping shall be installed to the satisfaction of the City of Fremantle.

Amendment carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Carmarda,
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



AMENDMENT 2

Moved: Cr Ben Lawver

Seconded: Cr Hannah Fitzhardinge

Add a condition 17 to read as follows:

Condition 17: The pylon sign shown on the plans does not form part of this approval.

Amendment carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Carmarda,
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**

COMMITTEE DECISION ITEM PC2203-4
(Amended officer's recommendation)

Council

**SUPPORT the Officer's Recommendation to APPROVE, under the
Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions
and alterations to existing building and change of use to Child Care
Premises at No. 40 Collick Street (Lot 76), Hilton, subject to the conditions
outlined in the responsible authority report.**



Form 1 – Responsible Authority Report
(Regulation 12)

DAP Name:	Metro Inner South
Local Government Area:	City of Fremantle
Applicant:	Dynamic Planning
Owner:	Perth Diocesan Trustees
Value of Development:	\$2.1million <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:	DAP006/21
DAP File No:	DAP/21/02143
Application Received Date:	13 December 2021
Report Due Date:	4 March 2022
Application Statutory Process Timeframe:	90 days
Attachment(s):	7. Site aerial plan 8. Development plans and elevations 9. Planning Committee minutes 10. Applicants supporting report 11. Traffic Impact Statement 12. Acoustic report



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

Responsible Authority Recommendation

That the Metro Inner South JDAP resolves to:

1. Accept that the DAP Application reference DAP/21/02143 is appropriate for consideration as a “Child Care Premises” land use and compatible with the objectives of the zoning table in City of Fremantle Local Planning Scheme No. 4;
2. Approve DAP Application reference DAP/21/02143 and accompanying plans (A100 Rev D, A101 Rev AA, A103 Rev AA, A104 Rev AA – dated 18 February 2022) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of City of Fremantle Local Planning Scheme 4.

Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.
2. This decision constitutes planning approval only and is valid for a period of 4 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.

3. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.
4. Prior to the occupation of the development hereby approved, any redundant crossovers shall be removed and the verge and kerbing reinstated to the City's specifications, at the expense of the applicant and to the satisfaction of the City of Fremantle.
5. Prior to the issue of a Building Permit for the development hereby approved, details of how the recommendations contained in the Acoustic Report (Ref: 28783-1-21446), prepared by Herring Storer Acoustics, dated 3 December 2021 and are to be implemented are to be submitted to the satisfaction of the City of Fremantle.
6. Prior to lodging an application for a building permit, storm water disposal plans, details and calculations must be submitted for approval by the City of Fremantle and thereafter implemented, constructed and maintained to the satisfaction of the City of Fremantle.
7. Prior to the issue of a building permit, a detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.
8. Prior to the occupation of the development, the approved landscaping 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.
9. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
 - Estimated waste generation
 - Proposed storage of receptacles
 - Collection methodology for waste



- **Additional management requirements to be implemented and maintained for the life of the development.**

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

- 10. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 11. Prior to the issue of a Building Permit for the development hereby approved, an outdoor lighting plan must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties.**
- 12. Prior to the occupation of the development hereby approved, 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.**
- 13. 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.**
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- k) Dewatering management plan;**
- l) Traffic management; and**
- m) Works affecting pedestrian areas.**

Dewatering application must include:-

- Written approval from department of Water and Department of Park and Wildlife**
- Dewatering impact report**
- Demonstrated compliance with Swan Trust Policy SRT/DE6**
- Before discharge in to the City's storm water system, they need to have a sediment control and weekly monitoring plan.**

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

Add below advice note with this condition

15. 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.

16. *Prior to the lodgement of a building permit, the applicant shall provide a verge landscaping plan for the Collick Street and Holmes Place frontages to be approved. Prior to occupation of the development, the landscaping shall be installed to the satisfaction of the City of Fremantle.*

17. *The pylon sign shown on the plans does not form part of this approval.*



Advice Notes

- 1. It is recommended that the applicant liaise with the adjoining property owner (s) regarding the possible retention or replacement of the existing dividing fence along the common lot boundary. Please refer to the Dividing Fences Act 1961 for the rights and responsibilities of land owners regarding dividing fences. Information is available at the following website:
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7. The applicant is advised that additional information in relation to the City's waste management requirements can be found here: <https://www.fremantle.wa.gov.au/residents/waste-and-recycling>

8. The premises must comply with the *Food Act 2008*, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the *Food Act 2008*. For further information contact Environmental Health Services on 9432 9999 or via health@fremantle.wa.gov.au.

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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>

10. If construction works involve the emission of noise above the assigned levels in the *Environmental Protection (Noise) Regulations 1997*, they should only occur on Monday to Saturday between 7.00 am and 7.00 pm (excluding public holidays). In instances where such construction work needs to be performed outside these hours, an *Application for Approval of a Noise Management Plan* must be submitted to the City of Fremantle Environmental Health Services for approval at least 7 days before construction can commence.

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



11. 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.

12. The applicant is advised that any signage may be subject to a separate application for planning approval.

Carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



PC2203-7 AMHERST STREET, NO. 7D (STRATA LOT 1) – DETACHED ADDITIONS TO SINGLE STOREY GROUPED DWELLING (TG DA0315/21)

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

SUMMARY

Approval is sought for a single storey, two room garden pavilion to the front yard of 7D Amherst Street in Fremantle.

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 Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- **Primary Street setback**

The application is recommended for on-balance refusal.

PROPOSAL

Detail

Approval is sought for the addition of a single storey, two room detached addition to an existing Grouped Dwelling at 7D Amherst Street in Fremantle. The proposed works include:

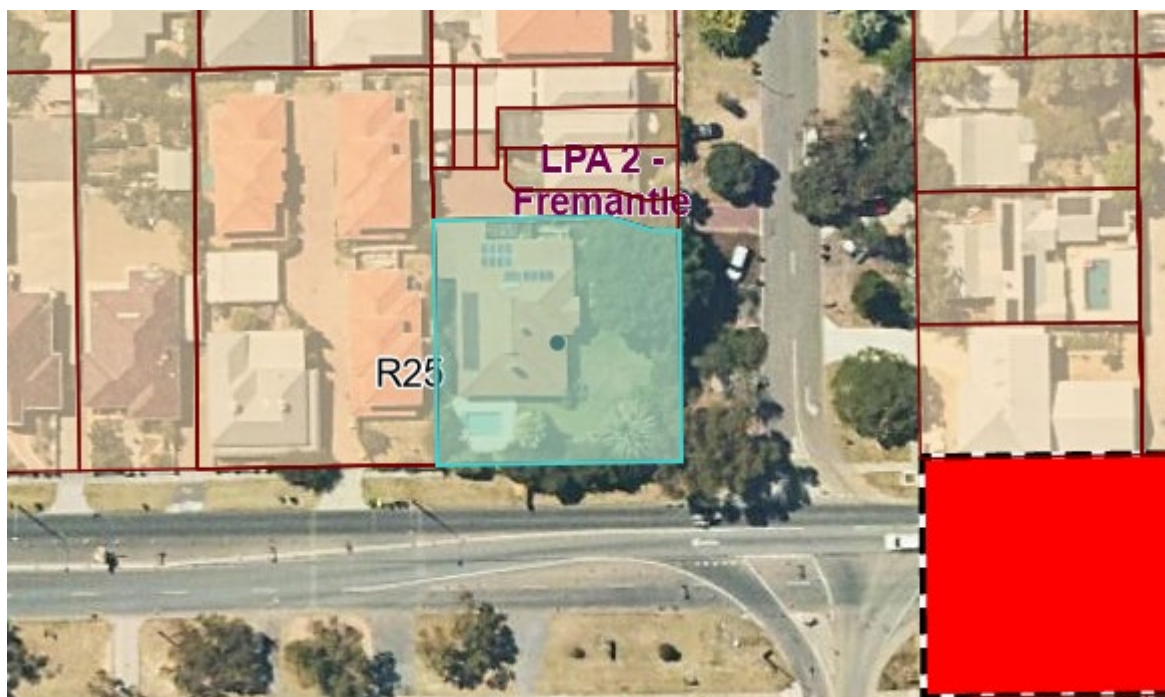
- The demolition of existing garden beds and retaining walls to support the proposed excavation works.
- The addition of a two room (bedroom with ensuite and studio) 'garden pavilion' to the front yard of the subject site. The pavilion provides an outdoor living area patio to its northern side.

The applicant submitted amended plans on 12 January 2022 to remove kitchen facilities from the proposed plans as a self-contained ancillary dwelling is not able to be approved on the subject site.

Amended development plans are included as attachment 1.

Site/application information

Date received:	27 July 2021
Owner name:	DJ Holden, LA Sinclair
Submitted by:	GM Tonossi
Scheme:	Residential R25
Heritage listing:	Individually Listed Category 2
Existing land use:	Grouped Dwelling
Use permissibility:	D



CONSULTATION

External referrals



Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal sought to vary the primary street setback for the site. The advertising period concluded on 19 August 2021, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

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

- Primary Street Setback

The above matters are discussed below.

Background

The subject site is located on the corner of High Street and Amherst Street in Fremantle. The site has a land area of approximately 945m² and is currently occupied by a Grouped Dwelling, being the original dwelling on the later subdivided parent lot. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed, management category 2.

The site has a site level difference of approximately two metres down from High Street and retaining walls have previously been constructed to the site to create a level yard. The proposed development will result in the removal of some retaining walls, an existing palm tree and excavation to the south-east corner of the site.

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

- DA0474/14 – Pool and secondary street fence addition to Grouped Dwelling (approved).



- DA0465/12 – Primary and secondary street fencing additions (refused).

Note: the existing primary street fencing was proposed to be made wholly solid to 1.8m high as a result of the application, and the proposal was refused as it was inconsistent with the City's fencing policy.

Primary Street Setback

Element	Requirement	Proposed	Extent of Variation
Minimum street setback (Amherst Street)	5m	1.5m	3.5m

In considering the impact of the proposed addition, LPP 2.9 Residential Streetscape Policy forms part of the assessment. In reviewing the application against this policy, while on balance it is not supported, there are also some elements which lend it to being supported. These are outlined in two sections below.

The proposed primary street setback is not considered worthy of support in accordance with the discretionary criteria (Cl. 1.2, ii) of LPP 2.9:

- The primary impact of the development is for road users and pedestrians travelling south along Amherst Street towards High Street.
- The proposed addition may result in a projecting element into the Amherst Street streetscape as the structure is set well forward of the established building line. Although it is noted that by virtue of the proposed finished level of the building and the topography of the land, the building will be set below the existing fencing, the proposed setback, in combination with the heritage concerns discussed below result in the proposal not being able to be supported.
- In relation to the above, it is noted that the building could also act as a precedent within the streetscape for other development which would be more visually obtrusive.
- All dwellings north of the property on this side of Amherst Street satisfy the minimum 5m primary street setback or exhibit a greater setback from the primary street per the below imagery.
- While it is noted that the subject site is limited in its ability to develop on site due to the original subdivision layout for the parent property and some existing features, it is considered that there are less prominent locations in which an addition could be accommodated such as adjacent to the existing dwelling while set behind the Amherst Street building façade.



It is however noted that the development could be considered to satisfy the discretionary criteria of LPP 2.9 for the following reasons:

- The subject site is heavily vegetated (refer to the site photos provided as additional information) resulting in the existing heritage dwelling not being readily visible from both the primary and secondary street setback area. Although these trees and bushes could be cleared from the site without approval being required, at present the existing dwelling is not readily visible from the street, and the addition would likewise not be readily visible from the street. Accordingly it could be considered that the addition will not result in a projecting element into the existing Amherst Street streetscape and therefore comply with the discretionary criteria of LPP 2.9.
- The building is to be set into the site level at the south-eastern site corner by 1.2m and the roofline sits below the existing fencing.
- When viewed by road users travelling along High Street or turning onto Amherst Street travelling north, the addition will not be readily visible due to the existing fence and heavy vegetation along the eastern boundary of the site.
- The addition proposes a reasonable level of separation from the existing heritage home, which assists in helping it be read as a different structure and limit its impact when viewed from front on.

On the basis of the above, an alternative recommendation for the application to be approved has been provided.



Image 1: Prevailing streetscape of Amherst Street with approximate location of addition shown in red.

The development has also been considered against the relevant design principles of the R-Codes (5.1.2):

5.1.2 – Street setbacks	
Design Principles	Complies
P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:	
<input type="checkbox"/> contribute to, and are consistent with, an established streetscape;	No – the addition is considered to project into the streetscape of this portion of Amherst Street.



<input type="checkbox"/> provide adequate privacy and open space for dwellings;	Yes – the development complies with open space requirements visual privacy requirements.
<input type="checkbox"/> accommodate site planning requirements such as parking, landscape and utilities; and	Yes – Readily accommodated on site as existing.
<input type="checkbox"/> allow safety clearances for easements for essential service corridors.	Yes – unaffected by the proposed development.
P2.2 Buildings mass and form that:	
<input type="checkbox"/> uses design features to affect the size and scale of the building;	Yes – the building has been designed to be set well below the existing street level to reduce its prominence.
<input type="checkbox"/> uses appropriate minor projections that do not detract from the character of the streetscape;	N/A – no minor projection proposed.
<input type="checkbox"/> minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and	Yes – limited area of blank wall and appropriate provision of vehicle parking supply provided.
<input type="checkbox"/> positively contributes to the prevailing development context and streetscape as outlined in the local planning framework.	<p>No – the development is considered inconsistent with the required street setbacks and to result in an undue projecting element into the streetscape of the subject portion of Amherst Street</p> <p>LPP 2.9 indicates the City’s requirements with respect to the setback of new dwellings and the discretionary criteria have not been adequately addressed in this instance.</p>



In accordance with the above, it is noted that the addition satisfies some of the design principles and some may be argued to have been met due to the reduced prominence of the addition. On this basis, although the application is recommended for refusal on balance, an alternative recommendation for the application to be approved has been provided.

Heritage Impact

The proposed development has been considered by the City's Heritage officers as the subject building on site is an individually heritage listed building on the City's Heritage list. As a result of this assessment, it has been found that the proposed addition would have an impact upon the aesthetic significance of the existing dwelling, which was constructed prior to 1914.

Although the addition is not attached to the main dwelling and will not have a direct impact upon the physical fabric of the building, the dwelling on site is a corner building which makes an important contribution to the streetscape of the area, with new development recommended to take place behind the building line.

Although the dwelling is currently largely concealed from the street by dense planting, this type of screening is not able to be readily considered in a heritage assessment as landscaping is not a permanent feature and may be removed or reduced in the future. The vegetation does not form part of the heritage significance of this building. In addition, although the addition is noted to be set well below the street level, it is still set forward of the main facades of the dwelling on this visually prominent corner.

For these reasons, it has been recommended that the proposal not be supported on heritage grounds.

CONCLUSION

In accordance with the above considerations, although the addition has been designed to be as visually unobtrusive as possible through reducing the finished level of the addition to reduce its prominence and being setback a reasonable distance from the existing house, it is considered that the proposed primary street setback is not able to be supported in accordance with LPP 2.9, and will have a major impact upon the existing heritage listed dwelling. For these reasons, the proposal is recommended for refusal. Should the PC consider that the reduced visibility of the addition satisfies the discretionary criteria of LPP 2.9 in not unduly projecting into the established streetscape, an alternative recommendation for the application to be approved is provided.



Alternative recommendation:

Council:

Approve, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the detached alterations to existing Grouped Dwelling at No. 7D (Strata Lot 1) Amherst Street, Fremantle, subject to the following 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 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. 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.*

Advice notes

- i) A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.*
- ii) The applicant is advised that the subject proposal has been approved as an addition to the existing dwelling only, and not an Ancillary Dwelling as defined in the Residential Design Codes. The applicant is advised that the City would not be able to support alterations to the addition which would result in the building becoming self contained.*

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil



OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones

Seconded: Cr Hannah Fitzhardinge

Council:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the detached additions to existing Grouped Dwelling at No. 7D (Strata Lot 1) Amherst Street, Fremantle, as detailed on plans dated 12 January 2022, for the following reasons:

1. The street setback of the upper floor of the dwelling does not satisfy the variation criteria of Local Planning Policy 2.9 as the setback is inconsistent with the setback of comparable height in the prevailing streetscape and results in a projecting element into the established streetscape.
2. The proposed addition is contrary to the objectives of the residential zone (Local Planning Scheme 4 3.2.1 (a) (v) as the works will negatively impact the heritage significance of the existing individually heritage listed dwelling on the subject site by virtue of it being set forward of the existing dwelling. The addition will have a major impact upon the heritage significance of the existing dwelling due to its reduced setback.
3. The street setback of the addition does not satisfy the design principles of State Planning Policy 3.1 (Residential Design Codes of WA) as the setback is inconsistent with the established streetscape and does not positively contribute to the prevailing or future development context.
4. 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 (2) (a) (k) and (m) of the Deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

LOST: 0/7

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



COMMITTEE DECISION ITEM PC2203-7
(Alternative officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Adin Lang

Council:

Approve, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the detached alterations to existing Grouped Dwelling at No. 7D (Strata Lot 1) Amherst Street, Fremantle, subject to the following 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 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. 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.***

Advice notes

- i) A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.***
- ii) The applicant is advised that the subject proposal has been approved as an addition to the existing dwelling only, and not an Ancillary Dwelling as defined in the Residential Design Codes. The applicant is advised that the City would not be able to support alterations to the addition which would result in the building becoming self contained.***



Carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**

Reason for change

The proposed development is not considered to negatively impact on the heritage significance of the existing dwelling and is consistent with the objectives of the City's Streetscape Policy.



PC2203-9 MONTGOMERY STREET, NO. 6 (LOT 1) BEACONSFIELD - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE (JCL DA0434/21)

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

SUMMARY

Approval is sought for additions to an existing Single house at No. 6 (Lot 1) Montgomery Street, Beaconsfield.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- **Boundary wall (east)**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for Additions and alterations to the existing Single house at No. 6 (Lot 1) Montgomery Street, Beaconsfield. The proposed works include:

- Rear addition comprising Master Bedroom with Ensuite and walk-in-robe, in addition to an atrium garden connected to main dwelling by walkway;
- New concrete plinth and fireplace to existing verandah; and,
- New concrete steps to existing verandah.

The applicant submitted amended plans on 10 February 2022 including the following:



- Indication of features on eastern neighbours property;
- Indication that existing rear dividing fences shared with northern and eastern neighbours will be retained;
- Indication of shadow cast at winter solstice;
- Cross section of addition and neighbours dwelling; and,
- Natural ground levels demonstrated on eastern lot boundary.

Additional amended plans were provided on 15 February 2022 incorporating the amendments provided on the above amended plans, in addition to the removal of the pool and associated decking and pool fencing.

Development plans are included as attachment 1.

Site/application information

Date received:	4 October 2021
Owner name:	James Whincup and Katja Whincup
Submitted by:	Hawkins Building Co. Pty Ltd
Scheme:	Residential R20
Heritage listing:	Not Listed or in Heritage Area
Existing land use:	Single house
Use class:	Single house
Use permissibility:	P



CONSULTATION

External referrals

Nil required.

Community

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

- Removal of dividing fence not supported as it is unnecessary and was recently constructed; and,
- Height of proposed addition is concerning due to blocking sunlight to bedroom/study and entertaining room caused by the construction of a 3m high wall and additional fencing.

In response to the above, the applicant submitted revised plans to address the following / the following response:



- Amended plans were provided to confirm that the height of the wall above natural ground level at the eastern neighbours lot boundary is 2.1m;
- Confirmation was provided stating that the existing dividing fence shared with the eastern neighbour is to remain (this is reflected in the amended plans); and,
- The height of the boundary wall is 50mm above the height of the existing dividing fence with a roof pitch of 30 degrees. Therefore, there will be no shading of the neighbours property until 5-6pm in summer, with little impact during winter months.

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

- The retention of the existing dividing fence is noted. It is further noted that dividing fencing matters generally aren't a matter to be considered by the City, rather they are subject to the provisions of the *Dividing Fences Act 1961* (dividing fences with a height of above 1.8m, however, require planning approval); and,
- Discussion relating to the boundary wall is provided in the body of the report.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of 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 area outlined below doesn't meet the Deemed-to-comply or policy provisions and needs to be assessed under the Design principles:

- Boundary wall – east

The above matter is discussed below.

Background

The subject site is located on the north side of Montgomery Street. The site has a land area of approximately 527m² and is currently a Single house. The site is zoned Residential and has a density coding of R20. The site is not individually heritage listed nor located within a Heritage Area.

The site is generally flat, with minor sloping to the north with light vegetation. The site has a ground level approximately 0.7-0.9m lower than the eastern neighbour.

A search of the property file has revealed no relevant planning history for the site.

Boundary wall

Element	Requirement	Proposed	Extent of Variation
East	1m	Nil	1m

The proposed boundary wall is considered to meet the design principles of the R-Codes and the additional criteria of LPP2.4 in the following ways;

- The proposed boundary wall does not result in a loss of access to daylight or direct sunlight owing to its location on the eastern boundary, in addition to the lower topography of the subject site and the height of the proposed boundary wall being approximately the same height as the existing dividing fence (see image 1 below):

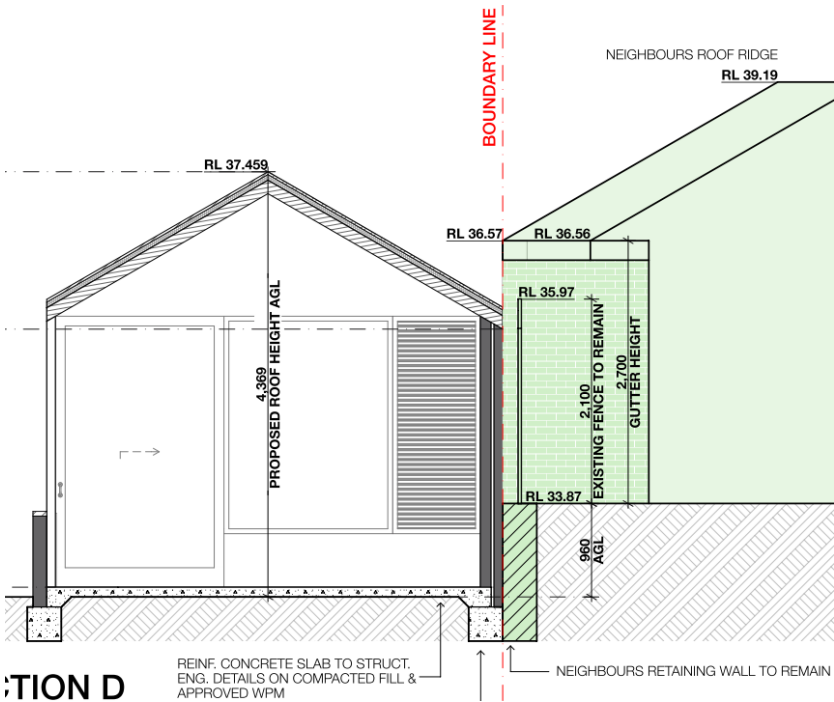


Image 1: cross section of addition and interface with eastern neighbours property.



- The boundary wall is not considered to contribute to a sense of confinement or building bulk given the above reasons, and the rest of the development is sufficiently setback from this boundary; and,
- The boundary wall does not impact on any views of significance or existing significant vegetation.

CONCLUSION

On balance, it is considered that the proposed eastern boundary wall setback variation is supportable given the rest of the development complies with the deemed-to-comply provisions of the RCodes, and the variation is supported against the provisions of LPP 2.4 above. Therefore, it is recommended that the application be supported subject to the conditions contained in the officer recommendation below.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2203-9 **(Officer's recommendation)**

Moved: Cr Bryn Jones

Seconded: Cr Fedele Camarda

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions and alterations to existing Single house at No. 6 (Lot 1) Montgomery Street, Beaconsfield, subject to the following conditions:



1. This approval relates only to the development as indicated on the approved plans, dated 15 February 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.

2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.

3. Prior to occupation/use of the development hereby approved, the boundary wall located on the eastern side boundary shall be of a clean finish in any of the following materials:

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

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

ADVICE NOTES

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**
- ii. Fire separation for the proposed building works must comply with Part 3.7.2 of the Building Code of Australia.**



- iii. **Stair construction to comply with Part 3.9.1 of Building Code of Australia.**
Treads must have slip resistant finish.

Riser and going dimensions slope relationship $(2R+G) = 700\text{max}-550\text{min}$

- iv. **The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**

Carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda,
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



PC2203-10 INFORMATION REPORT - MARCH 2022

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

Responsible Officer: Manager Development Approvals
Meeting 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
Meeting 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
No. 271a South Terrace, South Fremantle - Proposed change of use to Small Bar and alterations and additions to existing building
Planning Committee Consideration/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 was held on 4 February 2022. The applicant is invited to submit further information ahead of another mediation session scheduled for 22 March 2022.



2. Application Reference
DA0405/21
Site Address and Proposal
2/284 South Terrace, South Fremantle - Proposed change of use to Shop (Massage Parlour)
Planning Committee Consideration/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 3 January 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner. A Directions Hearing was held on 21 January 2022. A Mediation session between the parties was held on 3 February 2022. The applicant is invited to submit further information ahead of a further mediation session on 17 March 2022.

3. Application Reference
DA0027/21
Site Address and Proposal
12 James Street, Fremantle – Proposed wall sign addition to existing building
Planning Committee Consideration/Decision
<ul style="list-style-type: none"> Nil
Current Status
<ul style="list-style-type: none"> On 31 August 2021 an Application for Review by the State Administrative Tribunal was lodged by the owner. A Directions Hearing was held on 15 October 2021. A Mediation session between the parties was held on 9 November 2021. On 19 January 2022, the applicant submitted amended plans and the City reconsidered its decision at Planning Committee on 2 February 2022. The application for reconsideration was approved. The applicant has now accepted Councils reconsidered decision and withdrawn their appeal.

4. Application Reference
DAPV001/21
Site Address and Proposal



19-21 McCabe Street, North Fremantle– Proposed variation to DAP004/20 (Eight storey mixed use development comprising 13 Grouped Dwellings, 97 Multiple Dwellings, Restaurant, Shop)

Planning Committee Consideration/Decision

- At its meeting held on 2 February 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to refuse the variation and supported an alternate recommendation to approve the variation.
- At its meeting on 15 February 2022, the Joint Development Assessment Panel (JDAP) resolved to defer a decision on the application for a period of eight weeks, to enable further information to be provided on parking and traffic issues.

5. Application Reference

DAP003/21

Site Address and Proposal

26a Marine Terrace, Fremantle – Proposed additions and alterations to existing mixed use development

Planning Committee Consideration/Decision

- At its meeting held on 2 February 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to approve the development and supported an alternate recommendation to refuse the development.
- At its meeting on 15 February 2022, the Joint Development Assessment Panel (JDAP) resolved to approve the development with minor amendments to the Officers Recommendation, removing a condition regarding screening and adding a condition regarding details of materials and finishes.

COMMITTEE DECISION ITEM PC2203-10
(Officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Su Groome

Council receive the following information reports for March 2022:

1. Schedule of applications determined under delegated authority

2. Update on Metro Inner-South JDAP determinations and relevant State Administrative Tribunal applications for review.

Carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda ,
 Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



10.2 Council decision

PC2203-11 REVIEW OF HERITAGE AREAS, DRAFT LOCAL PLANNING POLICY 3.6 'DEVELOPMENT IN HERITAGE AREAS' & REVISIONS LOCAL PLANNING POLICY 1.6 'HERITAGE ASSESMENT' – OUTCOMES OF CONSULTATION

Meeting Date:	2 March 2022
Responsible Officer:	Manager Strategic Planning
Decision Making Authority:	Council
Agenda Attachments:	<ol style="list-style-type: none">1. Schedule of Submissions2. Revised Draft Local Planning Policy 3.6 – Heritage Areas3. Revised Draft Local Planning Policy 1.6 – Heritage Assessment & Protection
Additional Information:	<ol style="list-style-type: none">1. Local Planning Policy 2.6 – Procedure for Amending the Municipal Heritage Inventory (MHI) and Heritage List.2. Local Planning Policy 1.6 – Heritage Assessment

SUMMARY

In July 2021, Council received a report outlining updates recommended to the heritage protection framework including:

- **Revocation of nine heritage areas which no longer meet the definition of a heritage area and / or are subject to separate statutory protections.**
- **Adoption of a new Local Planning Policy 3.6 – Heritage Areas (LPP 3.6) collating statements of significance for each of the remaining areas and documenting how applications in these areas are assessed.**
- **Adoption of a revised Local Planning Policy 1.6 – Heritage Assessment (LPP 1.6) which updates and rationalises the content of both the existing Local Planning Policy 1.6 and Local Planning Policy 2.6 – Procedure for amending the Municipal Heritage Inventory (MHI) and Heritage List.**



The purpose of this report is to consider the outcomes of consultation on these changes.

The report recommends revocation of the nine heritage areas, adoption of the revised Local Planning Policy 1.6 and revocation of Local Planning Policy 2.6 and adoption of the draft new Local Planning Policy 3.6 subject to some minor modifications responding to submissions and clarifications.

BACKGROUND

The City's Local Heritage Survey (LHS) – previously Municipal Heritage Inventory (MHI) – was adopted on 18 September 2000 and contained approximately 4000 places. This included a series of heritage precincts both large and small, recognising that heritage significance is sometimes attached to a grouping of places rather than (or sometimes in addition to) their individual significance.

When the LHS was prepared, it was a non-statutory / advisory list which was used as a reference point but did not automatically invoke planning controls or restrictions. However various changes have taken place since which require reconsideration of the areas and how they are managed. These include the wholesale adoption of the LHS by Council as a protected Heritage List under Local Planning Scheme No. 4 (LPS4), gazettal of State Planning Policy 3.5 – Historic Heritage Conservation, gazettal of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) and, most recently, update of heritage legislation and guidelines. These changes require some update to the way the City manages its heritage areas. Specifically, they:

- Replace the term 'Municipal Heritage Inventory' (MHI) with 'Local Heritage Survey' and amend the review requirements for these.
- Define and clarify statutory protections for Heritage Areas and differentiate between these and individual sites and places.
- Introduce a requirement for each Heritage Area to be subject to a local planning policy defining its statement of significance, contributory places and how development will be managed in the area to preserve heritage significance.

As a consequence, on 21 July 2021 Council's Strategic Planning and Transport Committee considered a report reviewing the City's existing heritage areas and resolved to:



1. *In accordance with Schedule 2, Clause 9 of the Planning and Development (Local Planning Schemes) Regulations 2015, undertake consultation with relevant property owners, as well as the Fremantle Society, Fremantle History Society and Heritage Council of WA on the proposed revocation of the following Heritage Areas, noting the existence of other statutory controls and protections in place for each:*
 - a) *Convict Establishment Heritage Area (Prison Tunnels);*
 - b) *Indian Ocean Precinct;*
 - c) *John Curtin College of the Arts;*
 - d) *Law & Order Precinct;*
 - e) *Lilly Street Precinct;*
 - f) *Monument Hill and War Memorials, Fremantle;*
 - g) *Princess May Reserve;*
 - h) *Swan River Precinct; and*
 - i) *Victoria Pavilion, Fremantle Oval.*
2. *In the event of no objection being received on any given revocation, publish notice of the revoked heritage areas on the City's website, in accordance with Schedule 2, Clause 9 of the Planning and Development (Local Planning Schemes) Regulations 2015, and update the Local Heritage Survey and Heritage List to explicitly include the Prison Tunnels in the Fremantle Prison listing. Any objections to be referred to Council for a final decision.*
3. *Adopt draft Local Planning Policy 3.6 – Heritage Areas provided in Attachment 1 for the purposes of public consultation, in accordance with Schedule 2, Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015 and Local Planning Policy 1.3. Consultation to occur concurrently with the proposed heritage area revocations.*
4. *Adopt revised draft Local Planning Policy 1.6 – Heritage Assessment & Protection provided in Attachment 2 for the purposes of public consultation, in accordance with Schedule 2, Clause 4 of the Planning and Development (Local Planning Schemes) Regulations 2015 and Local Planning Policy 1.3. Consultation to occur concurrently with Local Planning Policy 3.6 – Heritage Areas.*
5. *Note the intention for staff to commence a staged review of the existing and potential heritage areas, focussing initially on the following priority areas:*
 - a) *South Fremantle;*
 - b) *White Gum Valley;*
 - c) *Holland/Forrest Street;*



- d) *North Fremantle; and*
- e) *Fremantle City Centre and areas on the periphery of it.*

Further information on the review process and rationale is outlined in the July 2021 report (SPT21-07-2).

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

- Heritage Area revocation
- Adoption of draft Local Planning Policy 3.6 – Heritage Areas
- Adoption of revised draft Local Planning Policy 1.6 – Heritage Assessment & Protection

Preservation and promotion of the importance of built heritage and history is a component of one of Council's key strategic outcomes, defined in the Strategic Community Plan. The review also contributes to Council's objective to be a transparent and responsive organisation with a high standard of corporate governance.

OFFICER COMMENT

Consultation with affected landowners and tenants was undertaken between 21 October and 26 November 2021 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* and Council's Local Planning Policy 1.3.

At the completion of consultation, 5 submissions had been received, as outlined in Attachment 1. In summary, these include:

- Support for revocations with recommendations for more community involvement in heritage and resources for owners.
- Support for revocation of Lilly Street Heritage Area.
- Consideration of guidelines for places on major transport routes (particularly in relation to fencing).
- Clarification of Management Categories and a place-specific query regarding levels.
- Some suggestions for administrative refinements.



Officers have considered each submission and recommend the following minor changes:

LPP1.6 – Heritage Assessment and Protection

- Correct reference to 'heritage framework' in lieu of 'planning framework'
- Confirm that the heritage significance of a place is determined through a heritage assessment.

LPP 3.6 – Heritage Areas

- Amend fencing requirements to include provision to consider fencing above 1.2m on higher order (primary distributor and district distributor A roads) where necessary to mitigate traffic noise.

During the consultation period, staff have also trialled application of the draft policies and recommend several minor refinements to Local Planning Policy 3.6 to increase clarity, namely:

- Reiteration that the policy relates to contributory places and aspects also relate to non-contributory places.
- Clarification of the application of the setbacks specified in the Residential Streetscape policy (where applicable) via the 'Area Specific Development Guidance' provisions in Schedule 1 of LPP 3.6 as a 'deemed to comply' standard, to maintain the current provisions pending an area-by-area review of these.
- Further clarification of extent of replication versus contrast expected in new buildings and additions.
- Further refinement of hybrid fencing provisions.
- Clarification that roof forms that are contemporary in style (i.e. flat / skillion) may be considered for rear and side additions.
- Various typographic corrections.

Other comments not related to the policies or revocation have been noted and, in the case of the Skinner Street submission, referred to the annual review of heritage listing.

Final revocation of the Heritage Areas and adoption of the revised Draft Local Planning Policy 1.6 – Heritage Assessment & Protection with no change is also recommended.



With adoption of the revised Local Planning Policy 1.6, Local Planning Policy 2.6 can also be revoked as its pertinent content has been included in the revised Local Planning Policy 1.6.

A minor update to the existing Local Planning Policy 2.8 Fences is also required, to amend the permissible front fencing (currently up to 1.8m open style as of right) to reflect the standards proposed by the new Heritage Areas policy.

Separate more detailed reviews of the South Fremantle Heritage Area and White Gum Valley are in train as per resolution 5 above; these will be reported to Council in the coming months.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

The revised policies align with the *Planning and Development (Local Planning Schemes) Regulations 2015* and update terminology to reflect the regulations and new *Heritage Act 2018*.

CONSULTATION

Consultation on the revocation of heritage areas and adoption and amendment of local planning policies has been undertaken in accordance with the requirements of *Planning and Development (Local Planning Schemes) Regulations 2015* and Council's Local Planning Policy 1.3 with 5 submissions received (see Officer Comment section above and Attachment 1 for details).

VOTING AND OTHER SPECIAL REQUIREMENTS



Simple Majority Required

COMMITTEE RECOMMENDATION ITEM PC2203-11
(Officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Su Groome

Council:

1. Note submissions received on the review of heritage areas and polices as outlined in Attachment 1.

2. Revoke the following heritage areas, noting the existence of other statutory controls and protections in place for each:

- a) Convict Establishment Heritage Area (Prison Tunnels);**
- b) Indian Ocean Precinct;**
- c) John Curtin College of the Arts;**
- d) Law & Order Precinct;**
- e) Lilly Street Precinct;**
- f) Monument Hill and War Memorials, Fremantle;**
- g) Princess May Reserve;**
- h) Swan River Precinct; and**
- i) Victoria Pavilion, Fremantle Oval.**

and publish notice of the revoked heritage areas on the City's website, in accordance with Schedule 2, Clause 9 of the Planning and Development (Local Planning Schemes) Regulations 2015.

3. Update the Local Heritage Survey and Heritage List to explicitly include the Prison Tunnels in the Fremantle Prison listing.

4. Adopt Local Planning Policy 3.6 – Heritage Areas provided in Attachment 2.

5. Amend Local Planning Policy 2.8 –Fences to replace the permissible fencing within the front setback area within heritage areas with that specified in clause 3.9.2 ii of the Heritage Areas policy.



- 6. Adopt revised Local Planning Policy 1.6 – Heritage Assessment & Protection as provided in Attachment 3.**
- 7. Revoke Local Planning Policy 2.6 – Procedure for Amending the Municipal Heritage Inventory (MHI) and Heritage List in light of the amalgamation of its key content into the revised Local Planning Policy 1.6.**

Carried: 7/0

**Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver**



PC2203-12 REVIEW OF SOUTH FREMANTLE LOCAL PLANNING POLICIES

Meeting date:	2 March 2022
Responsible officer:	Manager Strategic Planning
Decision making authority:	Council
Attachments:	<ol style="list-style-type: none">1. D.G.S1 – Seaview Tavern – 282 South Terrace, South Fremantle2. D.G.S2 – South Terrace, South and Attfield Streets and Lefroy Road Local Area3. D.G.S3 – South and Attfield Streets, Hampton and Lefroy Roads Local Area4. D.G.S4 – South Terrace, Douro & Ocean Roads and Hickory Street Local Area5. D.G.S5 – Wills Transport Site - 122 Marine Terrace & 3 South Street, South Fremantle6. D.G.S6 – South Beach Village
Additional information:	Nil.

SUMMARY

As part of the ongoing review of the City’s local planning policy manual, officers have reviewed local planning policies for the suburb of South Fremantle. These policies are classified as ‘design guidelines’ and apply to:

- **282 South Terrace**
- **South Terrace, South and Attfield Streets and Lefroy Road**
- **South and Attfield Streets, Hampton and Lefroy Roads**
- **South Terrace, Douro and Ocean Roads and Hickory Street**
- **122 Marine Terrace and 3 South Street and**
- **South Beach Village**

These policies mostly relate to management of development within these precincts and are considered outdated, with most of the provisions superseded by other planning instruments, notably the Residential Design Codes (R-Codes), the proposed Heritage Areas local planning policy (the subject of a separate report on this agenda) and specific heritage listings.



This report recommends that Council revokes four of the six policies. The last two are recommended for retention, subject to updates.

BACKGROUND

On 26 February 2020, Council considered a report on the status of the City's Local Planning Scheme. This identified (amongst other things) that the City had close to 100 local planning policies covering numerous matters relating to planning and development of land within the Fremantle municipality; a number of which were quite dated. The scheme review report concluded that the City's planning scheme is satisfactory in its existing form but should be maintained based on an agreed program of projects including "*periodic / recurrent / ongoing policy review for the purpose of rationalising the policy framework*" (SPT2002-4). In addition to maintaining a robust and up-to-date policy framework, this recommendation responds to the State Government's planning reform agenda, which promotes a planning system that is more contemporary and easier to navigate, and more streamlined and consistent.

Maintenance of the local planning framework supports the Capability objectives of the Strategic Community Plan relating to governance. Revocation of superfluous policies reduces unnecessary administrative burden and strengthens the City's efficiency, effectiveness and credibility in review (i.e. on appeal).

As part of a staged review of the City's local planning policy manual, officers have reviewed six local planning policies relating to South Fremantle. These policies are designated as 'design guidelines' with each detailing development requirements for specific precincts within the suburb. Each policy was prepared in the 1980s, '90s or early-mid '00s (i.e. before gazettal of the current planning scheme), and none have been reviewed since this time.

OFFICER COMMENT

The following provides a brief summary of each reviewed policy, along with a recommendation. Each policy is provided in its entirety in Attachments 1-6.

D.G.S1 – Seaview Tavern – 282 South Terrace, South Fremantle (Attachment 1)



This policy was adopted in February 1988 and relates specifically to the Seaview Tavern – now The Local Hotel – at 282 South Terrace. The objective of the policy is to *“recognise the Seaview Tavern’s role as a neighbourhood tavern and prevent the encroachment of the tavern into the surrounding residential area.”* The policy states that *“the Seaview Tavern should remain a neighbourhood tavern catering to, and compatible with, the local community. The tavern should be contained within its present property boundaries. Any enlargement of the site would not be consistent with the tavern’s role or its location in a predominantly residential area.”*

Since the adoption of the policy, there has been no significant expansion of the Seaview Tavern/Local Hotel. The premises covers three lots; two Mixed Use zoned lots fronting South Terrace and a third Residential zoned lot fronting Charles Street (see Figure One below). The Mixed Use zoned lots accommodate the building, whilst the Residential zoned lot is used as a car park. The stated objective of the Mixed Use zone is to *“provide for a mix of compatible land uses including light, services and cottage industry, wholesaling, trade and professional service, entertainment, recreation and retailing of goods and services in small scale premises, including showrooms, where the uses would not be detrimental to the viability of retail activity and other functions of the City Centre, Local Centre and Neighbourhood Centre zones...”* and *“ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality...”*. Assessment of any application for a discretionary use (which includes ‘Hotel’) would include consideration against these objectives.

The lot immediately to the north of the building is zoned Mixed Use and although this could accommodate commercial uses, it is occupied by a heritage listed duplex, the demolition of which the City would be highly unlikely to support.

These constraints restrict further expansion of the Local Hotel and its encroachment on the surrounding residential area. For this reason, it is considered that the policy is superfluous and can be revoked.



Figure 1 – The Local Hotel (formerly Seaview Tavern), corner South Terrace and Charles Street, South Fremantle

(Source: City of Fremantle ESRI mapping)

D.G.S2 – South Terrace, South and Attfield Streets and Lefroy Road Local Area (Attachment 2)

This policy was adopted in March 1993 and relates to a specific street block bounded by the abovementioned roads (see images below). The objective of the policy is *"to protect the amenity of the Local Area while reinforcing its role within the City and allowing compatible development."*

The policy is intended to protect heritage places and their surrounds and to ensure that infill development is of high quality and fits within its context. The policy deals with matters including the location, scale, orientation, and finishes of both new buildings and additions and alterations. However, those policy provisions are now almost entirely superseded by the Residential Design Codes and the proposed Local Planning Policy 3.6 – Heritage Areas, which promote similar outcomes (see separate report on this agenda relating to proposed LPP 3.6). Heritage places are protected adequately by individual listings, the existing South Fremantle Heritage Area and the proposed Heritage Areas policy. Consequently, revocation of this policy is recommended.



Figure 2 – Street block bounded by South Terrace, South and Attfield Streets and Lefroy Road, South Fremantle

(Source: City of Fremantle ESRI mapping)

D.G.S3 – South and Attfield Streets, Hampton and Lefroy Roads Local Area (Attachment 3)

This policy was adopted in May 1988 and last amended in March 1992. It relates to a specific street block bounded by the abovementioned roads (see images below). The objective of the policy is *"to ensure that residential development takes place in a way which protects the integrity of the existing buildings, the scale and character of the area, the amenity of adjoining properties and addresses traffic and parking issues."*



Figure 3 – Street block bounded by South and Attfield Streets and Hampton and Lefroy Roads, South Fremantle

(Source: City of Fremantle ESRI mapping)

Similar to D.G.S2, the policy is intended to protect places of heritage value and ensure that infill development fits its context. The policy deals with several matters, including density, built form, heritage value and traffic and parking. The policy states that in considering increases in density, due regard should be given to the quality of site planning and design and that development should take the form of single dwellings or small groups not exceeding two storeys in height. It further states that where infill development fronts an existing street, the new building should be designed to fit within the streetscape context and that adequate on-site parking will be required for existing and infill dwellings. These policy provisions are now superseded by the Residential Design Codes, the existing South Fremantle Heritage Area and the proposed Local Planning Policy 3.6 – Heritage Areas, which promote similar outcomes.

The policy notes that numerous buildings within the street block have heritage and “urban” (streetscape) value. It recommends that these buildings be retained and incorporated into the redevelopment of the site and that significant buildings are



documented prior to any disturbance. The proposed Heritage Areas policy provides guidance on the alteration and extension of places with heritage and/or streetscape value. The review of the South Fremantle Heritage Area will further identify the contributory and non-contributory places within the area, which will support these design criteria by further clarifying where they should be applied.

The final requirement set out in the policy states that *"the small park to be created at the end of Dale Street as part of the subdivision of the old Swan Hardware site shall be designed and maintained as a small community park for the use of residents in the immediate locality."* The park – Lillydale Park – has been constructed and is managed by the City of Fremantle, making this provision redundant.

To summarise, these policy provisions are now superseded by Local Planning Policy 3.6 – Heritage Areas and the Residential Design Codes. Consequently, revocation of this policy is recommended.

D.G.S4 – South Terrace, Douro & Ocean Roads and Hickory Street Local Area (Attachment 4)

This policy was adopted in June 1992 and amended in December 1993. It relates to a specific street block bounded by the abovementioned roads (see images below). The objective of the policy is *"to allow for residential redevelopment, whilst recognising the need to retain buildings of heritage significance that reinforce the original beachfront character of South Terrace and conform with the existing scale and character of Hickory Street whilst minimising access problems arising from future residential development proposals."*



Figure 4 – Street block bounded by South Terrace, Douro and Ocean Roads and Hickory Street, South Fremantle

(Source: City of Fremantle ESRI mapping)

The policy deals with density, setbacks, building height, vehicular access and heritage places. It states that the maximum allowable density is R40, which has now been applied in Local Planning Scheme No. 4, and that *“reduced setbacks may be permitted to Hickory Street and South Terrace where this would permit a more satisfactory form of development and in particular would allow for better provision of private open spaces.”* The street block is now completely developed and setbacks to South Terrace are broadly consistent. Reduced setbacks have been permitted to the rear of many lots, with garages and ancillary dwellings built up to the property line. Should any redevelopment take place, the Residential Design Codes and Streetscape Policy would apply, which allow performance-based reduction of street setbacks in any regard. In terms of building height, the policy states that the maximum height of dwellings shall be two storeys, which is consistent with the scheme and Residential Design Codes.



The policy requires vehicular access to be taken from Hickory Street, with the exception of Nos. 418, 426 and 446 South Terrace where there are existing crossovers. All properties, other than those above, take vehicular access from Hickory Street.

The policy states that *"the buildings at Nos. 414, 422 and 448-458 South Terrace are considered to have significant heritage value and should be retained and incorporated into any redevelopment of these sites."* It adds that a detailed assessment of the architectural and heritage value of these buildings shall be carried out prior to any development of the lots. The abovementioned places are included on the City's Local Planning Scheme Heritage List, which affords them a high degree of protection from demolition or unsympathetic alterations or additions.

It is recommended that this policy be revoked, as most matters it covers are now superseded by the Residential Design Codes, while heritage places are adequately protected by individual listings and the proposed Heritage Areas policy. There is some risk that future redevelopment of a site could introduce additional vehicle access to South Terrace however this is a relatively minor risk given that Hickory Street could effectively be designated as a 'secondary street' (which the R-Codes promote vehicle access from ahead of primary streets).

D.G.S5 – Wills Transport Site - 122 Marine Terrace & 3 South Street, South Fremantle (Attachment 5)

This policy was adopted in August 2003 and amended in September 2004. It relates to a specific street block bounded by Marine Terrace and South, Coral and Louisa Streets and catered for its residential redevelopment. The objective of the policy is *"to provide design guidance for the policy area in conjunction with other relevant council Policies. The policy is to be applied to achieve an attractive streetscape and a high level of amenity for the policy area and surrounding locality."*



Figure 5 – Street Block over former Wills Transport Site, bounded by Marine Terrace, South, Coral and Louisa Streets, South Fremantle

(Source: City of Fremantle ESRI mapping)

The general provisions of the policy cover a broad variety of matters, including access, parking, surveillance of the laneway and public open space, shading devices, landscaping, location and setback of garages, and the measurement of site levels. A further provision excludes the block from inclusion in LPP D.G.F16 – Marine Terrace Policy (Including South Fremantle), while each street has unique provisions for the control of setbacks, building form and open space. These provisions are supplementary to the Residential Design Codes and vary setbacks and building heights. Some of these setback requirements are greater than those deemed-to-comply in the Residential Design Codes, particularly front and rear setbacks, which were intended to articulate the facades of new dwellings. However, the policy has not been endorsed by the WAPC and so some elements could be subject to challenge.

There remains only one undeveloped lot within the street block, which is at the corner of Louisa Street and Marine Terrace.

Council could opt to revoke the policy on the basis that its provisions are very broadly consistent with the R-Codes and Streetscape Policy (other than the 10m upper floor setback) or retain it to provide continuity of the design intent for the precinct. On balance, retention is recommended subject to update to replace outdated references to the R-Codes, planning scheme and local planning policies, and application of the current policy template.

D.G.S6 – South Beach Village (Attachment 6)

This policy was adopted in August 2006 and relates to lots on Keeling Way and South Beach Promenade and catered for their redevelopment. The objectives of the policy are:

- *"To ensure development design embodies a coastal character reflecting the climate and feel of Fremantle's beaches rather than conventional suburbs.*
- *To promote building design and development that is compatible with the character of South Fremantle.*
- *To provide a mix of building materials, colours and textures."*



Figure 6 – Street block over South Beach Village, South Beach Promenade and Keeling Way, South Fremantle

(Source: City of Fremantle ESRI mapping)



The general provisions of the policy supplement the Residential Design Codes and cover matters including building elevations, building materials, carports and garages, ancillary development and services, and fences. The policy requires that where dwellings face the street(s) and/or public open space(s), they must address the street(s) and public open space(s) via design, fenestration and a clearly identifiable entrance. The policy further requires that those elevations have passive surveillance over the street(s) and public open space(s) and that elevations are articulated by varying setbacks and/or building materials. The remaining policy provisions mainly relate to the use of materials, a requirement to screen ancillary fixtures where they would be visible from the street, and a restriction on the height of front fences to 1.2m in height and 50% visual permeability.

Five lots within the policy area remain undeveloped and so to revoke the policy would potentially allow development that is inconsistent with the existing. Retention of the policy subject to updates to outdated planning framework references and application of the current template.

FINANCIAL IMPLICATIONS

Nil.

LEGAL IMPLICATIONS

The procedure for revoking a local planning policy is provided for under Schedule 2, Part 2, Clause 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

CONSULTATION

Consultation is not required for revoking a local planning policy: publication of a digital notice is required, with the option to publish a notice in a local newspaper if the local government considers it appropriate. Given the age and limited application and impact of the policies, digital notification is considered sufficient in this case.

The administrative corrections to the retained policies do not warrant consultation having no material impact on the policy content.



VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority

OFFICERS RECOMMENDATION PC2203-12

Moved: Cr Bryn Jones Seconded: Cr Hannah Fitzhardinge

Council:-

1. In accordance with Schedule 2, Part 2, Clause 6 of the Planning & Development (Local Planning Schemes) Regulations 2015:
 - a. Revoke the following local planning policies:
 - D.G.S1 – Seaview Tavern – 282 South Terrace, South Fremantle
 - D.G.S2 – South Terrace, South and Attfield Streets and Lefroy Road Local Area
 - D.G.S3 – South and Attfield Streets, Hampton and Lefroy Roads Local Area
 - D.G.S4 – South Terrace, Douro & Ocean Roads and Hickory Street Local Area
 - b. Publish a notice of the revocations on the City of Fremantle website.
2. Retain, update references to the R-Codes, planning scheme and local planning policies and reformat:
 - D.G.S5 – Wills Transport Site - 122 Marine Terrace & 3 South Street, South Fremantle
 - .G.S6 – South Beach Village

Cr Su Groome requested the item be referred to the Ordinary Meeting of Council.
Seconded by Cr Andrew Sullivan.

Carried: 7/0

Mayor Hannah Fitzhardinge, Cr Bryn Jones, Cr Fedele Camarda
Cr Andrew Sullivan, Cr Su Groome, Cr Adin Lang, Cr Ben Lawver



Reason for change

Planning Committee has not offered a recommendation at this stage and will give consideration to additional comments received from the community ahead of the Ordinary Meeting of Council.



11. Motions of which previous notice has been given

Nil

12. Urgent business

Nil

13. Late items

Nil

14. Confidential business

Nil

15. Closure

The Presiding Member declared the meeting closed at 7.53pm.