



# Agenda

## Planning Committee

Wednesday 5 July 2023, 6pm



## Notice of Planning Committee Meeting

### Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday 5 July 2023** in the Council Chamber, Walyalup Civic Centre, located at 151 High Street, Fremantle commencing at 6.00 pm.

A handwritten signature in blue ink, appearing to read "Russell Kingdom".

Russell Kingdom  
**Director Planning, Place and Urban Development**

30 June 2023



## Table of Contents

Table of Contents .....	3
1. Official opening, welcome and acknowledgement .....	5
2. Attendance, apologies and leaves of absence .....	5
3. Disclosures of interests by members.....	5
4. Responses to previous questions taken on notice .....	5
5. Public question time.....	5
6. Petitions.....	5
7. Deputations.....	5
7.1 Special deputations.....	6
7.2 Presentations .....	6
8. Confirmation of minutes .....	6
9. Elected member communication.....	6
10. Reports and recommendations.....	6
10.1 Deferred items .....	6
10.2 Committee delegation .....	7
PC2307-1 HERBERT STREET, NO. 21 (LOT 23), NORTH FREMANTLE – DEMOLITION OF EXISTING SINGLE HOUSE AND INCIDENTAL STRUCTURES (JZ DA0127/23).....	7
PC2307-2 SWANBOURNE STREET, NO. 57A (LOT 151), FREMANTLE – TWO STOREY SINGLE HOUSE – (CM DA0095/23).....	14
PC2307-3 ALFRED ROAD, NO. 20 (LOT 1), NORTH FREMANTLE – VARIATION TO PREVIOUS DEVELOPMENT APPROVAL DA0586/18 (TWO STOREY SINGLE HOUSE) – (CM VA0004/23).....	14
PC2307-4 Information Report - July 2023 .....	49
10.3 Council decision .....	52
11. Motions of which previous notice has been given .....	52
12. Urgent business .....	52
13. Late items.....	52
14. Confidential business .....	52
15. Closure .....	52





## **1. Official opening, welcome and acknowledgement**

Ngala kaaditj Whadjuk moort keyen kaadak nidja Walyalup boodja wer djinang Whadjuk kaaditjin wer nyiting boola yeye.

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

## **2. Attendance, apologies and leaves of absence**

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

## **3. Disclosures of interests by members**

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

## **4. Responses to previous questions taken on notice**

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

## **5. Public question time**

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

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

## **6. Petitions**

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

## **7. Deputations**



## 7.1 Special deputations

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

There are no special deputation requests.

## 7.2 Presentations

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

## 8. Confirmation of minutes

### OFFICER'S RECOMMENDATION

**The Planning Committee confirm the minutes of the Planning Committee meeting dated 7 June 2023.**

## 9. Elected member communication

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

## 10. Reports and recommendations

### 10.1 Deferred items

Nil



## 10.2 Committee delegation

### **PC2307-1 HERBERT STREET, NO. 21 (LOT 23), NORTH FREMANTLE – DEMOLITION OF EXISTING SINGLE HOUSE AND INCIDENTAL STRUCTURES (JZ DA0127/23)**

**Meeting Date:** 5 July 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  

1. Demolition Plan & Structural Engineer Report
2. Site Photos
3. City of Fremantle Heritage Impact Assessment

#### **SUMMARY**

**Approval is sought for the demolition of an existing Single house and incidental structures at No.21 (Lot 23) Herbert Street, North Fremantle.**

**The proposal is referred to Planning Committee as it involves the demolition of a dwelling located within the North Fremantle Heritage Area.**

**The application is recommended for refusal.**

#### **PROPOSAL**

##### **Detail**

Approval is sought for the demolition of an existing Single house and all incidental structures at No.21 (Lot 23) Herbert Street, North Fremantle. The property is not individually listed on the City of Fremantle Heritage List; however, it is located within the North Fremantle Heritage Area meaning development approval is required for the demolition under the *Planning and Development (Local Planning Schemes) Regulations 2015*. There is no new development proposed in this application.

Development plans and structural engineer report are included as Attachment 1.

##### **Site/application information**

Date received: 20 April 2023  
Owner name: Venera Milanja  
Submitted by: Venera Milanja  
Scheme: Residential R25  
Heritage listing: North Fremantle Heritage Area  
Existing land use: Single House



Use class: Single House  
Use permissibility: N/A



**CONSULTATION**

**External referrals**

Nil required.





## Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal included the demolition of a dwelling in a Heritage Area. The advertising period concluded on 22 May 2023, and four (4) submissions were received. The concerns of the submissions are provided in detail below:

- Concerns related to the loss of character and identity of the Herbert streetscape which is known for its old heritage cottages and Inter-War style housing;
- Concerns related to the heritage significance of the existing Single house and its similarity to existing houses on Herbert Street;
- Concerns regarding proposed demolition construction and traffic management so as to not impact livelihood of adjoining neighbours; and
- Concerns with safe asbestos removal (if demolition is to be approved).

The matters raised within the above submissions are discussed in detail within the officer comment section of this report below.

## OFFICER COMMENT

### Background

The subject site is located on the northern side of Herbert Street. The site has a land area of approximately 412m<sup>2</sup> and is currently an existing Single House. The site is zoned Residential and has a density coding of R25. The site is not individually listed, however it is located within the North Fremantle Heritage Area.

The buildings within Herbert Street predominantly date back to the early 20<sup>th</sup> Century with some Inter-War infill. There is a mixture of houses constructed from limestone and timber.

The existing dwelling on site is on a steeply sloping lot on the east side of Herbert Street. The single storey, timber framed house is sited centrally at the front of the block with a red face brick retaining wall to the front boundary and matching steps and red painted concrete path leading up to an enclosed verandah at the front of the house.

### Statutory and policy assessment

The proposal has been assessed against the relevant provisions of the City's Local Planning Scheme No. 4 (LPS4) and relevant Council local planning policies.

Demolition requires careful consideration because it potentially removes all the



heritage significance of the place, except for intangible historical and social values that are not dependant on physical fabric.

Clause 67(2) (k) and (l) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Deemed Provisions) require Local Governments to have due regard to the built heritage conservation of any place that is of cultural significance and the effect of the proposal on the cultural heritage significance of the area in which the development is located when making decisions on relevant applications.

Clause 4.14.1 of Local Planning Scheme No.4 (LPS4) also states:

*4.14.1 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.*

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

This clause provides the authority for the decision maker to issue approval for demolition, only if it meets both of the triggers (part a and b) of the clause. If it does not, there is no ability for the Council to approve demolition to the site.

### **Heritage and Demolition**

City officers have reviewed the demolition proposal, structural engineer report (Attachment 1) and have undertaken a detailed Heritage Impact Assessment (HIA), prepared in accordance with the Burra Charter and LPP 1.6, for which full details can be found at Attachment 2 of this report. The applicant has not provided their own HIA/

The following excerpt from City's HIA summarises it's conclusions:

*21 Herbert Street is a largely intact Inter-War era timber house that has been modified in the Post-War era by replacing most of the external weatherboard wall cladding. While the replacement Brick-Clad wall cladding has reduced the heritage value of the place, this change is reversible, and the heritage value can be improved by the reinstatement of the*



*original external finish to match surviving sections of original wall cladding. In its current form, 21 Herbert Street does not meet the threshold for inclusion on the Heritage List.*

*Despite the replacement of the external wall cladding, the scale, form and composition of 21 Herbert Street is still clearly legible, and the place contributes to the character of the largely intact heritage streetscape of Herbert Street which contains a mix of single storey Late Nineteenth to early Post War era timber and limestone houses. 21 Herbert Street is a Contributory Place within the North Fremantle Heritage Area.*

*Information provided by the applicant has shown that while the house needs to be refurbished and repaired, it is not structurally unsound and is in reasonable condition for a house of its age and construction type. Both reports recommend the demolition of the house but this is based on the cost of removal of asbestos and refurbishment being more expensive than demolition and construction of a standard new home (\$250,000 allowed).*

*The removal of the intrusive, asbestos bearing 'Brick Clad' external wall cladding will remove the potential health risk and improve the contribution that the place makes to Herbert Street and the North Fremantle Heritage Area. The rear addition which contains asbestos bearing wall and ceiling lining has no heritage significance and can be removed with no impact on the heritage value of the place or its contribution to the Heritage Area.*

As detailed in the HIA above, the property is deemed to have some cultural heritage significance (not limited or no significance) for the following reasons:

- The scale, form and composition of the existing Single House provides aesthetic value to the streetscape and contributes to the intact heritage streetscape of Herbert Street (comprising mostly of Late Nineteenth to early Post War era timber and limestone houses).
- The existing streetscape consists largely of houses that have a similar built form, style and material. Combined, these houses form an identifiable streetscape character.
- The existing Single house at 21 Herbert Street is an Inter-War timber framed house and is an example of the style of housing present within the North Fremantle Heritage Area, therefore is considered contributory.

In accordance with the requirements of Cl 4.14 of LPS4, the demolition proposal for 21 Herbert Street is not supported as it is considered the existing house, being classified as a Contributory Place in the North Fremantle Heritage Area, makes a significant contribution to the locality of Herbert Street through the cultural significance of its built form and typology.



Notwithstanding the above, should Council determine that the place has limited or no significance AND that it does not make a significant contribution to the heritage of the locality, further assessment is also required against the criteria of LPP 3.6 Heritage Areas.

The applicant submitted a structural engineering report as supplementary information to support their application for demolition. The report clearly identifies there are no major structural issues with 21 Herbert Street and that it is confirmed to be 'safe and stable.' and recommends demolition only due to the costs of restoration compared with a new build. It is noted however, there are some areas of the house which will require refurbishment or replacements including the Brick-Clad external wall cladding, fit-out of bathroom, kitchen, and laundry areas. These alterations are likely to be possible, as they hold little significance to the overall heritage value of the house.

It is considered that these areas which are identified to be in poor condition within the submitted structural engineering report can be replaced or removed without damage to the heritage significance of the existing house. Therefore, it is not considered that the current condition of 21 Herbert Street is an acceptable reason for demolition (as prescribed in Cl 3.4.2 of LPP 3.6).

Further, LPP3.6 provides that demolition of a contributory place or removal of significant fabric within a heritage area is contrary to the objectives of the policy and will generally, not be supported. The policy adds that demolition approval of a contributory place will also not be considered on the grounds of economic or other perceived gain for the redevelopment of the land.

Demolition is therefore not supported.

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil



## **OFFICER'S RECOMMENDATION**

### **Council:**

**REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demolition of the existing Single House at No.21 (Lot 23) Herbert Street, North Fremantle, as detailed on the plans dated 20 April 2023, for the following reasons:**

- 1. The demolition of the Single house does not meet the requirements of Clause 4.14 of Local Planning Scheme No.4 as it:
  - a) Is of "some" cultural heritage significance (i.e. is greater than little or no significance); and**
  - b) Makes a significant contribution to the streetscape of Herbert Street and the North Fremantle Heritage Area.****
- 2. The demolition proposal does not meet the relevant criteria of LPP 3.6 as it is classified as a Contributory Place to the North Fremantle Heritage Area and its loss would therefore reduce the heritage significance of the locality.**
- 3. The demolition of the dwelling is contrary to Clause 67(2)(k) and (l) of the *Planning and Development (Local Planning Schemes) Regulations 2015(Deemed Provisions)* as it will have an adverse impact upon the cultural heritage significance of the North Fremantle Heritage Area.**



**PC2307-2 SWANBOURNE STREET, NO. 57A (LOT 151), FREMANTLE – TWO STOREY SINGLE HOUSE – (CM DA0095/23)**

**Meeting Date:** 5 July 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1. Amended Development Plans  
2. Site Photos

**SUMMARY**

**Approval is sought for a Two-storey Single house at No. 57A (Lot 151) Swanbourne Street, Fremantle.**

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

- **Primary street setback**
- **Boundary walls (north & south)**
- **Overshadowing**
- **Visual privacy (north & south)**
- **Lot boundary setback (north)**
- **Garage width**

**The application is recommended for conditional approval.**

**PROPOSAL**

**Detail**

Approval is sought for a two-storey Single house at No. 57A Swanbourne Street, Fremantle. The proposed works include:

- A three-bedroom, two-bathroom two storey dwelling, with a basement (art studio).
- A double garage and new crossover onto Swanbourne Street.

The applicant submitted amended plans on 26 May 2023 including the following:

- Slight modifications to the boundary wall on the southern lot boundary.

Development plans are included as attachment 1.



**Site/application information**

Date received: 27 March 2023  
Owner name: Geoff Chambers  
Submitted by: Geoff Chambers  
Scheme: Residential (R25)  
Heritage listing: Not Listed  
Existing land use: Vacant  
Use class: Single House  
Use permissibility: Permitted





## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposed development seeks a number of variations to the R-Codes and the City's Local Planning Policies. The advertising period concluded on 27 April 2023, and one (1) submission was received. The following issues were raised (summarised):

- Concerns regarding the overshadowing as a result of the southern boundary wall and height of the proposed development.

Noting the concerns raised regarding the height of the proposed development, the height is deemed to comply. All other comments including overshadowing and the boundary wall are addressed in the officer comment section 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:

- Primary street setback
- Boundary walls (north & south)
- Overshadowing
- Visual privacy (north & south)
- Lot boundary setback (north)
- Garage width

The above matters are discussed below.

### Background

The subject site is located on the western side of Swanbourne Street adjacent to Stevens Reserve. The site has a land area of approximately 338m<sup>2</sup> and is currently a vacant site. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed nor located within a heritage area.





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

- There is a development approval for a Two-storey Single house issued in 2021 (Ref: DA0511/21).

### Primary Street Setback

Element	Requirement	Proposed	Extent of Variation
Primary Street Setback (ground and first floor)	7m	5.5m	1.5m

The proposal seeks a primary street setback variation to both the ground and upper floor as prescribed under LPP2.9.

Under LPP2.9, variations to the primary street setback may be considered subject to the proposed development meeting at least one of the following criteria:

- The proposed setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape; or*
- The proposed setback of the building does not result in a projecting element into an established streetscape vista by virtue of the road and/or lot layout in the locality or the topography of the land; or*
- The proposed setback of the building will facilitate the retention of a mature, significant tree deemed by the Council to be worthy of retention (Refer also to LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites); or*
- Where there is no prevailing streetscape; or*
- Where the proposed development is on a lot directly adjoining a corner lot, Council will consider a reduced setback that considers the setback of the corner lot in addition to buildings in the prevailing streetscape*

The primary street setback is considered to meet the above criteria in the following ways:

- The primary street setback is consistent with the setback of buildings of comparable height within the prevailing streetscape. For example, 57 Swanbourne Street and 55 Swanbourne Street which both consist of double storey dwellings setback approximately 4.0 metres from Swanbourne Street. Figure 1 below shows the 5.5m proposed setback at the 7.0m required setback for dwellings with a wall height over 4.0m. It is noted that 57 and 55

Swanbourne Street are both double storey which sit forward of the 7.0 metre setback. Figure 2 shows an image of the existing setbacks of 57 & 55 Swanbourne Street. The proposed dwelling will sit behind these existing setbacks.



**Figure 1** – Prevailing primary street setbacks – Swanbourne Street



**Figure 2** – 57 & 55 Swanbourne Street setbacks

In accordance with the above assessment, the primary street setback variation is supported on the basis that it is consistent with the prevailing streetscape.

**Boundary Wall**

Element	Requirement	Proposed	Extent of Variation
Boundary Wall (south)	1.2m (reduced by 1.5m/half the width of the adjoining ROW)	Nil	1.2m
Boundary Wall (north)	1.2m	Nil	1.2m

The proposal seeks approval for a southern boundary wall. Noting that the lot has a frontage of less than 10 metres, under LPP2.4, boundary walls are permitted where they meet certain height and length requirements under the R-Codes. In this instance, as the boundary wall does not comply with the deemed-to-comply requirements (length and height) of the R-Codes, a design principle assessment is required.

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

- The boundary wall enables effective use of the space on a narrow lot for enhanced privacy for the occupants, and assists the proposal to be setback from the northern boundary to gain northern light and ventilation to living spaces.
- The boundary wall will not be likely to have any adverse amenity impact on the amenity of the adjoining property owing to its location abutting a private right of carriageway providing vehicular access to adjoining lot Nos. 32, 30, 28 and 26 Stevens Road (refer figure 3 below). It is noted that where any overshadowing will occur past the right of way and onto the adjoining properties, there are existing high fences and covered spaces that will screen the wall from view and will not be impacted by any further shadow. In addition, it is also noted that the outdoor living area for these dwellings is at the front off Stevens Street.



**Figure 3** – Adjoining right of carriageway

- The boundary walls still enable for sufficient sun to major openings to habitable rooms and outdoor living areas for adjoining properties. Refer to the overshadowing assessment below for further comment.

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



- The boundary wall enables for more effective use of space for enhanced privacy for the occupants noting the lot is narrow and by building up to the lot boundary enables for more effective use of space.
- The boundary wall will not have an adverse amenity impact on the adjoining property and will not result in any overshadowing to outdoor living areas and major openings to habitable rooms, owing to its orientation and the boundary wall being located on the northern lot boundary of the subject site.
- It is also noted that the boundary wall abuts an area on the adjoining property which does not contain any major openings (only highlight windows), therefore not impacting on the ventilation or direct sun access to the dwelling.

**Lot boundary setbacks**

Element	Requirement	Proposed	Extent of Variation
Lot boundary setback (north) Ground floor	1.5m	1.2m	0.3m
Lot boundary setback (north) First floor	4.5m	1.2m	3.3m

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

- The setback variation still enables for sufficient light and ventilation to the adjoining property owing to its orientation and the variation only impacting the adjoining lots southern boundary. It is also noted that the adjoining lot has no major openings to habitable rooms on their southern elevation and they will not be impacted by the building bulk of the proposal or any visual privacy variations in this area (refer visual privacy section for further discussion).

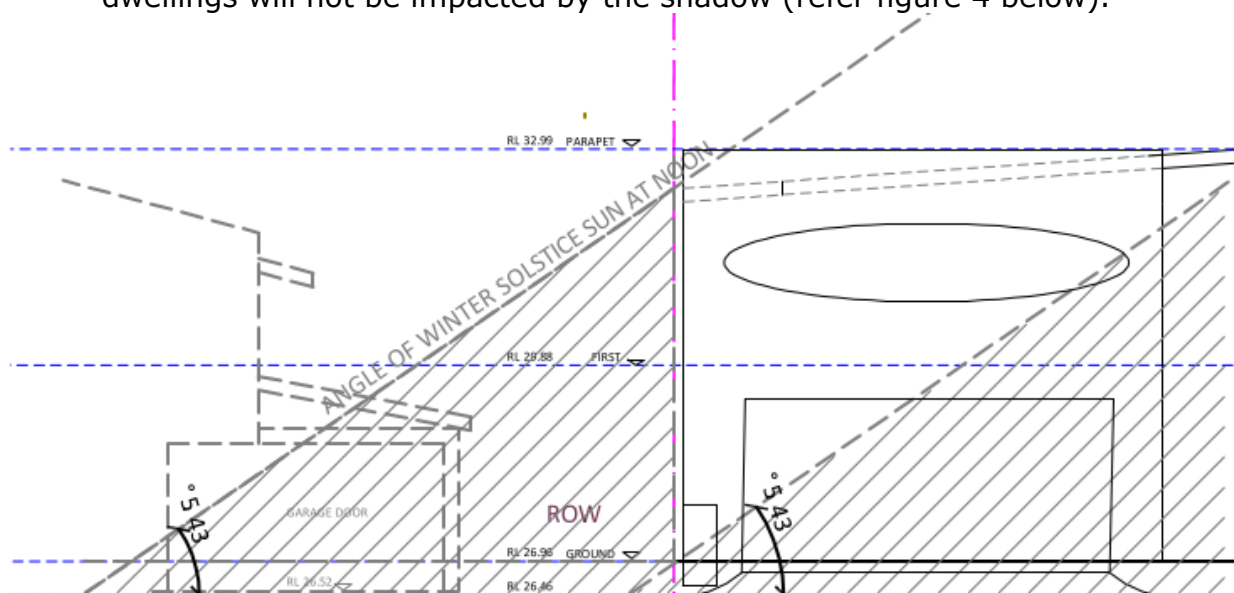
**Overshadowing**

Element	Requirement	Proposed	Extent of Variation
32 Stevens Street	25%	~20.8%	COMPLIES
30 Stevens Street	25%	~41%	16%
28 Stevens Street	25%	~38%	13%

26 Stevens Street	25%	~11.8%	COMPLIES
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The overshadowing is considered to meet the Design principles of the R-Codes in the following ways:

- The rear of the adjoining lots is occupied by a right of carriageway easement and does not appear to be used for any other private purpose. The overshadowing onto 28 and 30 Stevens Street overshadows majority of this carriageway and the garages of the dwellings. The overshadowing will not impact on any outdoor living areas as the dwelling’s outdoor living areas are located within the front of these dwellings, and it is noted that this is the only vehicular access available for 28 and 30 Stevens Street. In addition, it is noted that the overshadowing that reaches the property will overshadow onto the designated drying courts, of which are currently fully covered with roofing and fencing.
- The overshadowing will not impact on any north facing major openings and will not reach the windows located on the upper floor of the adjoining dwellings. The applicant provided a diagram of the angle of the sun which demonstrates that the windows located on the first floor of the adjoining dwellings will not be impacted by the shadow (refer figure 4 below).



**Figure 4** – angle of shadow on adjoining properties to the south

**Visual privacy**

Element	Requirement	Proposed	Extent of Variation
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Visual Privacy (south) first floor living room	6.0m	3.3m	2.7m
Visual Privacy (north) first floor living and dining	6.0m	Min. 1.2m	4.8m

The proposal seeks cone of vision setback variations to both the southern and northern lots of the proposed development from different windows. The visual privacy variation to the southern lot boundary are considered to meet the Design principles of the R-Codes in the following ways:

- The cone of vision will not overlook any active habitable spaces or outdoor living areas of adjoining properties and will only overlook the right of carriageway.
- The applicant has made efforts to implement screening devices on either side of the window looking west to minimise any direct overlooking, whilst these screening devices do not make the visual privacy deemed-to-comply, they minimise the extent of overlooking.

The visual privacy variations to the northern lot boundary are considered to meet the Design principles of the R-Codes in the following ways:

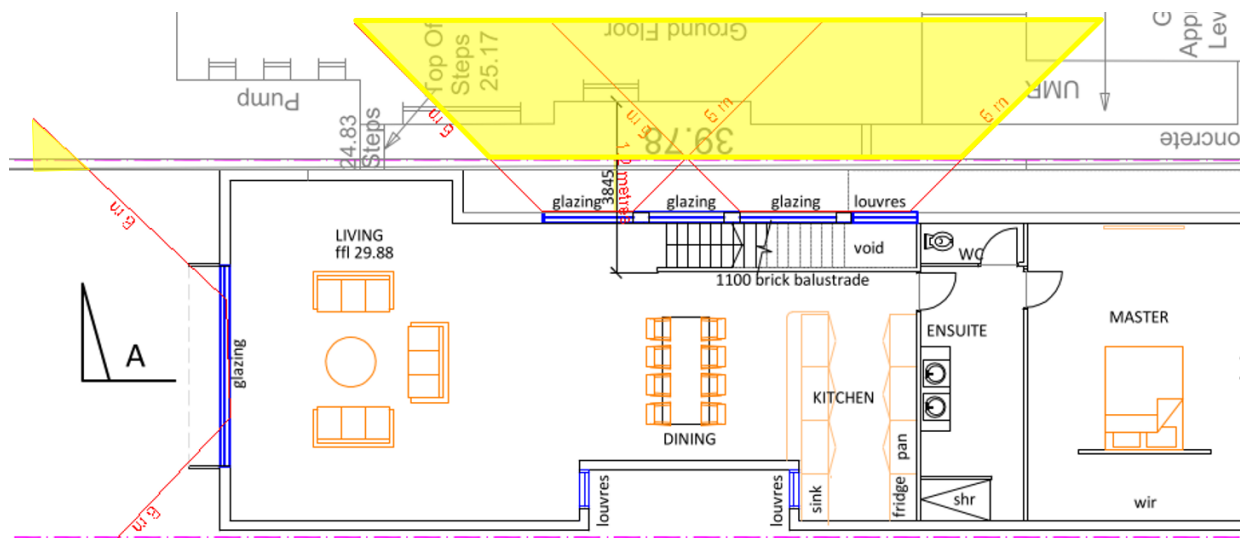
- The cone of vision from the northern elevation windows to the first-floor dining room will not overlook any active habitable spaces or outdoor living areas of adjoining properties; and will only overlook the adjoining properties side of the dwelling where there are no major openings to habitable rooms (refer figure 5).

Noting the above, the visual privacy variations to the northern lot boundary are not considered to meet the Design principles of the R-Codes in the following ways:

- Maximum visual privacy to the side boundary has not been achieved through offsetting the location of the first-floor windows to the adjoining ground floor and first floor windows. Whilst it is noted that there are no major openings on the adjoining property, there are still highlight windows and smaller windows that will be impacted in the direct line of sight. Maximum visual privacy to the side boundary has also not been achieved by setting back the first floor from the side boundary, as noted above the first floor seeks a setback variation of 1.2m in lieu of 4.5m

- The cone of vision from the western elevations first floor Living room will overlook the adjoining properties pool area to the north, and therefore a condition has been recommended to extend the screening to further block the cone of vision. It is for this reason that a condition has been recommended to ensure the window on the first floor western elevation are provided with screening to block the cone of vision to the north.

As noted above, the visual privacy variations which impact the southern lot boundary are supported under a design principle assessment. The visual privacy variations which impact the northern lot boundary are not supported in its current form and therefore a condition of approval has been recommended to ensure sufficient screening is provided. Through this condition of approval, the visual privacy elements impacting the northern lot boundary will meet the deemed-to-comply requirements of the R-Codes.







**Figure 5** – Cone of vision locations in yellow (top image) and adjoining property (57 Swanbourne Street) location where overlooking will occur

**Garage width**

Element	Requirement	Proposed	Extent of Variation
Garage width	60%	84%	34%

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

- Visual connectivity between the streetscape and the dwelling is maintained noting that the proposal is double storey, the incorporation of a large window on the first floor overlooking the street maintains the connectivity.
- In addition to the above, noting the R-Codes requires the provision of 2 car parking spaces, the dwelling seeks to comply with this requirement and given the narrow lot being 8.5m leaves limited room to achieve both provisions.



## **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 Policies and is therefore recommended for approval, subject to conditions.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two Storey Single House at No. 57A (Lot 151) Swanbourne Street, Fremantle, as detailed on plans dated 26 May 2023, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 26 May 2023. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 4. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the windows located on the western and northern elevations, with cone of visions exceeding the northern lot boundaries are to be screened in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes by either:**



- a) **fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
- b) **fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**
- c) **a minimum sill height of 1.60 metres above the internal floor level,**

**Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.**

5. **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.**
6. **Prior to occupation/ use of the development hereby approved, the boundary wall located on the northern and southern lot boundaries shall be of a clean finish in any of the following materials:**
  - **coloured sand render,**
  - **face brick,**
  - **painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**
7. **Prior to the issue of a building permit for the development hereby approved, the property driveway is to be a maximum width of 4.5 metres at the front property boundary, and thereafter maintained to the satisfaction of the City of Fremantle.**
8. **Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**



### Advice 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 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.**
- iii) The applicant is advised that should the existing tree on-site be removed, a new tree and tree planting area is to be provided in accordance with Clause C2.2 of the Residential Design Codes.**
- iv) If construction works involve the emission of noise above the assigned levels in the *Environmental Protection (Noise) Regulations 1997*, they should only occur on Monday to Saturday between 7.00 am and 7.00 pm (excluding public holidays). In instances where such construction work needs to be performed outside these hours, an *Application for Approval of a Noise Management Plan* must be submitted to the City of Fremantle Environmental Health Services for approval at least 7 days before construction can commence.**

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



**PC2307-3 ALFRED ROAD, NO. 20 (LOT 1), NORTH FREMANTLE – VARIATION TO PREVIOUS DEVELOPMENT APPROVAL DA0586/18 (TWO STOREY SINGLE HOUSE) – (CM VA0004/23)**

<b>Meeting Date:</b>	5 July 2023
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Attachments:</b>	<ol style="list-style-type: none"><li>1. Amended Development Plans</li><li>2. Site Photos</li><li>3. Applicants' response to submissions</li></ol>

**SUMMARY**

**A variation to an existing approval is sought for a two storey Single house at No. 20 Alfred Road, North Fremantle**

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

- **Primary street setback**
- **Boundary wall (south-west)**
- **Side setback (north-east & south-west)**
- **Building height (external wall)**

**The application is recommended for conditional approval.**

**PROPOSAL**

**Detail**

Approval is sought for variations to an approved two storey Single house at No. 20 Alfred Road, North Fremantle. The proposed changes include:

- Reduction in overall floor area, with the dwelling now being contained within the front part of the site.
- Modified overall design including changes to the roof form (originally skillion, now concealed).
- Incorporation of a roof terrace with screening and a lift shaft.
- Increase in overall building height.
- Incorporation of primary street fencing.



The applicant submitted the second set of amended plans on 15 June 2023 which included the following:

- Amended primary street fencing changing the fence from being solid to full height, to now including permeability. While the front fence is shown to be a height of 1.8m, the level of visual permeability has not been annotated on the plans. A condition of approval has been recommended.
- Amended screening on the roof terrace to set it back slightly and add an element of permeability, whilst still maintaining screening requirements in accordance with the R-Codes. This in-turn has minimised the bulk of the screening, which was previously shown as a solid wall.
- Removal of the shade-sail posts located on top of the roof top terrace. Any further shade sail (or similar) additions in this location may require a separate approval from the City.

Development plans are included as Attachment 1.

**Site/application information**

Date received:	16 March 2023
Owner name:	Mischka Yellin-Menzies & Elliane Christou
Submitted by:	Blane Brackenridge
Scheme:	Residential (R25)
Heritage listing:	North Fremantle Heritage Area
Existing land use:	Vacant
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 seeks discretion to the deemed-to-comply requirements of the R-Codes and the City's policies. The advertising period concluded on 28 April 2023, and five (5) submissions were received. The following issues were raised (summarised):

- Building height exceeds the scheme requirements and the building height will impact on views of surrounding properties, the streetscape and will impact due to the bulk, scale and positioning on the site.
- Shade sails located on top of the roof-terrace further exacerbate the impact of the height.
- The building is located too close to the road and sets a precedent for the street.



- The boundary wall exceeds the height and setback requirements.
- The first floor and rooftop terrace will impact on the visual privacy of adjoining properties and 1.6m of screening will not block the extent of overlooking.
- The overshadowing created from the building height will impact on the outdoor living areas of adjoining properties and block northern light.
- The site works proposed that have occurred as part of the earlier approvals and current proposed development further exacerbating the height requirements.

In response to the above, the applicant supplied a detailed response to each of the submissions which can be viewed at Attachment 3. The applicant has also provided renders of the proposed development as viewed from the street to understand the impact of the development on the Alfred Street streetscape and made. This can be viewed at Attachment 1 – Development Plans.

With regards to the shade sail, the applicant submitted amended plans on 15 June 2023 removing the shade sail poles from the application. It is also noted that screening to a height of 1.6m from floor level, is deemed to comply.

The remaining comments relate to design principle assessments and are addressed in the officer comments 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:

- Primary street setback
- Boundary wall (south-west)
- Side setback (north-east & south-west)
- Building height (external wall)
- Site works

The above matters are discussed below.



### **Background**

The subject site is located on the southern side of Alfred Road. The site has a land area of approximately 425m<sup>2</sup> and is currently a vacant lot. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed, however, is within the North Fremantle Heritage Area.

The sites topography ranges from a natural ground level (NGL) of ~25.59 in the southern (rear) corner of the block and drops to a NGL of ~21.30 in the northern (front) corner of the site on the street, resulting in over a 4m change in level across the site. There is also a existing sewer line running through the middle of the site. Figure 1 below shows an image of the site taken from Alfred Road for context.



**Figure 1** – Photo of the site as viewed from Alfred Road

The application seeks approval for a variation to the existing approval for a two-storey single house. It is noted that the dwelling is proposed to be contained within the front part of the lot before the stepped increase in elevation. A timeline of the applications approved on the site are as follows:



**Table 1 – Summary of development application history**

Date	Summary
<b>May 2019</b>	<p><b>Original application – DA0586/18</b> At its meeting on 1 May 2019, the Planning Committee granted conditional approval for the construction of a two storey Single house at 20 Alfred Road (DA ref: DA0586/19).</p>
<b>September 2019</b>	<p><b>Variation application – VA0025/19</b> A variation application (DA ref: VA0025/19) proposing minor changes to the original design, which was approved at the September 2019 Planning Committee.</p> <p>This approval was acted on, however due to circumstances outside the owner’s control, work on the partially constructed dwelling had to be abandoned, and the structures demolished.</p>

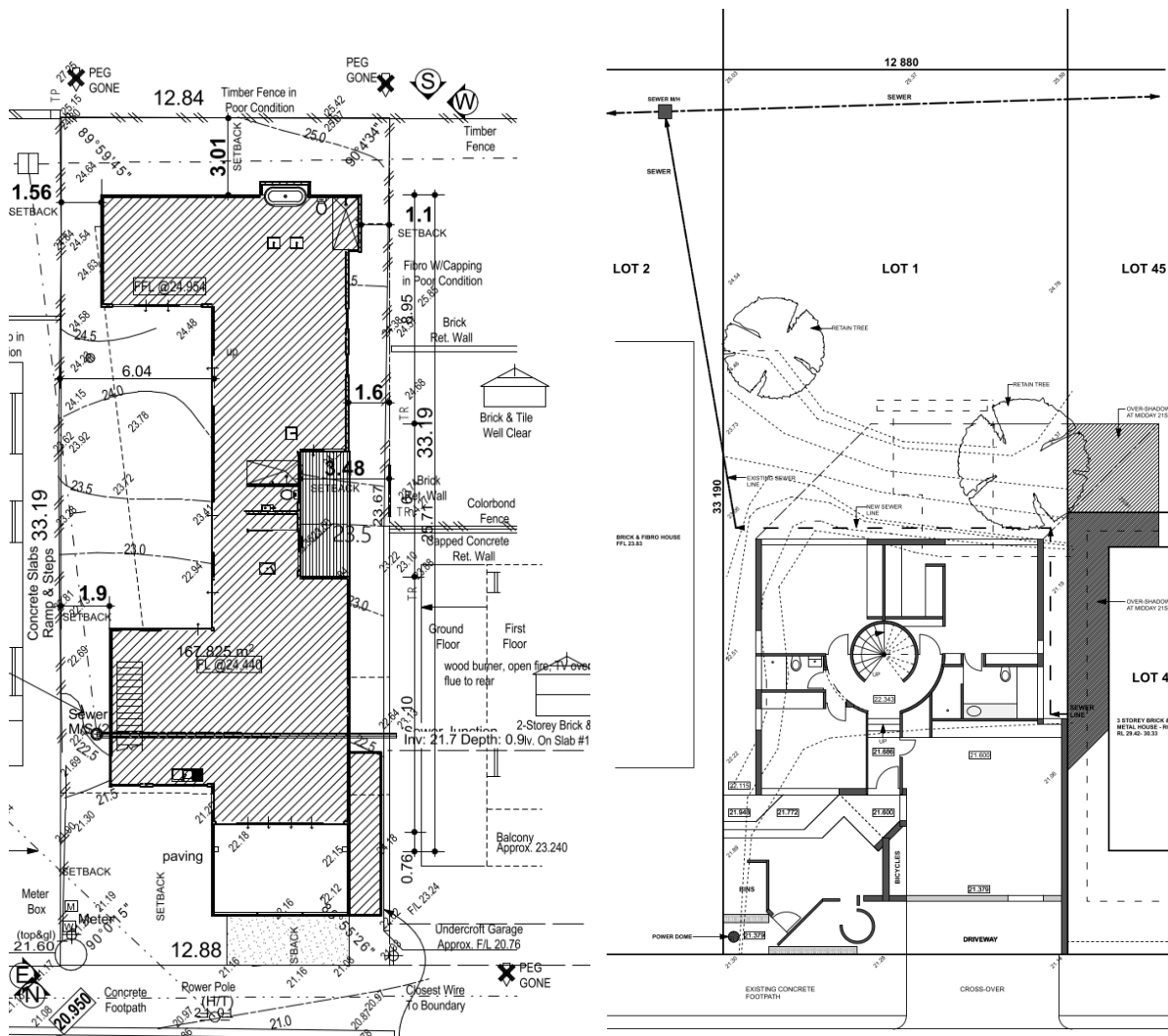
Per Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), the owner of the land subject to development approval can apply to vary the approved development. An application can be varied if it is considered that the amendment does not substantially alter the development as approved.

Further to the requirement in the Regulations, the *City’s Local Planning Policy 1.1 – Amendment and Extension to the Term of Planning Approval* allows a variation where the development stays, in substance, the same and is not changed to the extent that a new development is proposed. Noting that the approved DA’s (DA0586/18) substantial commencement period will lapse on 1 May 2025, a condition has been recommended to change the original condition of approval granting the applicant four (4) years from the date of the new variation approval for substantial commencement, being July 2027. Notwithstanding this, given the work already completed it could also be considered that the dwelling has triggered its substantial commencement clause and will remain valid.

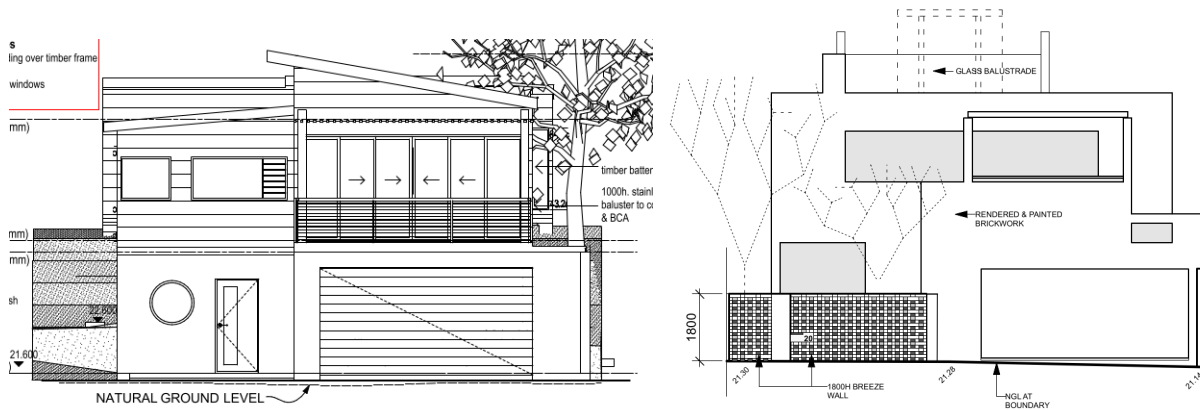
As shown in the comparison figures below, the most notable changes are as follows, with the Single house retaining a similar built form on the front part of the site:

- Reduction in overall floor area, with the dwelling now being contained within the front part of the site. Primary street setbacks are the same if not slightly greater in some elements.

- Modified overall design including changes to the roof form (originally skillion, now concealed).
- Incorporation of a roof terrace with screening and a lift shaft.
- Increase in overall building height as a result of the lift shaft and rooftop terrace’s screening. Wall height for the proposal is consistent with that previously approved with the roof form
- Incorporation of primary street fencing.



**Figure 2:** Site Plan - Original approval, left (DA0586/18) and current Variation Application, right (VA0004/23)



**Figure 3:** Elevations - Original approval, left (DA0586/18) and current Variation Application, right (VA0004/23)

Below outlines the variations that the variation application seeks to relevant state and local planning policies and the comparison to its previous approval in May 2019.

### Primary Street Setback

Element	Requirement	Proposed	Extent of Variation
<b>Approved plans</b>			
Ground floor	5m	2m to 5.5m	Nil to 3m
Upper floor	7m	5.5m to 7m	Nil to 1.5m
<b>Variation plans</b>			
Ground floor	5m	2m to 6m	Nil to 3m
Upper floor	7m	6m	1m

The proposal seeks a primary street setback variation to both the ground and upper floor prescribed under Local Planning Policy 2.9 – Residential Streetscape (LPP2.9). It is noted that the proposed setback variation has increased to a portion of the bottom floor from the initial proposal.

Under LPP2.9, variations to the primary street setback may be considered subject to the proposed development meeting at least one of the following criteria:



- vi. *The proposed setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape; or*
- vii. *The proposed setback of the building does not result in a projecting element into an established streetscape vista by virtue of the road and/or lot layout in the locality or the topography of the land; or*
- viii. *The proposed setback of the building will facilitate the retention of a mature, significant tree deemed by the Council to be worthy of retention (Refer also to LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites); or*
- ix. *Where there is no prevailing streetscape; or*
- x. *Where the proposed development is on a lot directly adjoining a corner lot, Council will consider a reduced setback that considers the setback of the corner lot in addition to buildings in the prevailing streetscape*

Where it does not specifically meet one of the criteria, the design principles of the R-Codes apply. The primary street setback is considered to meet one of the above criteria as outlined in LPP2.9 in the following ways:

- The proposal is considered to meet criteria v. listed above, as the lot directly adjoins a corner lot (18 Rule Street), which has a ground level setback of 1.5m from Alfred Road, and also includes a first-floor setback at 3.8m and a second-floor setback to 6.1m.
- The proposal seeks a garage setback 2m, seeking a variation to LPP2.9, with the rest of the dwelling setback 6m which complies with LPP2.9 and a first-floor setback of 6m in lieu of 7m.
- Criteria v. also requires consideration of setbacks within the prevailing streetscape in addition to consideration of the secondary street setback of an adjoining lot. The proposed setback is considered to be consistent with other setbacks within the prevailing streetscape. It is noted that since 2019, dwellings have since been constructed which represent a setback closer to Alfred Road than previously considered, for example, 24 Alfred Road. Figure 4 below shows the setbacks of dwellings within the prevailing streetscape.



**Figure 4** – Alfred Street setbacks

**Building height**

Element	Requirement	Proposed	Extent of Variation
<b>Approved Plans</b>			
Building Height (External wall)	5.5m	6.0m	0.5m
<b>Variation Plans</b>			
Building Height (External wall)	5.5m	7.3m (to top of first floor) 9.5m (to top of stairwell)	1.8m 4.0m

Previously, the proposal was considered to meet Clause 4.8.1.1 of LPS4 with a height variation of 0.5m. While wall height was marginally over the scheme requirement, the roof height was approximately 7.3m. The variation plans seek a height variation of 1.8m to the top of the first floor and 4.0m to the top of the stairwell requiring a new assessment against Clause 4.8.1.1 of LPS4.

Where sites contain or are adjacent to a building that depicts a height greater than that specified in the general or specific requirements in Schedule 7, Council may vary the maximum height requirements subject to being satisfied in relation to specific criteria.

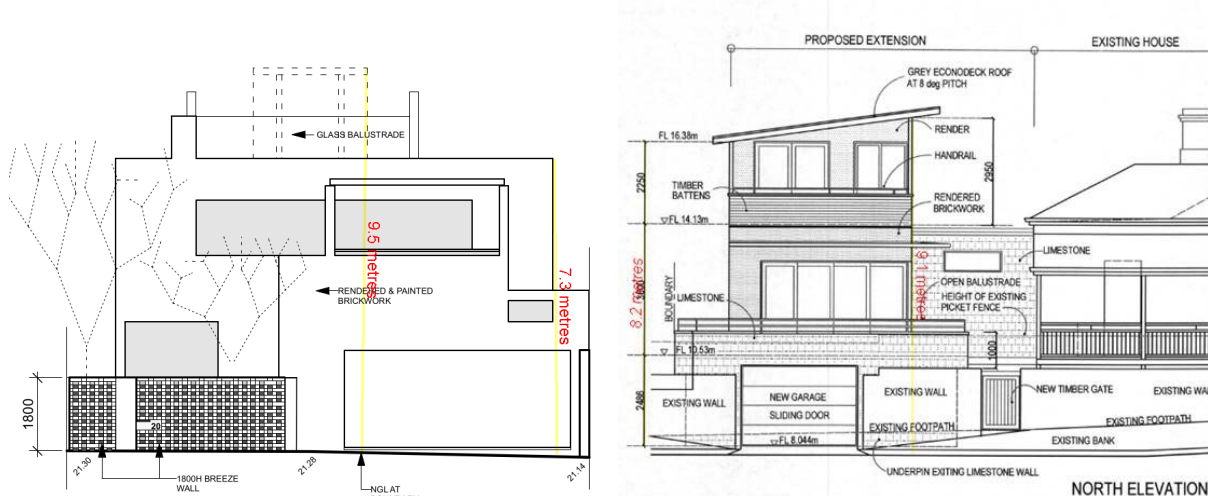
The adjacent site to the south-west of the subject site (18 Rule Street), which is three-storeys in height and seeks discretion to the height requirements in Schedule 7, triggers the assessment against the criteria of 4.8.1. 18 Rule Street has a height of 8.2m (low end of skillion) to 9.1m (high end of skillion), with an average of 8.4m.

As assessment against Clause 4.8.1.1 of LPS4 is provided below:

1. *The variation would not be detrimental to the amenity of adjoining properties or the locality generally*

As per the plan excerpt below, the building seeks a height of 7.3m to the top of the first floor. This height is 1.8m lower than the adjoining properties' maximum height at 18 Rule Street, which seeks a maximum wall height of 9.1m. Refer Figure 5 below which shows the height comparison of the dwellings.

Whilst it is acknowledged that the proposal also seeks approval for a stair well, bringing the total overall height up to 9.5m, the stair well is setback a significant distance from the street (10.1m) and will not be visible from the street (refer figure 6). It is therefore considered that the additional height as a result of the stair well will not be detrimental to the amenity of adjoining properties or the locality.



**Figure 5 – Proposed development at 20 Alfred Road in comparison to 18 Rule Street**



**Figure 6** – Render provided by the applicant demonstrating the stair well is not visible from Alfred Road (note: the screening and poles shown on the roof have since been amended on the final set of plans)

In addition to the above, it is worthwhile noting that given the natural topography of the site, if development were to occur at the rear of the subject site, the permitted height under Schedule 7 of LPS4 being 5.5m on top of highest point of natural ground level would exceed 9.0 metres (approx. 9.7m) if measured from the lowest point. The significant setback and topography screening much of the building bulk means adverse amenity impacts on the properties to the rear are minimised.

- 2. Degree to which the proposed building height of external walls effectively graduates the scale between buildings of varying heights within the locality,*

The height of the subject dwelling, with majority of the height being lower than the adjoining property, with the exception of the lift shaft, graduates the height of this property and other existing two storey dwellings further along Alfred Road (28 Corkhill Road and 26 Alfred Road).

- 3. Conservation of the cultural heritage values of buildings on-site and adjoining,*

There are no heritage implications on the site or adjoining development. Refer to Heritage assessment section of this report.





4. Any other relevant matter outlined in Council’s local planning policies.

There are no further height matters outlined in local planning policies which are relevant to this site.

**Lot boundary setback (Boundary wall)**

Element	Requirement	Proposed	Extent of Variation
<b>Approved Plans</b>			
South-west (garage)	1.0m	0.0m (boundary wall)	1.0m
<b>Variation Plans</b>			
South-west (garage)	1.1m	0.0m (boundary wall)	1.1m

The variation plans seek to increase the height of the boundary wall, meaning the deemed-to-comply setback increases from 1.0m to 1.1m.

**Visual privacy**

Element	Requirement	Proposed	Extent of Variation
<b>Variation Plans</b>			
Cone of vision to the north-east from Music/Dining Room (first floor)	6.0m	4.5m	1.5m

The variation plans submitted seek a visual privacy setback variation to the north-east from the music room located on the first floor. The visual privacy from the music/dining room is considered to meet the Design principles of the R-Codes in the following ways:

- Given the topography of the site and that the finished floor level (FFL) of the first floor is ~25.27 and is found just before the site slopes upwards, the existing lot boundary fence which also slopes upwards with the site will mitigate any overlooking from the cone of vision. The image below shows the fence height for context. This results in minimal overlooking to outdoor living areas of the adjoining site, also noting that if the fence were removed, it would overlook the side of the house, and a window on the adjoining property

as shown in figure 7 below. It is deemed that the boundary fence provides for sufficient screening owing to the increase in topography to mitigate any visual privacy concerns.

It is noted that the terrace shown on the first-floor plan, and the roof top terrace satisfy the deemed to comply requirements of the R-Codes as the plans indicate sufficient screening will be provided.



**Figure 7** – Location of existing lot boundary fence and topography of the site

**Side setback (north-east & south-west)**

Element	Requirement	Proposed	Extent of Variation
<b>Approved Plans</b>			
South-west - Balcony	2.3m	1.3m	1m
North-east	N/A	N/A	No variation sought
<b>Variation Plans</b>			



South-west – ground floor and upper floor	1.5m	1.2m	0.3m
north-east – ground floor & upper floor	1.5m	0.9m	0.6m

It is noted that the variation plans seek new setbacks to the lot boundaries when compared to the approved plans. The variation plans seek lot boundary setback variations to both the north-east and south-west lot boundaries. The proposed setback variations are considered to meet the design principles of the R-Codes in the following ways:

- The lot boundary setback variations ensure that adequate sun and ventilation to the building and open spaces of adjoining properties, noting the variation to the north-east is owing to its orientation, and the variation to the south-west consists largely of a blank wall.
- The setback variations do not directly result in any variations to overlooking or loss of privacy to adjoining properties.
- The reduced setbacks will not have any adverse amenity impacts on the adjoining properties.

### **Heritage**

As the proposed development is located within the North Fremantle Heritage Area, it is subject to assessment against LPP 3.6 – Heritage Areas Local Planning Policy. As outlined in LPP 3.6, the intent of infill development (new buildings) is as follows:

*New buildings within a heritage area should respect and complement the heritage significance of the area. A respectful design approach gives special consideration to the siting, scale, architectural style and form, materials and finishes of the proposed development in relation to its neighbours, without copying historic detailing or decoration. New infill buildings should respond sympathetically to the heritage values of the heritage area as a whole, and also to that part of the heritage area in the vicinity of the proposed development. Imaginative, well designed and harmonious construction is encouraged. Professional architectural services can be of great assistance in formulating appropriate designs.*

The proposal was assessed against LPP 3.6, and the heritage impact of the proposal is deemed as acceptable as it will have limited impact on the heritage values of the



North Fremantle Precinct Heritage Area. The site is not deemed to be a contributory site.

In accordance with LPP 3.6, the new development is considered to meet the requirements of the relevant criteria as follows:

**Table 2 – Assessment against LPP 3.6 – Infill Development (new buildings)**

Element	Officer Comment
<b>Siting and Scale</b>	
<p>New infill development within a heritage area should:</p> <ul style="list-style-type: none"> <li>a) Maintain a setting that is consistent with the original streetscape, including front and side setback patterns.</li> <li>b) Have a consistent bulk and scale in relation to the original street pattern. E.g., If the original street pattern is single storey, then new infill development should also be (or present as) single storey (at least to the front section of the lot)</li> <li>c) Have a plate height consistent with the original street pattern. New development often proposes a lower plate height than the earlier and original buildings. To ensure a consistency of scale the plate height is an important element to ensure it is consistent with the original street pattern.</li> </ul>	<p>The immediate vicinity of 20 Alfred Road is characterised by recent development and does not contribute to the broader heritage character of the North Fremantle Heritage Area. The proposed new development has been considered in the context of the immediate prevailing streetscape of Alfred Road and the proposed development will be similar in siting, scale, materials and form to the established prevailing streetscape.</p>
<b>Building Form</b>	
<p>The form of the building is its overall shape, size and the general arrangement of its main parts.</p> <ul style="list-style-type: none"> <li>i. New infill building within a heritage area should respect and harmonise with and be sympathetic to the predominant form of the prevailing streetscape without mimicking heritage detailing.</li> </ul>	<p>The proposed form and scale of the building is similar to those within the prevailing streetscape.</p>



<p>ii. Where a building form is highly repetitive, significant departures in form will appear at variance to the streetscape and should not be introduced.</p> <p>iii. The treatment of new infill buildings in terms of the roof form, proportions, materials, number, size and orientation of openings, ratio of window to wall etc. should relate to that of its neighbours.</p> <p>iv. Symmetry or asymmetry of facades in the prevailing streetscape is an element of form to be kept consistent.</p> <p>v. Contemporary building designs should respond to, and interpret, the scale, articulation and detail of the existing nearby buildings in a modern, innovative and sympathetic way.</p>	
<p><b>Materials, Colours and Detailing</b></p>	
<p>Materials and level of detailing should reflect / interpret the predominant materials and detailing of the original prevailing streetscape and not visually dominate the streetscape or adjacent heritage buildings.</p>	<p>The proposed development is considered to be consistent with the materials and detailing within the prevailing streetscape, noting that Alfred Road is characterised by recent development and is not deemed to contribute to the overall North Fremantle Heritage Area.</p>
<p>Whilst the basic form, scale and structure of new development should be consistent with the character of the area, new buildings should not seek to emulate heritage detailing to any great extent: 'Faux' or 'mock' heritage detracts from an understanding and appreciation of the original building and will not be supported. New development should blend in with the streetscape but be discernible as new when looked at more closely.</p>	<p>As noted above, the proposed form and scale of the proposal is consistent with the character of the Alfred Road streetscape, and the proposal does not look to propose any 'mock' or 'faux' heritage.</p>
<p><b>Roofs</b></p>	



Traditionally roof lines are a predominant element of the streetscape. All new infill development shall respond to and reinforce the existing characteristics of the prevailing streetscape regarding plate and wall heights, roof form, ridge lines, parapet lines, roof slopes and eaves overhangs.	Noting that the Alfred Road streetscape consists of relatively new development, with inconsistent roof forms, the proposed concealed roof will not impact on the character of the streetscape.
Roof forms that interpret the predominant roof forms of the prevailing streetscape may be considered.	As above.
<b>Verandahs/Porches/Awnings</b>	
Verandahs, porches and awnings were often an important element of streetscapes. Inclusion of verandahs, porches and awnings appropriate to the streetscape are encouraged without too precisely mimicking the style of the original character-building elements or heritage detailing.	As above.
<b>Doors and Windows</b>	
All windows and door openings visible from the street should have a vertical emphasis, which means they should be taller and narrower in appearance unless there is a predominance in the prevailing streetscape of larger, interwar and later windows.	The windows and doors are visible from the street, however, do not represent a vertical emphasis. Noting the above that the street consists of relatively new dwellings, with various window forms and shapes, the City is supportive of the proposed design and that it will not impact on the Alfred Road streetscape.
Front doors should generally address the street and should be centrally located in the front façade of the new infill building unless there is a different original pattern in the prevailing streetscape.	The front door is considered to address the streetscape.

**CONCLUSION**

Following the above assessment, the proposed variations to the approved development are considered to appropriately address the relevant statutory planning



requirements of the LPS4, the R-Codes and relevant policies and is therefore recommended for approval subject to conditions.

### **STRATEGIC IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

### **OFFICER'S RECOMMENDATION**

#### **Council:**

**APPROVE** the application under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the extension of the term and variation to the approval for the Two storey Single house at No. 20 (Lot 1) Alfred Road, North Fremantle, subject to the same terms as stated on the Determination on Application for Planning Approval letter dated, 1 May 2019, reference DA0586/18, except whereby modified by the following:

- A. Extension to the term of substantial commencement of development, to four years from the date of this determination notice.**
- B. Condition 1 of the Planning Approval dated 1 May 2019, be deleted and replaced with the following condition(s):**
  - 1. This approval relates only to the development as indicated on the approved plans, dated 15 June 2023. 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.**



**C. The following additional conditions be added:**

- 5. 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.**
- 6. Prior to the issue of a Building Permit for the development hereby approved, all fencing within the Primary Street setback area shall be visually permeable above 1.0 metres above natural ground level as per the City of Fremantle Local Planning Policy 2.8 - Fences 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.**

**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) In regard to the fence condition, visually permeable is defined by LPP 2.8 Fences Policy as:  
Means, in reference to a wall, gate, door or fence that the vertical surface has:**
  - Continuous vertical or horizontal gaps of at least 50mm width occupying not less than one half of its face in aggregate of the entire surface or where narrower than 50mm, occupying at least two thirds of the face in aggregate, as viewed directly from the street: or**
  - A surface offering equal or lesser obstruction to view.**

**Visual Permeability Based on Size of Slats**

<b>Slat Size</b>	<b>Gap Size</b>
Slats less than 50 mm wide	Gap size equal to or greater than twice the slat size
Slats 50 mm wide and greater	Gap size equal to or greater than slat size





## PC2307-4 Information Report - July 2023

### 1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

**Responsible Officer:** Manager Development Approvals  
**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  
**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.

<b>1. Application Reference</b>
DAP001/22
<b>Site Address and Proposal</b>
34-38 Amherst Street and Stack Street, Fremantle – Proposed Grouped Dwelling development
<b>Planning Committee Consideration/Decision + Current Status</b>
<ul style="list-style-type: none"><li>• At its meeting held on 23 September 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to approve the development.</li><li>• Following a deferral by JDAP, the applicant submitted revised plans which were presented to Planning Committee in November 2022. PC resolved to provide a comment to the JDAP that it did not support the development.</li><li>• At its meeting on 23 November 2022, the Joint Development Assessment Panel (JDAP) resolved to refuse the development in accordance with the Planning Committee Recommendation.</li><li>• In December 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.</li></ul>



- Following mediation session between the parties (JDAP and the applicant), SAT issued orders for a Section 31 reconsideration of the proposal. The applicant has provided amended plans for consideration during this process.
- At its meeting on 7 June 2023, Planning Committee resolved not to support the revised application. Additional conditions were provided in the instance JDAP was seeking to approve the development.
- At a JDAP meeting on 21 June 2023 the panel affirmed the previous refusal.
- At the time of writing this report, no update had been provided by the applicant or JDAP as to whether the appeal will be proceeding to hearing.

<b>2. Application Reference</b>
DAP003/22
<b>Site Address and Proposal</b>
130 Stirling Highway, North Fremantle – Proposed 23 storey mixed use development
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• At its meeting held on 2 November 2022, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to refuse the development, with added emphasis regarding the impact on the former Ford Factory.</li> <li>• At its meeting on 14 November 2022, the Joint Development Assessment Panel (JDAP) resolved to defer determination and request the applicant address a number of matters.</li> <li>• On 1 March 2023, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to refuse the development.</li> <li>• At its meeting on 16 March 2023, the Joint Development Assessment Panel refused the development for a number of reasons.</li> <li>• An Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>• A Mediation session between the parties (JDAP and the applicant) was held on 23 June 2023. City officers were also in attendance. Further mediation is scheduled for September.</li> </ul>

<b>3. Application Reference</b>
DAP003/23
<b>Site Address and Proposal</b>
87-93 Queen Victoria Street, Fremantle – Proposed redevelopment of existing service station



Planning Committee Consideration/Decision
<ul style="list-style-type: none"><li>At its meeting on 14 June 2023, the Joint Development Assessment Panel (JDAP) resolved to approve the development in accordance with the Officers Recommendation, subject to an additional condition restricting the sale of non-petroleum goods to the hours of 6am-10pm.</li></ul>
4. Application Reference
DAP002/23
Site Address and Proposal
59 Blinco Street, Fremantle – 12 Grouped Dwellings
Planning Committee Consideration/Decision
<ul style="list-style-type: none"><li>At its meeting on 21 June 2023, the Joint Development Assessment Panel (JDAP) resolved to approve the development in accordance with the City's Recommendation.</li></ul>

## OFFICER'S RECOMMENDATION

Council receive the following information reports for **July 2023**:

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

### **10.3 Council decision**

Nil

### **11. Motions of which previous notice has been given**

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

Nil

### **12. Urgent business**

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

Nil

### **13. Late items**

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

Nil

### **14. Confidential business**

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

Nil

### **15. Closure**