



# Agenda

## Planning Committee

Wednesday 4 October 2023 6pm



## Notice of Planning Committee Meeting

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday 4 October 2023** in the Council Chamber, Walyalup Civic Centre, located at 151 High Street, Fremantle commencing at 6.00 pm.

A handwritten signature in black ink, consisting of a stylized 'M' and 'D' followed by a horizontal line.

Mark Donnelly  
**Acting Director Planning, Place and Urban Development**

29 September 2023



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## **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**

Cr Bryn Jones – 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 6 September 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

**PC2310-1 CLONTARF ROAD, NO. 2 (LOT 72) AND 4 (LOT 25) AND  
NAYLOR STREET NO.1 (LOT 73), BEACONSFIELD – 162 LOT  
FREEHOLD SUBDIVISION – (JL WAPC163666)**

<b>Meeting Date:</b>	4 October 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. Subdivision Plan</li><li>2. Site Photos</li><li>3. Draft Local Development Plan</li><li>4. City's Heritage Assessment</li><li>5. Landscaping Master Plan</li><li>6. Earthworks Plan</li><li>7. Bushfire Management Plan</li><li>8. Design Advisory Committee Minutes</li></ol>

### SUMMARY

**Approval is sought for the amalgamation and subdivision to create 162 lots with six new roads and two open space reserves at Clontarf Road Nos. 2 (Lots 72 and 100) and 4 (Lot 25) and Naylor Street No.1 (Lot 73), Beaconsfield.**

**The proposal is referred to the Planning Committee (PC) due to the scale and significance of this proposal, as well as the inclusion of demolition of the existing buildings on the site which is in a prescribed heritage area. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4) and Councils LPP3.19 Clontarf Area policy.**

**The key discretionary assessment relates to the subdivisions' eligibility for the R160 density provisions under the discretionary criteria of Schedule 7 sub area 4.3.5 of the LPS4. To assist in justifying the final design, the applicant has provided a draft Local Development Plan, however, this is not under consideration now. Should the subdivision be approved, the requirement to prepare a Local Development Plan will likely be a condition of approval.**

**The City of Fremantle (the City) is not the decision maker for the subdivision, with comments on the proposal to be provided to the Western Australian Planning Commission (WAPC) to inform their decision. The application is recommended for refusal as the proposed subdivision density is not considered to meet all relevant criteria of sub area 4.3.5 (for area 4a of schedule 7) of LPS4.**



## **PROPOSAL**

### **Detail**

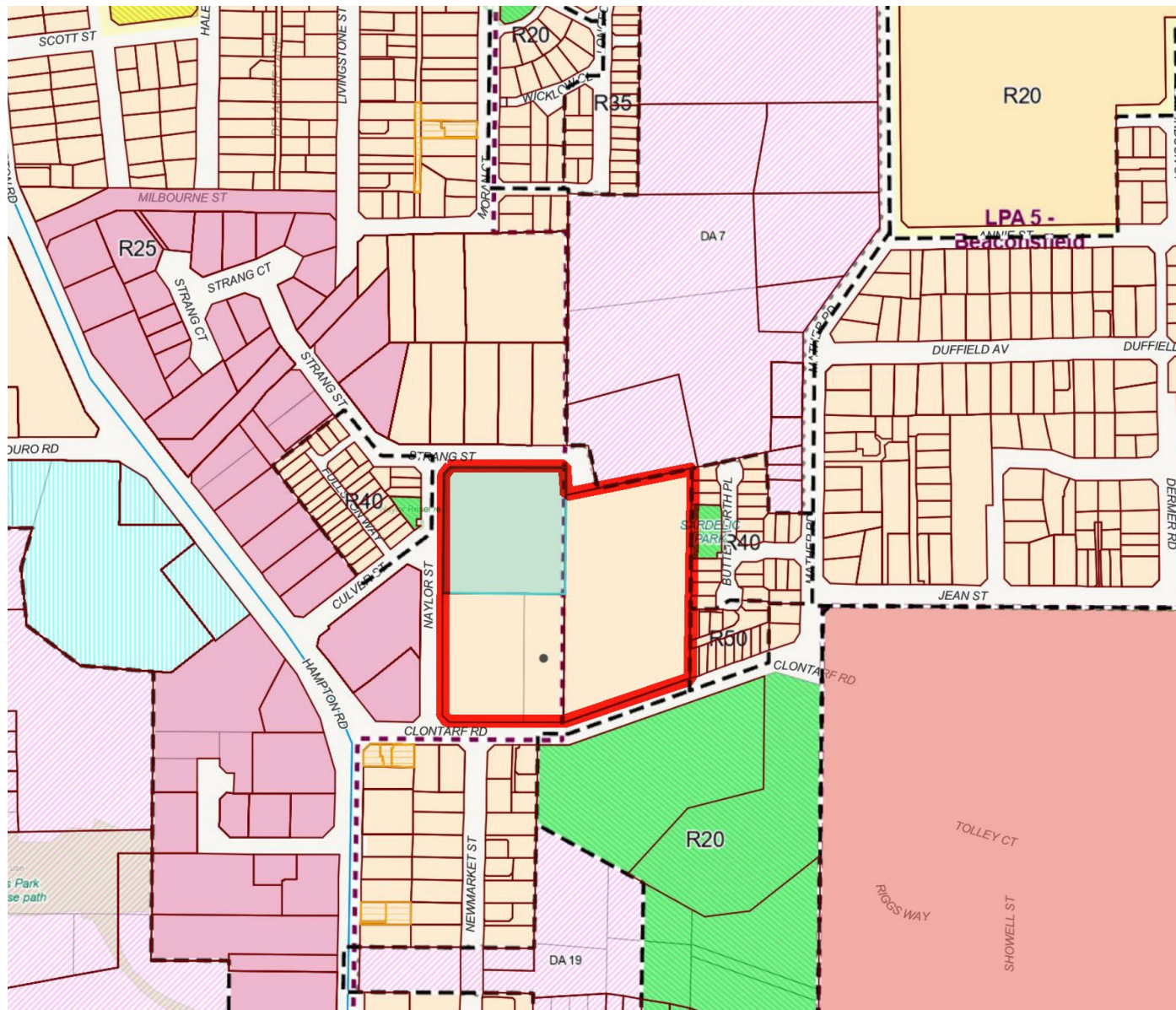
Approval is sought for amalgamation of the three existing lots at Clontarf Road Nos. 2 (Lot 72) and 4 (Lot 25) and Naylor Street No.1 (Lot 73), Beaconsfield and subsequent subdivision into 162 lots (ranging from 102m<sup>2</sup> to 409m<sup>2</sup>) with six road reserves, 6 laneways, four public access way lots and two open space reserves. The proposal also includes the demolition of all structures and buildings over the three properties and significant site works.

The total land parcel equates to 46,830m<sup>2</sup> (12,507m<sup>2</sup> (2 Clontarf Road), 22,005m<sup>2</sup> (4 Clontarf Road) and 12,318m<sup>2</sup> (1 Naylor Street). The proposed subdivision includes six road reserves, 4 x public access ways (equalling to a total of 1123m<sup>2</sup>), 6 x laneways and 2 x portions of public open space (equating to 5307m<sup>2</sup>).

The subdivision plans are included as attachment 1. Other supporting information, including a draft Local Development Plan (LDP) are also included as attachments to this report. It is noted the LDP and other supporting reports such as the Landscape Master Plan will be subject to detailed negotiation and review should the proposal be approved.

### **Site/application information**

Date received:	31 May 2023
Owner name:	Stockland Development
Submitted by:	Everett Bennett
Scheme:	Residential (R25)
Heritage listing:	2 Clontarf Road – Historic Archaeological Site All sites - South Fremantle Precinct Heritage Area
Existing land use:	Warehouse/ Storage





## **CONSULTATION**

### **External referrals**

Nil required.

### **Internal referrals**

#### Design Review Panel Advice

The proposed development was presented to the City of Fremantle Design Advisory Committee (DAC) after the lodgement of the application on the 11 September 2023,

The full combined set of DAC meeting minutes can be found at attachment 7.

The DAC's final recommendations are outlined in attachment 8, and its concluding comments are as follows:

*The DAC advises that the proposal for the site in question has the potential to become much richer and more responsive to the context and character of the area.*

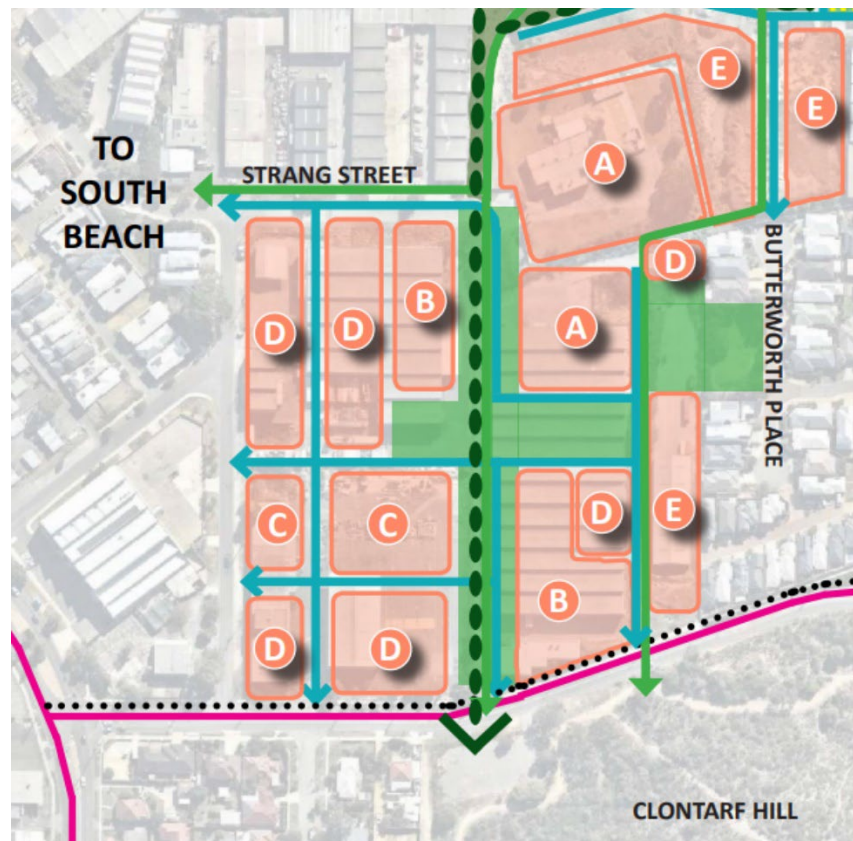
*The key points raised at the meeting were:*

- *Reconsidering the repetitive housing model and exploring the potential of a variety of housing typologies over the site and a diversity of residential models and tenure that better reflect the culture, character and qualities of the Fremantle district.*
- *Further developing the north-south public open space connection to better engage with the Beaconsfield Masterplan vision and with particular attention to the southern part and its relation to Clontarf Road and Clontarf Hill.*
- *Developing and proposing a strategy for the assessment, documentation and further interpretation of the significant existing structures on the site, through the engagement of qualified sub-consultants.*
- *Further developing an architectural language and materiality that reflect the existing industrial character of and around the site.*
- *Consider the introduction of supporting uses and community structures.*



### Strategic Planning

Whilst a non-statutory, advisory only document, 'The Heart of Beaconsfield' Masterplan seeks to assist in resolving how different sites contribute to broader community goals. The City and the community spent some time trying to come up with a layout which allows for staged development and also facilitates a coordinated outcome across the precinct.



**Figure 1** – The Heart of Beaconsfield Masterplan connectivity image

As outlined below in detail, as part of the 'criteria to be met in order for additional development standards to apply', a pedestrian linkage is required to continue from Strang Street, south through to Clontarf Road, to provide a high level of connectivity from the Lefroy Road Quarry Structure Plan site to the large existing public open space reserve at Clontarf Hill.

The Lefroy Road Quarry Structure Plan proposes nearly 40% of its area as public open space and the Structure Plan identifies a potential pedestrian linkage at 2 Strang Street (WA Portuguese Club site) between the open space of the Structure Plan area and DA14, exiting above 1 Naylor Street and 4 Clontarf Road. A connection between the Lefroy Road Quarry and Clontarf Hill is also identified in the City's Green Plan (2001) as a potential green space and link, connecting two areas of substantial open space at the Lefroy Road Quarry site and Clontarf Hill whilst providing a high standard of pedestrian connectivity and amenity between existing and future residential land uses. The Green Plan also highlights the important



linkage this connection would provide to adjacent open space to the south of Clontarf Hill within the City of Cockburn. This connection is further identified in the Heart of Beaconsfield Master Plan.

The line of connectivity is to be located parallel to Naylor Street, at the common boundaries of 1 Naylor Street, 2 Clontarf Road and 4 Clontarf Road, exiting at Clontarf Road opposite the Clontarf Hill car park. Officers consider the requirement of a pedestrian linkage at this location as appropriate as one of the prerequisites for approving development at the significantly higher density and greater building height provided as part of this amendment. Additionally, this linkage, in conjunction with the pedestrian linkage proposed at 2 Strang Street, will provide a high level of connectivity between significant areas of public open space and amenity benefits (social, environmental and health) to both existing and future residents of the locality.

#### Urban Design

The medium density residential land use and the terrace housing typology is supported, however it is considered that the site planning principles have not paid adequate attention to the strategic and district level connections emphasised in Local Planning Policy 3.19 Clontarf Road Area. The purpose of the policy is for the '*Promotion of high-quality design outcomes in terms of integration with the surrounding urban area and landscape features*'. It is considered that the subdivision has some basic structural elements which will affect the long-term character of the development and limit its adaptability in regard to legible connections to district level amenities and an urban structure that fully supports sustainable and active transport options.

It is considered that the subdivision plan (based around pre-set housing typologies) has been progressed ahead of refining site design principles, drawn from surrounding context and character. Good site planning should deliver the best district and local level connections both visually and physically with an outward looking perspective before the internal workings of the sub-division take over. However, in saying this there are still ways to preserve opportunity for a site responsive, flexible and resilient plan that can achieve a public open space network that functions effectively at a district and local level.

The priorities for site planning are to ensure that the best possible connections for active and public transport options are preserved and that the any public open space contribution of the subdivision are accurately described. Further, where possible they should be orientated toward the significant landscape features in the vicinity, which in this case should be to Clontarf Hill in the south and a clear east-west connection to the former quarry site (future sub-regional open space network).

The 4.7 Ha site is an area of Beaconsfield that is evolving from light industrial to a residential precinct with potential for a mix of uses due to the walkable catchment of the Douro Road District Activity Centre (800m) and the walkable catchment of high





frequency bus stops on Hampton Road(400m). The greater site also has the benefit of being on the edge of a vast disused former quarry, which is strategically identified to be an important sub-regional open space and important link to active transport network for the Heart of Beaconsfield Masterplan. In addition, at the southern end of the site on the other side of Clontarf Road is Clontarf Hill, a significant sub-regional landscape feature for Fremantle and prominent local landmark reaching an elevation of 39 metres and covered in remnant vegetation and trails. For comparison, Cantonment Hill adjacent to the Swan River at the entrance to the Fremantle City Centre is 33 metres high and is recognised by the orientation of many streets and roads as the terminating vista and landmark.

It is recognised that the challenges and opportunities in this particular site revolve around extreme level changes within the site itself and along the site boundaries and catering for the demands of district scale sub- regional landscape, recreational and active transport connections. At this stage however, it is recommended that further improvements should be made to the site planning before the subdivision is approved.

#### Parks and Landscapes

Key site planning issues have also been identified when reviewed against the landscape master plan:

- The proposed canopy cover of 20% of the site seems unrealistic with the current land scape plan and species selections.
- The current proposed tree protection zone and proposed road widths may need further work as the spaces allocated are limiting the species and size of future mature tree planting particularly in the laneway's areas of the estate. With changes to the tree planting, this will put pressure on the ability to deliver parking bays, adequate footpaths and other required infrastructure and deliver a high-quality environment.
- To ensure a high-quality public realm and character, the subdivision layout needs to set aside adequate space within the road reserves and public open space.

While it is acknowledged that detailed discussion regarding tree species or finishes of materials in open space can remain an ongoing discussion, some brief feedback is provided for the applicant's information:

- Review of the proposed plant species and street tree selections needed throughout the entire estate.
- Walls and fencing abutting public open space should be solid up to 1.0m in height and visually permeable above this to allow surveillance of the park.

#### Heritage

The City has undertaken a Heritage Impact Assessment in accordance with Councils' LPP1.6 -Heritage Assessment and Protection policy and a copy of the assessment is included in Attachment 4 of the report. In summary the proposed demolition of the existing built form over the sites is supported from a heritage perspective.



An archival record of No.2 Clontarf Road would be recommended to be conditioned if the proposal was supported.

#### Engineering Infrastructure & Parking

Generally, from an Engineering perspective the traffic report and road layout network systems meet minimum standards. Standard advice regarding road design and construction, crossover permit requirements, stormwater discharge and other works in the road reservations will require appropriate permits and approval from the City. A Construction Management Plan (CMP) would also be also required.

#### Waste

No Waste Management Plan (WMP) has been submitted with the application. The City has requested a WMP and only limited information has been forthcoming from the applicant. The applicant has provided additional information for some street bin pads for 14 of the 162 proposed lots which don't have rear laneway access. All remaining lots are to have rear laneway bin collection. The follow comments are provided in relation to the servicing of the proposed lots:

- The City's waste contractors typically do not collect waste from laneways, with one of the key reasons being is the limitation of the City's current fleet including side arm lifts (3m lift only).
- It is acknowledged, that it is common practice to collect waste from laneways, and that this may be preferable from a streetscape amenity and functionality perspective, and review of waste collection practices and fleet is ongoing by the City. However, while the laneways are 6m wide, when taking into account the proposed landscaping treatments, infrastructure and trees, combined with regular vehicle movements along these laneways from the garages, there may be issues.
- For sites at cul-de-sac style ends, bin presentation pads will need to be provided in a formally lodged WMP for the City to be able to confirm acceptability.

Waste collection is a difficult element to resolve after the initial lot planning stage. This issue must be addressed at the subdivision stage of development. At present the City has some concerns regarding the number of bins and the rear laneway collection approach and limited flexibility built into the subdivision road network should this be problematic in the future.

#### **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 9 October 2023 which is after the time at which the report was required to be written to meet statutory referral timeframes for the WAPC. At the time of writing this report the City had not received submissions for this application.

Upon the consultation period finishing the City will forward all received submissions to the WAPC to be considered in WAPC's determination of this subdivision application. Any submissions received at the time of Planning Committee will also be provided to the Committee.

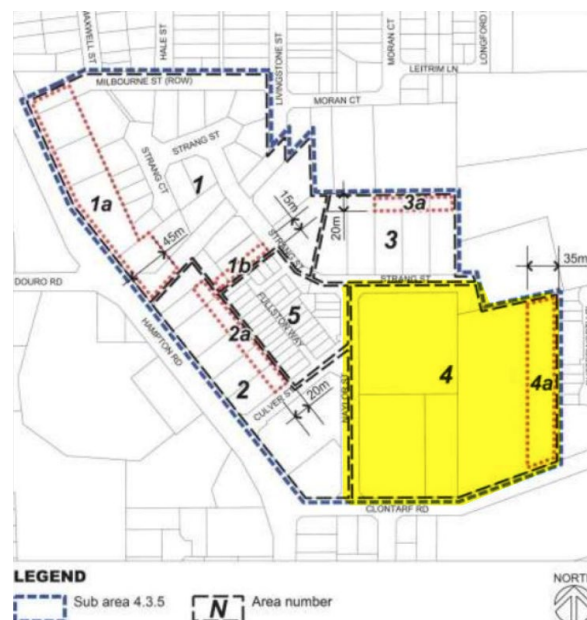
## OFFICER COMMENT

### Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, Liveable Neighbourhoods, Volume 1 of the Residential Design Codes (R-Codes) and relevant Council local planning policies. In summary the proposal meets all relevant deemed to comply criteria of the R-Codes under the R80 density provisions if the additional development standards of LPS4 Schedule 7, if these bonus standards were considered accessible.

The subject site falls within sub area 4.3.5 in Schedule 7 of LPS4 and has a R25 density coding under the Scheme map. See Figure 2 below showing excerpt from LPS4 schedule 7 – showing the site highlighted in yellow.

In 2015 Council adopted Scheme Amendment 43 which introduced the additional development standards to Schedule 7 of LPS4 and fragmented the area into development areas. See map below:



**Figure 2 – Schedule 7 – Sub Area 4.3.5 – map**

Amendment 43 adopted an 'incentive' type approach to prescribing development standards. The amendment prescribed certain criteria that need to be met in order for the additional development standards to apply. The amendment introduced prerequisite criteria for each of the five different areas within Sub Area 4.3.5 depending on the location and type of redevelopment envisioned for each area.



The area was identified in this Scheme Amendment to be capable of supporting more intensive residential development to help achieve the strategic imperative of the City's Community Strategic Plan, the amendment provided a maximum permissible residential density of R160 for the Residential zone.

The density being sought for the subdivision is consistent with that associated with the provisions for R80 under the R-Codes. With regards to minimum road widths, provided public open space and other Liveable Neighbourhood provisions the proposal meets minimum standards. However, the key matters relate to the density being sought and if the LPS4 provisions are achieved.

## **Background**

On 6 June 2023, the City received a subdivision application referral from the WAPC proposing amalgamation of three allotments and subdivision into 184 freehold lots, with public open space, internal roadways and laneways.

Since the lodgement of the application, the City has had multiple meetings and workshops with the applicant in conjunction with officers from the Department of Planning Lands and Heritage (DPLH). Resulting from these meetings, the application has undergone some minor amendments, key changes being reduction in lot numbers from 184 to 162, increased public access way provisions (from 526m<sup>2</sup> to 1123m<sup>2</sup>), revision of future housing bedroom typologies (2, 3 and 4 bed mix) and introduction of a "Fonzie flat" concept commonly known as Ancillary dwellings to rear laneway areas of some future lots. This has been facilitated by increasing the size of some lots and is intended to be included in a future LDP. Additional reports and drawings were also provided to support the concept.

In addition to these changes a draft Local Development Plan (LDP) has been provided (but yet to be formally lodged with WAPC), as well as conceptual dwelling layout plans as evidence how the subdivision could be built out if approved. The built form potential as shown in the draft LDP and conceptual plans demonstrates the applicant's intent for the site, however at this stage of the development, only the subdivision application is under assessment with all other elements subject to change.

## **Demolition**

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

*(a) has limited or no cultural heritage significance, and*



*(b) does not make a significant contribution to the broader cultural heritage significance and character of the locality in which it is located.*

The subject property (No.1 Naylor Street, 2 and 4 Clontarf Road) is located within the South Fremantle Heritage Area and No.2 Clontarf is listed on the City's Heritage List as having Historic/ Archaeological significance.

In accordance with the above and the attached heritage assessment (attachment 4), the built form on these sites is of considered to be of limited significance and do not make a significant contribution to the broader cultural heritage significance and character of the locality. Therefore, the demolition is supported. Should the subdivision be approved, a condition would be requested requiring an archival record be prepared prior to the demolition of the buildings on No.2 Clontarf Road. The archival record is to comprise plans and photos of the building to ensure that it is appropriately recorded.

## Density

### LPS4 Criteria

As outlined above the subject sites all have a density coding of R25 under LPS4. The proposed subdivision seeks a density of approximately R80 and therefore discretion is being sought under Schedule 7 Sub area 4.3.5 (e) of LPS4.

Sub clause e) (listed below in the table) outlines specific criteria which is to be met in order for additional development standards (i.e. density) to apply. All of the criteria of this sub clause must be met in order to access the additional development standards in LPS4. For Area 4 (including Area 4a which acts as a buffer to the adjoining existing residential developments) which all three properties fall within, the below specific criteria need to be adequately met.

<b>Area 4 and 4a</b>	<b>Criteria to be met in order for additional development standards to apply (all criteria to be met)</b>	<b>Additional development standards</b>
1)	<i>The development site comprises of a minimum land parcel of 10,000 sqm within Area 4 (including Area 4a).</i>	<i>Permitted building height within Area 4 is 24.5 metres.</i>
2)	<i>Non-residential land uses are restricted to the ground floor unless it is demonstrated to Council's satisfaction that the non-residential land use meets the local needs for commercial services.</i>	<i>Permitted building height within Area 4a is 7.5 metres.</i>
3)	<i>Development provides active frontages to public street(s) and public open space. Residential development with frontage to Clontarf Road is to include openings and pedestrian access directly to Clontarf Road.</i>	<i>Residential density of R160.</i>



4)	<i>The location and design of new road(s) and footpaths shall demonstrate a high standard of vehicular and pedestrian connectivity with the existing road and footpath network.</i>	
5)	<i>A portion of the lot area, not less than 7.5m in width, to be provided for the length of the lot adjacent to the common boundaries of 1 Naylor St, 2 Clontarf Rd (Lot 72) and 4 Clontarf Rd. This portion of land shall be transferred at no cost to the City of Fremantle to provide a north-south linkage between Strang St and Clontarf Rd for the purpose of public open space and/or a landscaped dual use pathway, to integrate with the existing areas of public open space at Clontarf Hill and future public open space within Development Area 7 – Lefroy Road Quarry.</i>	

With regards to clause 1 and 2 the proposal meets these requirements as the combined site exceeds the minimum 10,000m<sup>2</sup> requirement and only includes residential land uses. This subdivision application is only seeking the additional density bonus standard in the above table with built form/ building heights to be assessed as part of the redevelopment stage of the site if a subdivision plan was approved by the WAPC. Specifically, the applicant will need to formally submit the LDP for assessment.

The assessment of the above sub clauses 3, 4 and 5, Council's LPP3.19 – Clontarf Road policy are also directly relevant, and a detailed assessment of these sub clauses is included below. The purpose of this policy is to ensure coordinated design of subdivision and development within the subject area. LPP 3.19 is made up of three parts:

- *Assessment of the additional development standards under Schedule 7 – Sub Area 4.3.5 area 4 and 4a of the Local Planning Scheme No. 4*
- *Guidance on the exercise of discretion to vary Local Planning Scheme No. 4 development standards*
- *Promotion of high-quality design outcomes in terms of integration with the surrounding urban area and landscape features.*

In assessing sub clauses 3, 4 and 5, LPP3.19 also provides the following purpose statements:

- 3 – To ensure development is responsive to and addresses the surrounding area*
- 4 – To ensure a well-integrated movement network*





*5 - To ensure a north to south public open space and/or a landscaped dual use pathway linkage between Strang St and Clontarf Rd, to link existing and future public open space in the area.*

*3- Development is responsive to and addresses the surrounding area*

In regard to sub clause 3, it is noted that the 85% of the proposed lots will either allow for future development to provide active frontages onto respective primary streets and or public open spaces within the estate. With regards to the lots fronting Clontarf Road the provided draft LDP documentation and future concept floor plans, all show front door entrances, multiple window openings and pedestrian access directly from Clontarf Road. Therefore, it could be considered clause 3 is met as it has been demonstrated the development is capable of providing a responsive design to the various surrounding streets and activities of the larger site.

*4- To ensure a well-integrated movement network*

With regards to clause 4, a high standard of vehicular and pedestrian connectivity is required, not only within the development itself, but also tying into existing road and footpath networks in the immediate locality. The purpose of this clause is to ensure a well-integrated movement network for the greater Beaconsfield area.

This site is fundamental to ensuring a strong pedestrian and cyclist link between Clontarf Hill to the south of site and the Lefroy Road former quarry site (and broader Heart of Beaconsfield strategic area) to the north. Whilst some improvements have been made to widen the Pedestrian Access Way (PAW) at Clontarf Road as compared with the originally submitted plan, this remains a concern to the City as the current design is not considered to result in a high quality outcome.

The provided landscape masterplan shows two key Public Open Space (POS) and footpath connections through the greater site to provide an east-west and north-south pedestrian and bicycle linkage through the greater site. These links are generally in the location intended by the Heart of Beaconsfield strategy. It is noted that the provided pathway connections may meet the minimum requirements of the Liveable Neighbourhoods (in terms of the minimum widths, distances etc), however the required LPS4 provision for additional density standards requires a high-quality connection and not just a mere compliant outcome. Further, there should be sufficient space for a generous dual use path through the development, while also leaving quality POS for passive and active recreation. The multi-purpose use of the space is not disputed, rather the quality and layout to ensure needs of all users are met.

Some key concerns relate to the proposed north-south POS greenspace and its pedestrian and cyclist dual use limitations. The site is quite constrained, and with the dwellings hard against the space, it may feel semi-privatised with the broader community assuming it is common space for the dwellings abutting it only. Also, the



City does not consider the current proposed pedestrian and cyclist connections to capture all of the existing and desirable networks surrounding the greater site to its greatest capacity, but particularly to the northern and southern ends of the site.

A key concern remains in relation to the southern ramp solution connecting the site to Clontarf Road. Another is how the proposed footpath network will connect into the Lefroy Road desired linkage. It is noted that the topography of the site is problematic and fundamentally a ramp style footpath link particularly for the southern connection is inevitable, but the fundamental planning of the site does not allow for a more practical solution that will encourage these active modes of transport through the site. The area set aside to deliver this connection is limited in space and as such, will require a lot of infrastructure (e.g., ramps) to be located into the space restricting its functionality and sense of being an important connection piece within the broader public realm network.

*5 - To ensure a north to south public open space and/or a landscaped dual use pathway linkage between Strang St and Clontarf Rd, to link existing and future public open space in the area.*

A minimum 7.5m wide portion of the property abutting Clontarf Road is to be transferred at no cost to the City in order to provide a north-south linkage between Strang Street and Clontarf Road. As outlined above the purpose of this public open space and/or a landscaped dual use pathway, is to integrate the greater existing areas of public open space at Clontarf Hill and future public open space within Development Area 7 – Lefroy Road Quarry. Additionally, it should provide enough room for a dual use pathway to link the areas.

Whilst the proposal meets the minimum PAW width requirement, the southern end of the proposed linear PAW incorporates a zig zag ramp design (approx. 2 metre wide) with 4 tight turns leading to the Clontarf Road bus stop heading east. It also will provide a much-needed access to the 'wild nature space' of Clontarf Hill. However, the current design and approach is not considered to be generous enough for the volume of pedestrian and cycling traffic that is anticipated to access this key connection. The ramp will likely need to cater for people and equipment to pass in opposite directions particularly at the corners comfortably and for refuge points to allow for people to pause and wait others to pass by.

It is also noted that simple modifications could be easily introduced to this element of the POS connection which would significantly improve the connectivity and useability of the link. This connection could be expanded into the two neighbouring lots to the west or one lot either side to allow for a more generous ramp and inclusion of a stepped pathway. Widening this connection has the potential to offer a good visual connection to Clontarf Hill regional open space from the central linear open space which provide the visual cues to encourage active transport and provides a sense of regional landscape setting. It is acknowledged that resetting the balance





here in favour of a more generous public realm outcome may impact the overall development yield of the site.

#### LPP 3.19 Clontarf Road Area Criteria

In addition to meeting all of the above criteria of sub area 4.3.5, LPP3.19 also requires assessment against clause 3 – High Quality design outcomes. LPP3.19 generally aligns with State Planning policy 7.0 principles. In assessing subdivision or development applications on land subject to this policy due regard will be given to how the proposed development demonstrates that it addresses the following seven design objectives:

- 1. Character
- 2. Continuity & Enclosure
- 3. Quality Public Realm
- 4. Ease of Movement
- 5. Legibility
- 6. Adaptability
- 7. Diversity

#### 1. Character

The objectives of this outcome are as follows:

- *Integrate with the surrounding urban framework including a sensitive interface to existing dwellings*
  - In relation to the adjoining dwellings on Butterworth Place, the new lots will be approximately a metre higher. It is however acknowledged that the site levels are challenging and a level of earthwork will be needed to ensure appropriate road gradients and drainage so level changes will be needed across the site.
- *Create a connected and legible street network which provides positive way finding elements through a logical hierarchy whilst limiting through-traffic from the semi industrial areas to the north in the short term.*
  - Naylor Street is considered to be the main road for access to the Strang Street commercial/ industrial hub. The provided internal road network grid accessing the estate from Naylor Street and Culver Street, allow for both the existing non-residential activities within the greater area and this new residential estate to operate harmoniously with minimal impact by way of traffic movement.
  - The subdivision relies very heavily on the rear laneway vehicle movements.
  - The road network is simple in design and functions appropriately for an estate of this density and housing typology.
- *Respond to the natural landforms both within the site and external to the site, in particular Clontarf Hill and the valley to the east.*
  - Clontarf Hill is directly adjacent to the southern edge of the site. It reaches 39 metres in height and is a prominent natural landmark and distinctive feature of the site's landscape context. It is



- characteristic of the local and sub-regional natural indigenous landscape of undulating limestone ridges and hills.
- Providing and celebrating an improved visual connection to Clontarf Hill from the proposed sub-division development by protecting a view corridor from a publicly accessible space such as a road or public open space will allow for a character and identity that people can appreciate easily.
  - Views to the ocean in the west are also available from Strang Street as well as views to the east across the former quarry (future recreational space). These unique and significant spatial qualities of the site need to be recognised and inform the spatial planning and arrangement of the site. At present, the design is not making best use of these vistas.
- *Reflect and respond to existing building forms on site either in the built form or landscape design within open space.*
    - While the industrial buildings on site are not proposed to be retained, there is intent from the developer to recycle some of the building material for use in the POS.
    - The built form and landscape design is a work in progress.
  - *Respond to the existing adjacent dwellings in a respectful manner, whilst also considering an increase in building height and scale centrally within the policy area, reflecting the infill nature of the site as well as the surrounding topography and views.*
    - At least a metre of fill is proposed on the eastern edge of the site.
    - There is limited change to the height of dwellings proposed throughout the development, opting that this is not under assessment at the subdivision stage. However, with the subdivision layout proposed, there are limitations to the built form that could be delivered within the policy area, so opportunities to increase density and height are not likely to be realised.
  - *Use a variety of building materials and forms which create a distinct local character.*
    - Alternative built form and a mixture of scales and housing types was needed, rather than a blanket cover over the entire site, providing not only diversity in dwelling sizes but also dwelling typologies and tenure models. The lot layout of the subdivision restricts the opportunity for this to be delivered.
    - This element is still to be developed, and is suggested to form part of the LDP via a design guideline. Notwithstanding this, the City's DAC have reviewed early design work, and suggest that the architectural language and materiality still require some work.
  - *Respond to and embrace Clontarf Hill and the Portuguese Club.*
    - Strengthening the connections of the POS on the site is needed, with Clontarf Hill to the south and the Portuguese Club site and quarry



precinct to the north, in order to truly engage with and invite the broader public to traverse and use the site for recreational activities.

## 2. Continuity and Enclosure

The objectives of this outcome are as follows:

- *Create animated streetscapes through the connections to the surrounding public transport stops on Hampton Road and Clontarf Road.*
  - This section emphasises the importance of the surrounding public transport stops on Hampton Road and Clontarf Road, supporting public transport use needs to be an organising principle for the subdivision layout.
  - The connections to Hampton Road via Culver Street and the connections to Clontarf Road bus stops need to be obvious, generous and desirable pedestrian connections encouraging the use of public transport options. The family orientated nature of the housing product envisaged in the prosperous LDP documentation will mean that children, students and workers will be using this mode of transport daily.
  - The use of laneways to remove garages off the main streets, helps to create a clearer pathway with less vehicle access on to lots. The significant number of laneways could end up being used as shortcuts and are not animated streetscapes.
- *Create articulated and activated building frontages to public streets and open space areas which are appropriate to the particular street in the hierarchy of the overall network with the potential for non-residential/home based business uses where appropriate.*
  - At present in the draft LDP documentation and plans show only residential activity. None of the proposed housing typologies appear to provide for home occupation/ business or Office allocations.
  - It
- *Locate buildings centrally to provide enclosure and surveillance of the central open space.*
  - DAC state that consideration and the possible introduction of supporting uses other than residential would be a good inclusion to the estate. Such as small commercial activities (eg café, deli, workshops), community hall, men's shed etc, which have the potential of catering for the community on site as well as inviting the broader community to engage and provide active and passive surveillance over the estate.

## 3. Quality Public Realm

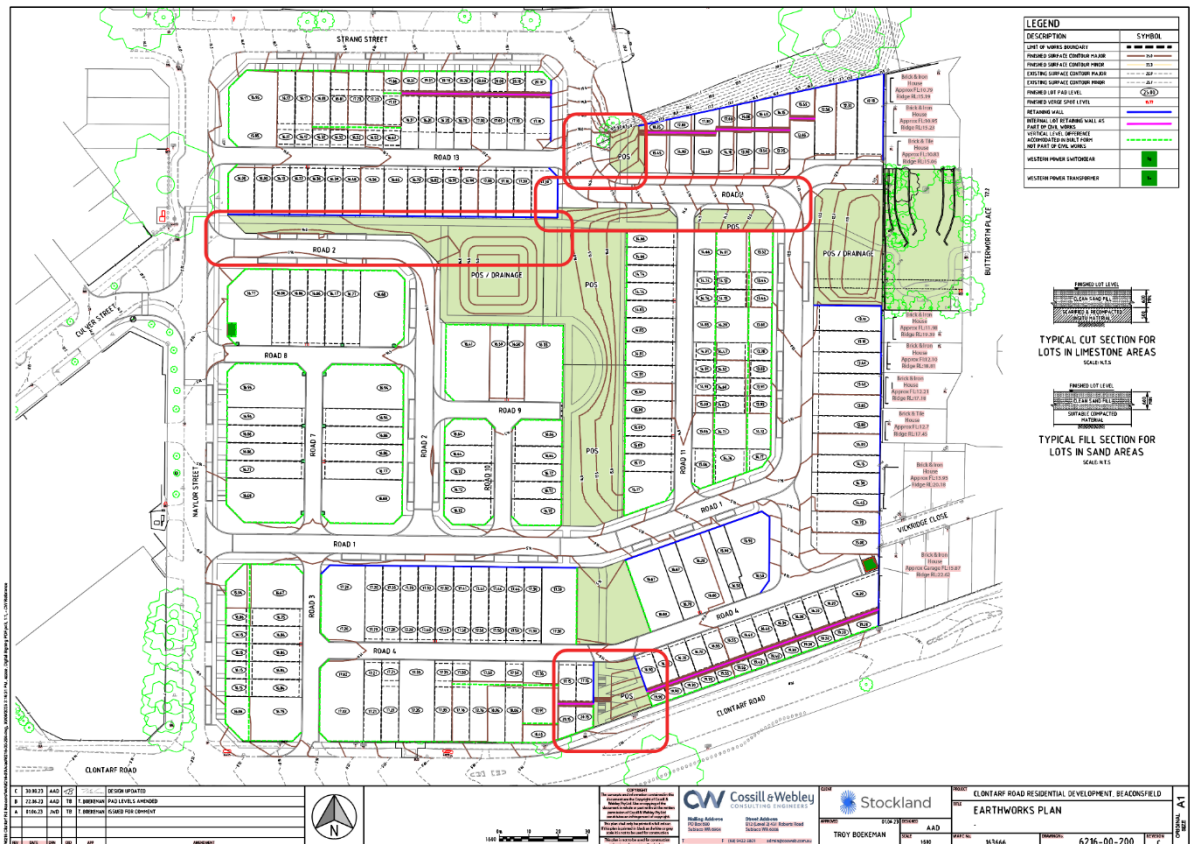
The objectives of this outcome are as follows:

- *Create a functioning network of public open spaces and pedestrian routes that enhance the user's experience through the delivery of high quality, active and safe public realm.*
  - The concern with the site planning for this sub-division is around the functioning of the public open space and pedestrian routes. The public



open space network proposed as part of the sub-division caters for very local residential use but does not adequately cater for the strategic and district level linkages and active transport that is required.

- Some of the spaces that have been designated Public Open Space on the sub-division plan would be more accurately described as street verges and whilst contributing welcome greenery to the street environments should not qualify as contributing to the Public Open Space component of the sub-division.
- The central POS space appears to be too privatised, meaning people will likely avoid using it as it will function more like common property, surrounded by dwellings with limited access points for the greater public and private gate entrances to abutting dwellings rather than the needed greater POS reserve it is meant to be.
- The proposed connection to Clontarf Road is a requirement for accessibility and also should not be included in the Public Open Space calculation as it is largely consumed with ramps for access due to a 3m level change.
- The POS performing a drainage function adjacent to the neighbouring Butterworth Place open space contributes to a larger area of POS connecting the two residential subdivisions, but it will also require a holistic redesign to join the two parcels for recreational functionality due to level changes. In addition, the pedestrian path coming through from Butterworth Place into the east-west linkage through the development needs to be of a larger dual use nature to accommodate both cyclists and pedestrians. This link into Butterworth Place is currently the only opportunity to link into the sub-regional open space linkage to the north.



**Figure 3 - Earthworks plan marked up to show POS that is either road verge or Pedestrian Access Way**

- Provide a series of open spaces that reflect both the past and the future of the site through the potential reuse of portions of the existing buildings and a mixture of hardscape and softscape outcomes.
  - The applicant has indicated that they intend to recycle material from the onsite buildings for use within the POS and as fencing. The detail of this is still to be worked through, but officers encourage the applicant to ensure they consider the ongoing maintenance of these materials that will be inherited by the City, and ensure they are treated to ensure they are appropriate for outdoor use.
  - Further consideration into introducing tree varieties that are appropriately scaled for their purpose and location and establishing a clear strategy for the landscape that is identifiable and integrated with the surrounding and historical ecological context is needed.
- Deliver a public realm, which integrates seamlessly with the buildings surrounding it and reflects their use.
  - As mentioned above, the public realm space would need to work very hard to provide a high-quality outcome. The infrastructure needed to be provided in these spaces for the residential themed estate and the allocated public realm areas may not be compatibility to deliver the desired outcomes.



#### 4. Ease of Movement

The objectives of this outcome are as follows:

- *Create a path that is well connected to the surrounding network of streets and footpaths.*
  - It is acknowledged that there appears to be good pedestrian movement through the subdivision with lots of different ways to move through by street, laneways or green spaces. However, cycling is one key area of concern and is not catered to a high-quality standard. The most direct route through the streets or the open space network of the overall subdivision is not clearly obvious and as such more work is required to significantly improve this quality.
- *Provide a variety of options for moving through the policy area whilst providing a range of options for pedestrians to access the surrounding transit stops on Clontarf Road and Hampton Road.*
  - The required east west and north south greenspace/ linkages have been provided but it appears to be at the minimum compliant requirements. As mentioned previously pedestrian pathways throughout the site need more work and consideration. At present the range of options and the quality of the spaces need more work.
- *Prioritise pedestrian access through the provision of a connected footpath network whilst limiting, in places, vehicle access.*
  - The inclusion of laneways is supported, with many of the lots having a garage off the service laneway, which assists in providing clear pedestrian priority on main streets.
  - There are however some areas where there may be conflict with infrastructure, pathways and the number of trees proposed, and widening the road reserves and linking POS, there will be more opportunity to ensure the provision of pathways that accommodate pedestrians and cyclists, as well as quality canopy coverage.
- *Provide a clear hierarchy of streets which reflect the access points into the site whilst also acknowledging the limited street connections to the north and the east as a result of previous development patterns and topographical constraints.*
  - The proponent could consider connecting directly into wild nature spaces along the base of the ridge that the Portuguese Club by allocating the top three lots in the north east corner of the site to public open space. Whilst the changes in topography over the greater area may limit how this is done, no consideration seems to be made or justify why this hasn't been explored.
  - A street connection is provided from the north, however due to topography, the applicant has not included one in to the east. There is





one laneway exit on to Clontarf Road and pedestrian/cyclist access through the PAW on the south.

- *Provide a variety of street block options in order to deliver a diverse range of dwellings which will inform a more diverse community. Larger street blocks will provide safe and connected pedestrian connections in order to maintain finer grain outcomes.*
  - While the town house approach is supported, and the introduction of slightly larger blocks which could accommodate the proposed Fonzie Flat typology, there is not considered to be a variety of street block options available. The proposal could be improved, by leaving larger street blocks unsubdivided for future exploration of different housing types (for example small apartment buildings).
  - The extent of laneways throughout the site limits the delivery of this outcome.

#### 5. Legibility

The objectives of this outcome are as follows:

- *Create a network of streets which are legible to all users and enhance the current street network.*
  - Culver Street is the most important street to continue on through the development due to its direct access to the Douro Road Activity Centre and the Hampton Road High Frequency Bus Route. This strong east/west link into the future sub-regional open space and active transport linkage is very important and needs to be legible with strong visual cues as to its direction and purpose.
  - The east-west linkage has been indicated in the current proposal but is not as legible as it needs to be with parts of the connection being off-set and obscured by built form.
  - The north south green spine is also very important and should ideally fan out towards Clontarf Hill to open up to that significant natural landscape feature and to the bus stops and cycling access on Clontarf Road.
  - This sub-division has focused on delivery of the popular terrace house building typology but has chosen to separate the terrace from the accompanying traditional association with the street in order to orientate properties around a central green spine which is 20 metres wide, the dimensions of a traditional road reserve.
  - The resulting site planning and arrangement is considered to be quite complicated to organise a vehicular circulation system around the central green spine and to provide rear access to the lots via narrow 6 metre laneways.
  - The priority to service these lots with vehicular access has taken precedent over a legible street network that can provide the district and local level landscape and active transport connections.



- *Use access point from Naylor Street and Clontarf Road as landmarks to assist in way-finding with built form outcomes which respond to these important cues.*
  - The built form at these locations is standard residential form and scale, noting the lot size of the subdivision in these areas. The Clontarf pedestrian link needs improvement to be a key way-finding linkage not only for the estate but for the broader Beaconsfield locality.
  - Resue of some of the fabric from the existing industrial building onsite could also be incorporated into these areas and enhance and enrich key landmarks and way finding infrastructure.
- *Deliver the iconic/recognisable architectural outcomes on significant corners visible from access points into the site as well as beyond the site (i.e. from Hampton Road/Culver Street)*
  - The City's DAC has reviewed the draft LDP, and advised that the applicant should further consider the architectural language and materiality of long facades to break down the scale of dwelling blocks was required.
  - The sizes of these could be further developed to give these corner lots greater presence.

#### 6. Adaptability

The objectives of this outcome are as follows:

- *Deliver built form outcomes which have the capacity to change over time through adaptable floor plate heights and construction methodologies.*
  - Noting the LDP is currently only in draft form, the proposed housing construction and overall typologies are limited in the ability to be repurposed or uses for any other activity but residential.
  - The applicant has not put forward alternate uses for the small lots.
- *Deliver an outcome that is both future-proofed for resilience to climatic conditions and future users.*
  - The predominate housing typologies and topographical changes over the estate may become challenging in achieving diverse housing offerings, especially for older generation occupants.
  - With regards to climatic conditions the conceptual terrace housing typology and their current orientations could be improved. The proposed streets being north-south would be a more preferable layout to allow for maximum winter sun penetration into the streets and courtyards in the middle of the day and for the east west orientated housing to capture cooling summer breezes from the south-west and allow courtyard trees and garages to protect from the hot westerly afternoon sun.
  - Tree canopy is going to be difficult to establish outside of the 14 metre road reserves and public open space, therefore sites for larger shade trees should be set aside in the areas that can accommodate them. 20% coverage is the target but it is questionable if the public realm would could enable such a target. The laneways and courtyards provide a more challenging growing environment and will depend on the skill and care of





residents for good tree survival rates. Accurate representation of tree canopy cover in the context of medium density development is important and the focus should be on well-located shade trees.

### 7. Diversity

The objectives of this outcome are as follows:

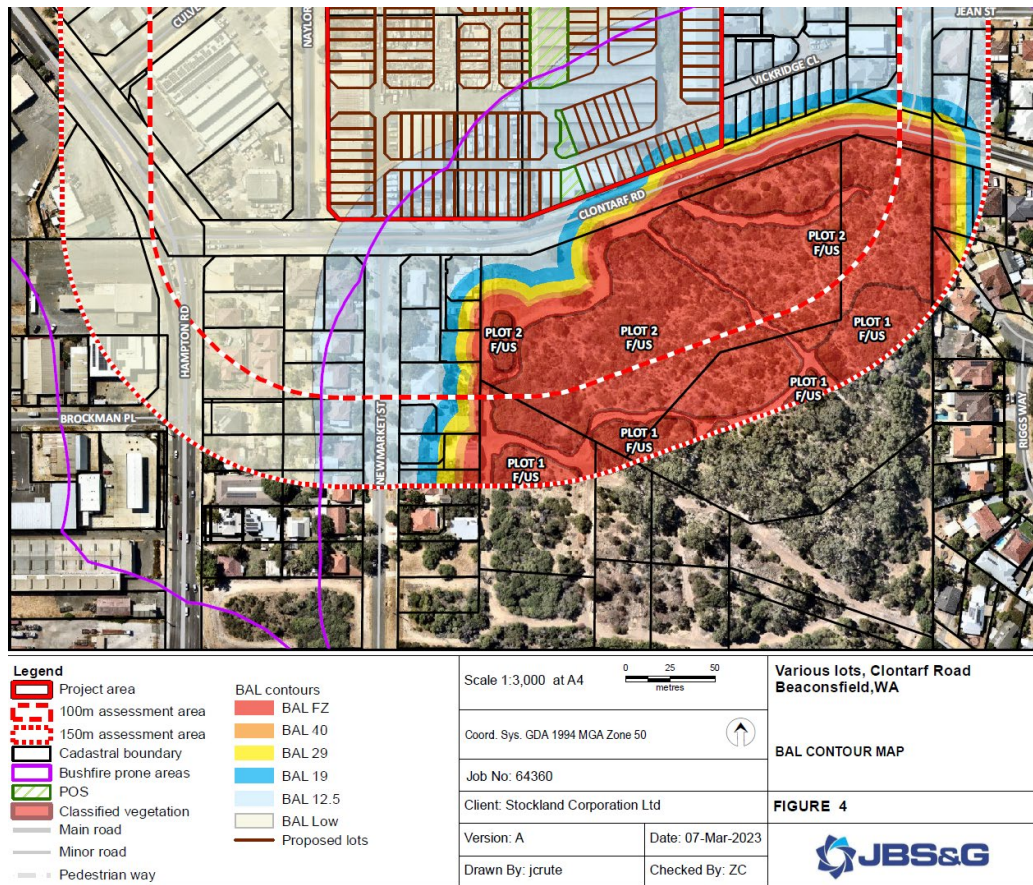
- *Deliver a place that has a wide variety of dwelling types in order to create a diverse and holistic community*
  - The proposal is to include a range of 2, 3 and 4 bedroom dwellings but all in a two or three storey side by side configuration dwellings.
  - Ideally, introduction of some Multiple dwellings would be ideal for the locality which would help improve the diversity of dwelling types within Beaconsfield.
  - The diversity of housing options over the greater area is very limited but at least the small lot model does offer an alternative housing type for the broader area.
  - Providing not only diversity in dwelling sizes but also dwelling typologies and tenure models would be of benefit.
  - Given the size of the site, the potential density available and the desire of the policy to deliver true diversity and adaptability, the applicant is encouraged to think outside the norms and explore creative housing solutions. Noting the proposal is at subdivision stage, reviewing the site planning to allow for change and unique solutions is recommended.
- *Create a place that has the potential for a range of uses over time*
  - The conceptual built form and draft LDP only includes residential land uses and these dwellings will not be easily or readily adaptable over their anticipated built life. A more diverse built form product is needed to introduce the desired range of mixed use within the site.
- *Create a place that has a variety of architectural expression through the delivery of various elements of the policy area by using a range of local and international architects and designers*
  - The proposal has a limited variety of architectural expression. The elongated façade treatments, combined with limited articulation and built form and limited range of building materials on offer are still being developed.
  - The site planning for the proposal does limit opportunities for flexibility and variety, but could be explored.
- *Deliver a place that is accessible both financially and physically to a wide range of the community through built form design.*
  - The targeted sales pricing range has not been made available at this stage. Smaller lots are typically more affordable in comparison to typical R25 lots.



- *Deliver a place that is well connected to the wider community and can ultimately deliver housing, employment and local retail needs over time.*
  - The subdivision and housing product will be attractive to diverse households and provides flexible and diverse housing options within the terrace house typology. Diversity also refers to development being well connected back into the wider community so that amenities can be shared and places can evolve organically overtime, are adaptive and flexible.
  - As mentioned in previous comments, this sub-division plan needs to provide for better strategic and district level connections both visual and physical which are legible to all users.

### **SPP3.7 – Planning in Bushfire-Prone Areas**

In accordance with *State Planning Policy 3.7 Planning in Bushfire-Prone Areas* in accordance with *Guidelines for Planning in Bushfire- Prone Areas Version 1.4* a Bushfire Management Plan (BMP) has been prepared to accompany the subdivision application as the subject site abuts Clontarf Hill which is a designated Bushfire Prone Area. The submitted Bushfire Attack Level assessment indicates that some of the lots fronting Clontard Road to the southeastern portion of the site are impacted and have BAL ratings of BAL12.5 up to BAL 29. A complete copy of this BAL assessment is included in attachment 6 of the attachments. See image of BAL map below showing the impacted lots. Ultimately if the application was to be supported an appropriate condition would be included ensuring these lots have a notification added to the certificate of titles alerting any future landowner of the built form and BAL requirements under the Australian Standards. Any future LDP should also address these provisions to ensure the built form is capable of delivery.



**Figure 4 – Excerpt from BAL assessment**

## Other state planning policies/ Development control policies

### • 2.2- Residential Subdivision

Generally, the proposed subdivision layout, access arrangements and service provisions lot sizes are considered to meet the minimum requirements of DC2.2.

### • 2.3 - Public open space in residential areas

The allocated POS contribution does meet the minimum 10% provisions. The proposed POS area also are to include community recreation facilities such as bbq, seating, shelter, landscaping, reticulation and lighting and other necessary infrastructure ie play equipment. These provisions are considered adequate and appropriate in providing for the needs of immediate residents.

### • 2.6 - Residential road planning



With regards to DC2.6 the road infrastructure is considered to meet the objectives of this policy however, the proposed pedestrian pathways throughout the estate are considered to be insufficient. As outlined in DC2.6:

*The way in which the street verge is treated can have a significant impact on the creation of a neighbourhood identity or sense of place as well as safety of all road users, including motor vehicle passengers and pedestrians/cyclists. This in turn affects how the street is used, particularly its multi-use by pedestrians and cyclists.*

*Important components of the street verge include:*

- *footpaths/dual-use paths;*
- *tree planting; and*
- *street lighting.*

*Street trees, in particular, contribute to the creation of a sense of enclosure and human scale providing shade (to create a cooling effect), aesthetic attributes and the promotion of bird life. Canopies over hanging streets create a sense of enclosure which can influence driver behaviour by promoting a slow vehicle speed environment.*

As discussed in detail above the pedestrian pathways and Landscaping treatments of the public realm are not at level which is considered to produce a high quality outcome and as such the density is not supported under schedule 7 of LPS4.

### **Draft Local Development Plan**

It is acknowledged that the current LDP is in draft form and will need to be progressed if a subdivision is approved. A comprehensive assessment against the design principles and assessment against the relevant provisions of SPP 7.0 Design of the Built Environment as outlined in R-Codes Vol. 1 2023, Part A section 3 has been undertaken. The City strongly encourages:

- Ways to improve solar access to dwelling primary living areas,
- Improve sizes of primary outdoor living areas/ garden areas of the dwellings,
- The need to improve landscaping throughout the estate's public realm, and
- Reduce excessive garage widths impacting street setbacks along laneways in relation to the quality of the various streetscapes.

The draft LDP has progressed since original lodgement with positive moves made to respond to the draft Medium Density Code. Further attention needs to be given to the primary outdoor living areas noting that any future variations to the R-Codes would only emphasise the importance of providing a high quality public open space/public realm for people living in this new neighbourhood. Detailed assessment will be undertaken when the LDP is formally lodged.



## **CONCLUSION**

This subdivision is an important part of the Heart of Beaconsfield strategic vision, and will be a contributor to increasing the residential population of this part of the City. There are significant natural assets in the area, and with a mix of uses and limited housing diversity, this site is an opportunity to improve the amenity of the area.

Overall, the original draft subdivision design has been amended in a positive manner and the following components of the proposal are seen as positive amendments:

- The revised town house and revised bedroom mix,
- The proposed use of rear service laneways,
- The introduction of 'fonzie flats' – Ancillary dwelling to various rear allotments throughout the estate,
- The hardscape treatments to activate the rear laneways,
- the various POS facility offerings is generous.

However, whilst essentially an R-Code and Liveable Neighbourhood compliant subdivision is proposed, the basic urban structure of the subdivision – essentially the public realm links and connections – as well the overall quality, are matters that are considered should be improved to achieve the discretionary density bonus for this site. Ultimately, it does not meet the objectives of the local framework for the site.

In accordance with the above assessment, the proposed subdivision is not considered to meet the purpose and or all of relevant criteria of Schedule 7 sub area 4.3.5 (e) Additional Development Standards. Therefore, the proposed density exceeds the default R25 density coding of site.

## **STRATEGIC IMPLICATIONS**

According to the 2021 census, Beaconsfield averaged 2.4 persons per household. Based on the proposal for 162 dwellings, this subdivision could deliver around 389 people to the area which is an important move towards meeting infill targets.

It is noted that a Master Plan was presented to Council in 2016, that demonstrated the delivery of up to 750 dwellings on the site, inclusive of apartments and some smaller dwellings when making the most of the planning provisions and density bonuses on site.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil





**Officer's recommendation**

**Council:**

- 1. Recommend that the Western Australian Planning Commission be advised that the City does not support the 162 lot subdivision application at No. 1 (Lot 73) Naylor Street, and Nos 2 and 4 (Lots 72 and 25) Clontarf Road, Beaconsfield in its current layout, for the following reason(s):**
  - i. The proposal does not meet all of the relevant additional development criteria (e) of Schedule 7 - sub area 4.3.5 of Local Planning Scheme No.4 as the proposal will not result in a high-quality design outcome in terms of road network infrastructure and pedestrian/ cyclist network integration with the surrounding greater Beaconsfield urban area and landscape features.**
  - ii. The proposal does not meet all the High Quality Design Outcomes of LPP 3.19 Clontarf Road Area.**
  - iii. As a consequence of not meeting the criteria of LPS4 to be awarded the bonus density, the subdivision must be assessed against the R25 density. The proposal does not meet the Design Principle criteria of clause 5.1.1 of the Residential Design Codes Volume 1 as all Lots do not meet the minimum or average lot size specified in Table 1 or the 'design principle' P 1.2 for R25 coded property.**
- 2. Notwithstanding the City's position on the site layout, the intent to develop the site with a density higher than R25 is encouraging and has the potential to contribute positively to the surrounding community by adding to the population.**

**In responding to the City's feedback, the applicant has made some positive moves, including widening of the Pedestrian Access Way at Clontarf Road, and inclusion of the larger blocks to allow for the 'Fonzie Flat' typology.**

**Should the WAPC seek to approve the layout as it generally appears now, the following amendments are suggested to improve the proposal:**



- a) **Leave some street blocks unsubdivided to allow for a change in market conditions and preserve the opportunity for supporting land uses and diverse housing typologies.**
  - b) **Identify the best opportunities for key views, preserve the view corridor from built form intrusion and incorporate into the public realm network (streets and parks).**
  - c) **Expand the southern POS connection into two additional neighbouring lots to the west or one lot either side to allow for a more generous ramp and comfortable experience to access Clontarf Road to encourage active transport options. Widening this connection has the potential to offer a good visual connection to Clontarf Hill regional open space from the central linear open space which provide the visual cues to encourage active transport and provides a sense of regional landscape setting.**
  - d) **The POS / Drainage adjacent to the neighbouring sub-division POS / Drainage of Butterworth Place currently offers the best opportunity to link into the former quarry site and future sub-regional recreational space. It is clear from the Heart of Beaconsfield masterplan that there is an intention to make the most of sub-regional active transport linkages through open space connections that reach from South Street down to Clontarf Road connecting schools, playing fields, wild nature spaces and many residential communities. This connection needs to be a primary dual pedestrian/cycling connection of 4 metres wide not a minor pedestrian path. Another option is to explore a more immediate and dramatic landscape option in the north-east corner of the sub-division skirting the base of the ridge that leads up to the Portuguese community centre. Leaving the three corner lots for POS preserves the opportunity for an exciting landscape based trail leading directly into the vast open space connections to the north.**
  - e) **Widen the east-west POS link at the Culver Street entry, to create a more generous space for important active transport links.**
3. **That the WAPC be advised that a schedule of submissions will provided, and that the decision maker is requested to review these in full and have due regard to the content.**



**PC2310-2 MARINE TERRACE, NO. 96 (LOT 123), FREMANTLE –  
ALTERATIONS TO EXISTING HERITAGE BUILDING AND A TWO  
STOREY SINGLE HOUSE – (CM DA0107/23)**

**Meeting Date:** 4 October 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  
1. Amended Development Plans  
2. Submission Table  
3. Additional Submission  
4. City's Heritage Impact Assessment  
5. Applicants Planning Report and Heritage Statement  
6. Site Photos

**SUMMARY**

**Approval is sought for restoration of existing heritage building and a two-storey single house at No. 96 (Lot 123) Marine Terrace, 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:**

- **Boundary wall (south)**
- **Overshadowing**
- **Primary Street Setback**
- **Fencing (primary)**
- **Car parking**

**The application is recommended for refusal.**

**PROPOSAL**

**Detail**

Approval is sought for the restoration of existing heritage building and a two-storey single house. The proposed works include:

- Alterations to the existing heritage building (Office) including:
  - Removing existing demountable
  - Remove existing sea container
  - Remove lean-to to the rear of the building
  - Remove front verandah and reinstate bullnose verandah
  - Remove roof and reinstate gable roof form
  - Alterations to limestone front fence
- Construction of a new two-storey single house including:





- Ground floor garage with an integrated ancillary dwelling including a kitchenette, bathroom and bedroom.
- First floor consisting of three bedrooms, an office, living, dining and two balconies.

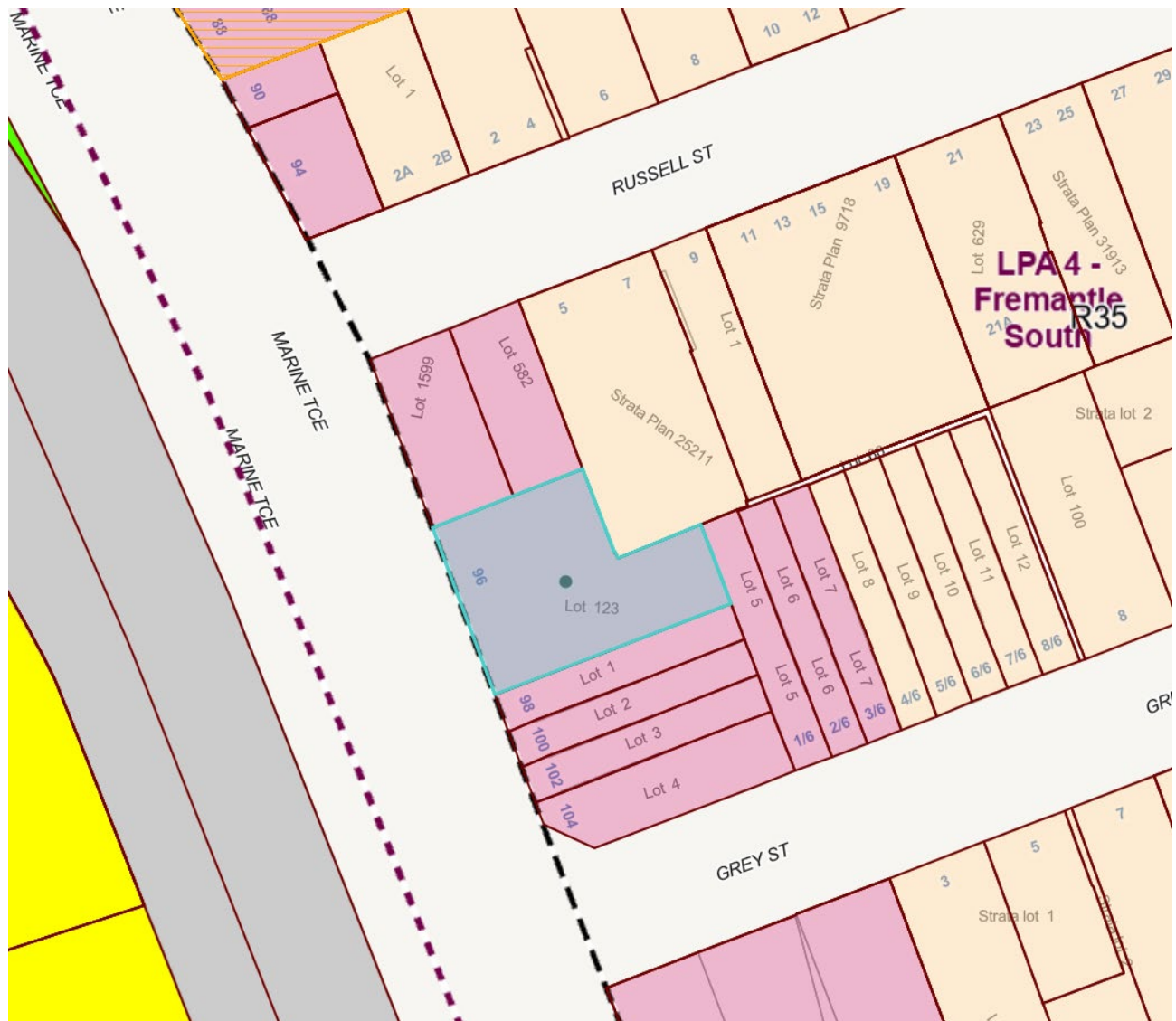
The applicant submitted amended plans on 30 November 2023 including the following:

- A drop in finished floor level on the first floor from FFL-6.210 to FFL-6.06, which has reduced the building height by 150mm.
- Increase in the primary street setback from 0.605m to 3.225m.
- Increase in the rear setback to 1.5 metres to comply with the deemed-to-comply requirements.
- Reconfigurations to the first-floor plan to increase the size of the terrace lightwell and a change in the pitch of the roof to reduce the overshadowing onto the adjoining properties to the south.

Development plans are included as attachment 1.

**Site/application information**

Date received:	13 April 2023
Owner name:	Rhonda Bader
Submitted by:	Urbanista Town Planning
Scheme:	Mixed Use (R35)
Heritage listing:	Individually Listed Category 3
Existing land use:	Office
Use class:	Single House
Use permissibility:	A



## CONSULTATION

### Internal referrals

#### Heritage

The proposal can be supported from a heritage perspective for the following reasons

- The proposed conservation works to the existing building will generally have a positive impact on the heritage values of the place and it will reinstate the original roof form, front verandah and front windows.
- Reinstatement of the original front fence with rendered masonry base and piers and permeable cast iron infill panels will positively contribute to the character and heritage values of the house.
- The proposed dwelling respects the scale and setbacks of the prevailing streetscape and will not significantly reduce views to the heritage house on the site or limit its contribution to the Marine Terrace Streetscape.
- The rectangular massing of the new building responds to commercial and industrial buildings in the surrounding streetscape.



The City's full Heritage Impact Assessment can be found at attachment 4.

### **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 variations to the R-Codes and the City's Local planning policies. The advertising period concluded on 5 May 2023, and 5 submissions were received. The following issues were raised (summarised):

- Clarification regarding neighbours that were consulted on the proposal.
- Concerns regarding the overshadowing caused by the proposed development as a result of the building height and boundary wall on the southern lot boundary
- Concerns regarding the bulk and scale of the proposed development.
- Concerns regarding overlooking from the living areas onto existing properties
- Concerns with regards to the height of the proposed development not fitting in with the area
- Concerns with regards to the rear (eastern) setback impacting on the amenity, privacy and views of neighbours to the rear.
- Potential noise nuisance from the balconies, and concerns regarding smells with cooking and bathroom locations.

A full copy of the submissions (verbatim) can be viewed at attachment 2 and 3.

In response to the above, the applicant submitted revised plans as noted above, which alleviates the following concerns:

- The rear setback now satisfies the deemed to comply requirements of the R-Codes.

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

- With regards to the consultation process, consultation was undertaken in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) and the City of Fremantle *Local Planning Policy 1.3 – Community Consultation on Planning Proposals* (LPP1.3). The application is not deemed a complex application under the Regulations and LPP1.3 and was advertised to affected adjoining landowners and occupiers as specified in LPP1.3.
- With regards to the concerns raised about visual privacy, it is noted that the proposal satisfies the deemed-to-comply requirements for visual privacy.
- With regards to the concerns raised about noise nuisance and smells this is not a relevant consideration for a single house development.

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:

- Primary Street Setback
- Boundary wall (south)
- Overshadowing
- Fencing (primary)
- Car parking

The above matters are discussed below.

### Land Use

A Single House is a 'A' use in the Mixed Use Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval after giving special notice (advertising) in accordance with the Regulations. In considering a '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 **not** considered to address the above matters for the following reasons:

- The proposal is considered to be detrimental to the amenity of adjoining landowners and incompatible with the objectives of the Mixed Use Zone set out in Clause 3.2.1 (e) (iv) of the City of Fremantle Local Planning Scheme No.4 with respect to overshadowing and boundary walls onto the adjoining property to the south.

These matters are discussed in further detail below.

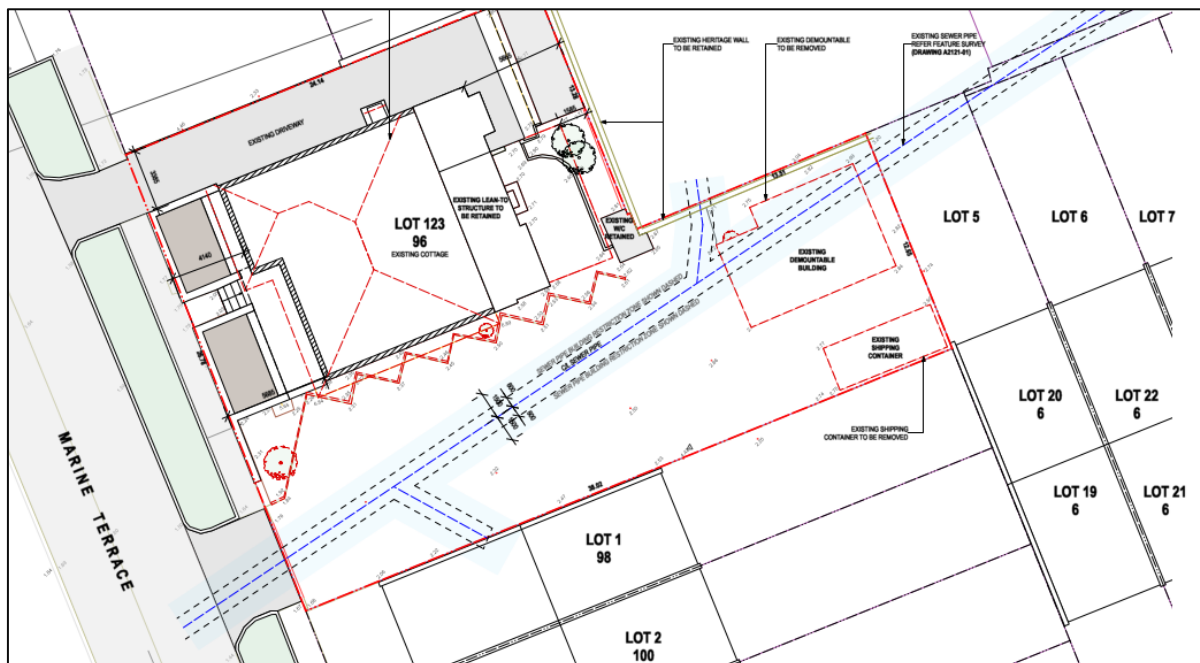
### Background

The subject site is located on the eastern side of Marine Terrace. The site has a land area of approximately 821m<sup>2</sup> and is currently utilised as an office land use with car parking, with approximately 430m<sup>2</sup> of the site being allocated to facilitate the single house. The site is zoned Mixed Use and has a density coding of R35. The site is individually heritage listed but is not located within a heritage area.

The site currently consists of a Heritage listed dwelling located on the northern portion of the site which currently operates as an Office land use. An Office is a permitted use within the Mixed Use zone under LPS4.

To the south of the heritage dwelling, the site is largely vacant but contains car parking for the Office use. This is where the Single house is proposed as part of this application.

It is noted that the site has a sewer easement which runs from the south-western corner of the site to the north-eastern corner of the site as shown in Figure 1 below. The applicant has advised that the living areas of the dwelling are mostly on the upper floor due to the requirement to ensure simple access to the sewer line.



**Figure 1** – Subject site showing existing heritage building and sewer easement location

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

- DA0244/20 – Shipping Container Additions



- DA0356/20 – Retrospective approval for unauthorized addition to existing office

Boundary Wall (South)

Element	Requirement	Proposed	Extent of Variation
Boundary wall (south)	4.1m setback	Nil	4.1m

The application seeks approval for a 32.1metre long boundary wall with a height of 8.4m toward the front of the dwelling, before stepping down to 5m in height and then back up to 6.4m toward the rear of the dwelling. Figure 2 below shows the boundary wall on the southern elevation, with the green sections indicating where it abuts a simultaneous boundary wall, the red section indicating where it abuts the adjoining properties outdoor living area, and the blue indicating where it abuts the adjoining sites common property and carport. Figure 3 shows an image of the existing boundary walls located at 98 Marine Terrace for context.

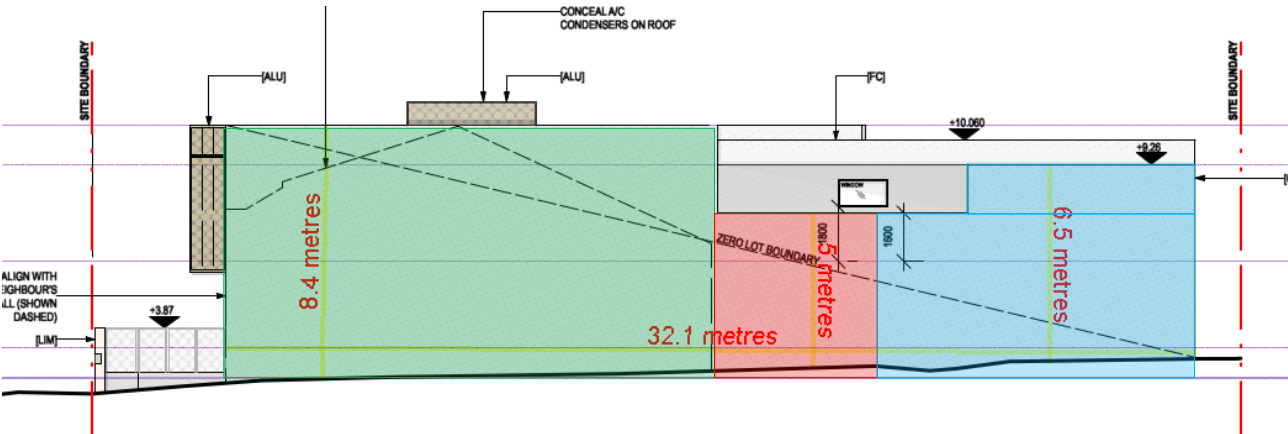


Figure 2 – Southern Elevation showing boundary wall (green – abuts simultaneous boundary wall; red – abuts adjoining property’s outdoor living area; blue abuts common property access way and carport)





**Figure 3** – Existing boundary wall located on the southern lot boundary

The southern lot boundary wall is not considered to meet the Design principles of the R-Codes in the following ways:

- Whilst it is noted that the majority of the boundary walls as highlighted in green on the Figure 1 abut a simultaneous boundary wall on the adjoining property to the south, the red portion abuts the adjoining property's outdoor living area and does not allow for adequate direct sun and ventilation onto the outdoor living area and open spaces. Figure 4 below shows that the entire outdoor living area of No. 98 Marine Terrace is overshadowed.
- The full length of the boundary wall does not reduce the building bulk on the adjoining property to the south as its primary outdoor living area is directly impacted by the boundary wall.





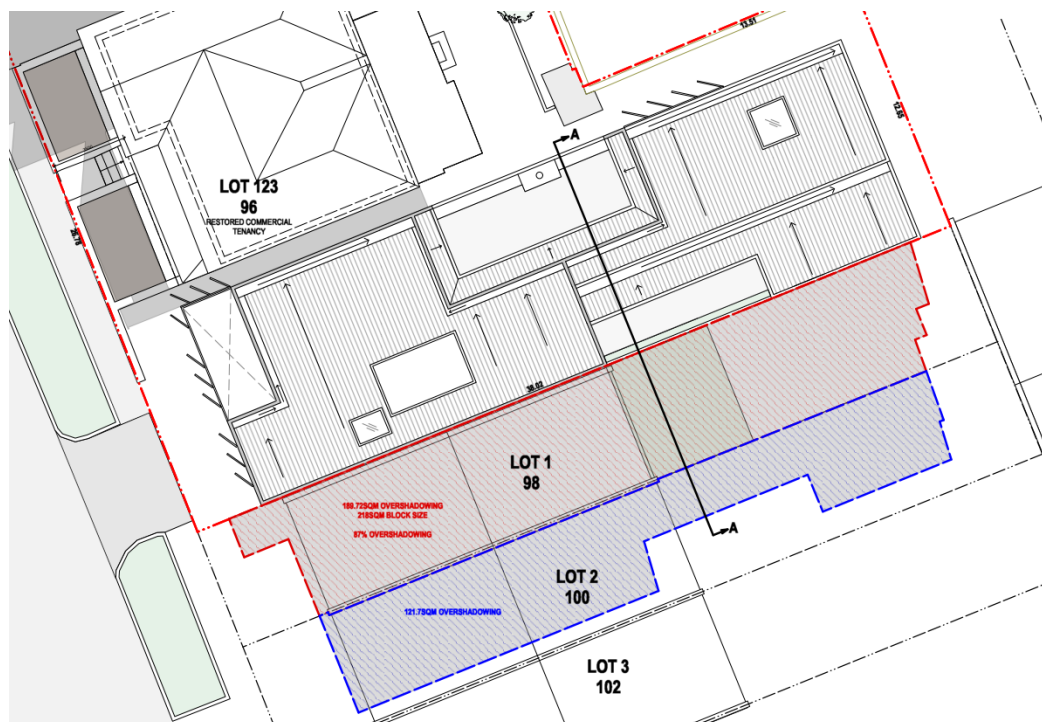
### Overshadowing (South)

Element	Requirement	Proposed	Extent of Variation
Overshadowing to 98 Marine Terrace	45%	87%	42%
Overshadowing to 100 Marine Terrace	45%	57.4%	12.4%

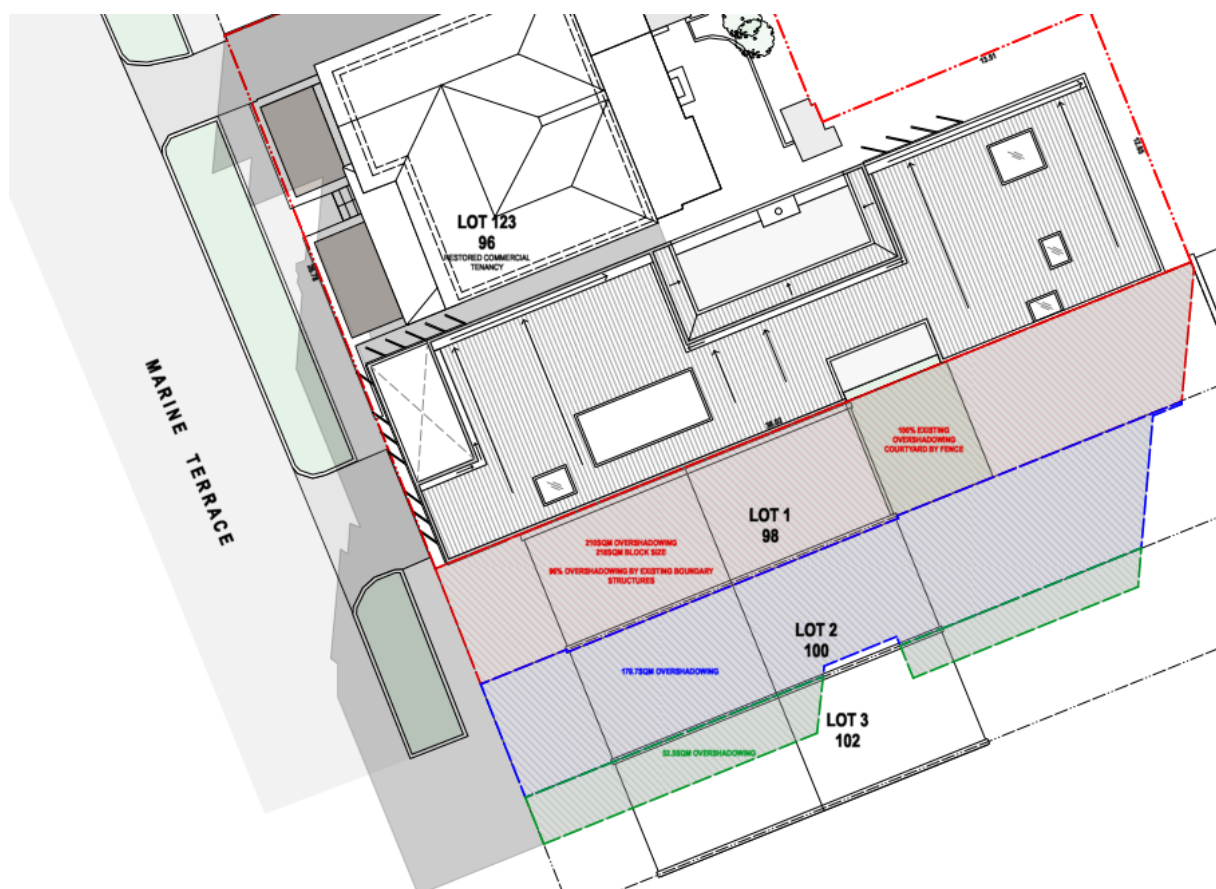
The proposed overshadowing is not considered to meet the Design principles of the R-Codes in the following ways:

- The development has not been designed to protect solar access for adjoining properties in respect to outdoor living areas, noting that the entire outdoor living area on the southern adjoining property at 98 Marine Terrace is overshadowed, and a large portion of the outdoor living area further south at 100 Marine Terrace is also overshadowed. Figure 4 below shows the extent of the overshadowing onto the two adjoining properties to the south.

It is acknowledged that the applicant has reduced the overshadowing as compared with the plans originally submitted, which can be seen in figure 4 and 5 below. The original plans submitted with the application indicated the building would overshadow 100% of the outdoor living areas of adjoining lots 98 and 100 Marine Terrace and only a portion of 102 Marine Terrace, whilst the amended plans overshadow 100% of the outdoor living area of 98 Marine Terrace and only a portion of 100 Marine Terrace, and leave 102 Marine Terrace without any impacts of overshadowing.



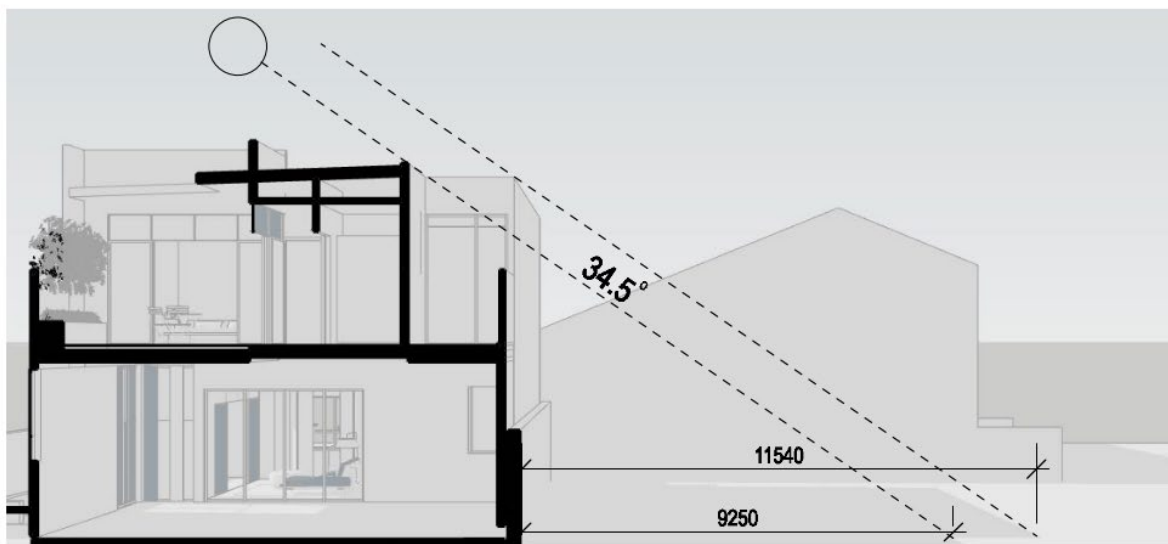
**Figure 4** – Current Overshadowing diagram (2<sup>nd</sup> Set Amended Plans)



**Figure 5** – original submitted plans showing overshadowing for comparison to show the changes the applicant has made

Noting that the overshadowing does not comply with design principles as outlined in Clause 5.4.2 P2.1 and a portion of P2.2 of the R-Codes, the overshadowing is considered to comply with the third point of P2.2 as follows:

- The development has been designed to protect solar access for neighbouring properties in respect to roof mounted solar collectors, or in this instance, the ability to provide for roof mounted solar collectors. The applicant in its amended plans (attachment 1) has modified the roof line so that the angle of the sun will not impact on the roof of the adjoining building. Figure 6 below shows the angle of the sun which does not impact the adjoining properties roof.



**Figure 6** – Cross section showing the angle of the overshadowing will not impact on the roof space of adjoining property at 98 Marine Terrace.

To summarise the above assessments with respect to overshadowing, whilst the angle of the overshadowing will not impede on the roof space of the adjoining properties, the shadow will cover the full extent of the adjoining properties outdoor living area to the south, and a large part of the property further south than that. While there is a small courtyard and balcony on the front of the southern dwelling, the central courtyard is outside the primary street setback and is a more private space for residents. It is acknowledged that the lot to the south is small, however given the large boundary walls on these dwellings, there are extensive amounts of the lot boundary that provide opportunities for this development to throw shadow with reduced amenity on the occupants.

Therefore, the overshadowing is not considered to comply with the design principles of the R-Codes and is not supported by City Officers.

### Primary Street Setback

Element	Requirement	Proposed	Extent of Variation
Primary Street Setback (ground floor)	5.0 metres (wall height <4.0 metres)	5.535m	Complies
Primary Street Setback (first floor)	7.0 metres (wall height >4.0 metres)	3.11 metres	3.89 metres

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

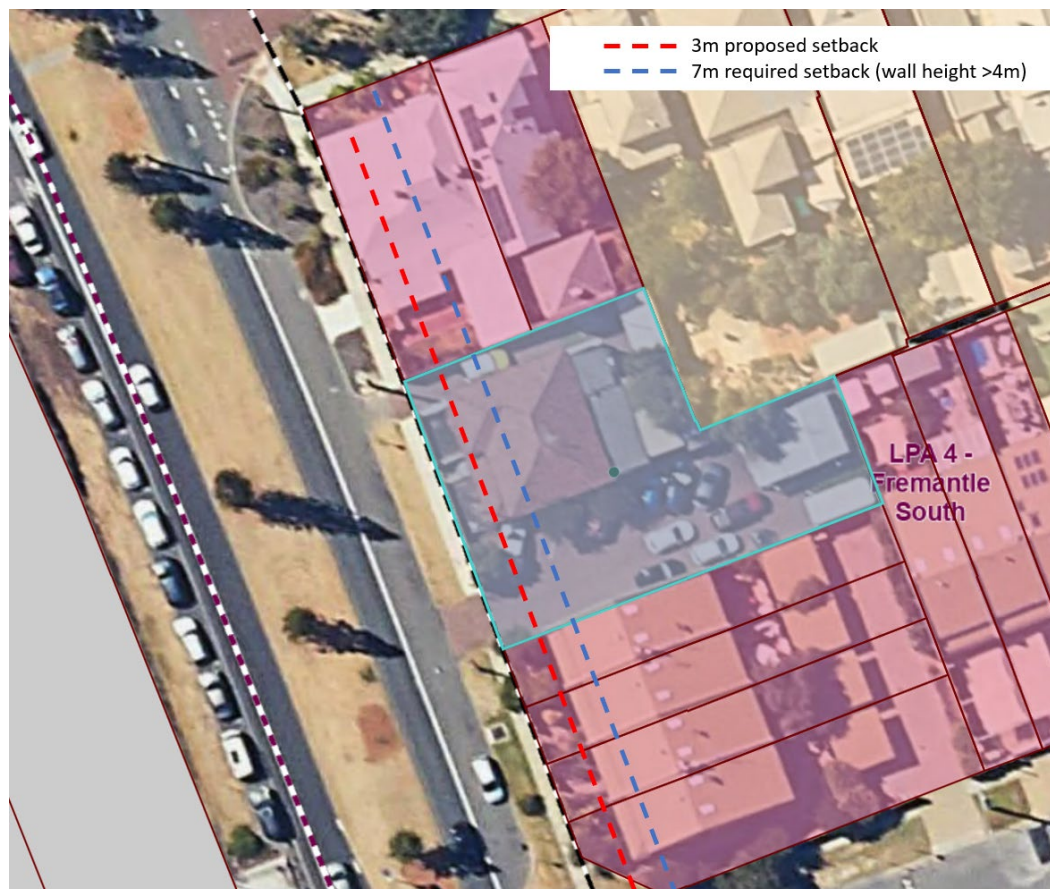
Under LPP2.9, variations to the primary street setback may be considered subject to the proposed development meeting at least one of the following criteria:

- i. The proposed setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape; or*
- ii. 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*
- iii. 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*
- iv. Where there is no prevailing streetscape; or*
- v. 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 and the design principles of the R-Codes in the following ways:

- The primary street setback is consistent with the setback of buildings of a comparable height within the prevailing streetscape, figure 6 below shows that the proposed setback (in red) is consistent with the properties to the south of the subject site which are also two storeys.
- The reduced primary street setback will not result in a projecting element into the established streetscape vista.
- The primary street setback is consistent with the alignment of the heritage building on the same lot and will not detract from the façade of the heritage building.





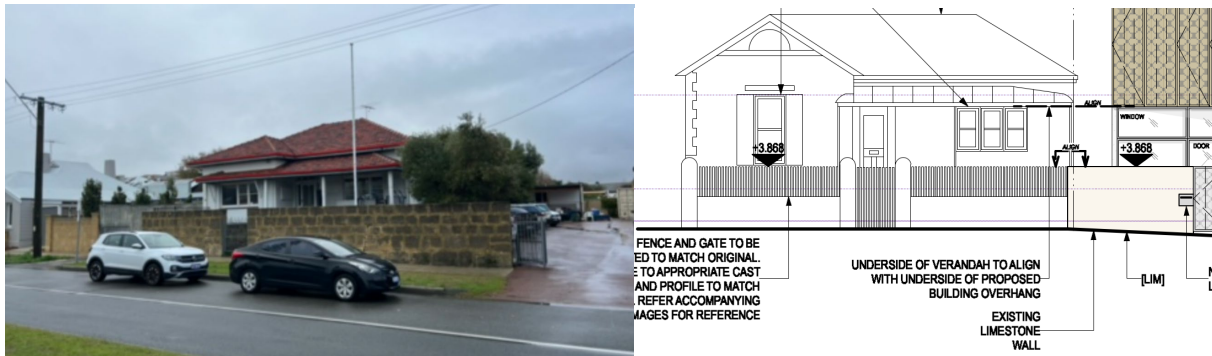
**Figure 7** – Prevailing Marine Terrace Streetscape

In accordance with the above assessment, the primary street setback is considered to meet criteria i and iii of Clause 1.2 in LPP2.9 and is therefore supported.

### Fencing (Primary)

Element	Requirement	Proposed	Extent of Variation
Fencing primary	<ul style="list-style-type: none"> <li>0.9m solid</li> <li>Traditional open style up to 1.2m</li> <li>Piers 1.5m height</li> </ul>	<ul style="list-style-type: none"> <li>1.0m solid</li> <li>2m traditional open style</li> <li>Piers 2.2m height</li> </ul>	<ul style="list-style-type: none"> <li>0.1m solid</li> <li>0.8m traditional open style</li> <li>Piers 0.7m height</li> </ul>

The proposal seeks to replace the existing solid fencing in front of the heritage dwelling with a new fence which varieties the deemed to comply requirements as set out in LPP2.8 – Fences. A portion of the existing fence (as shown in figure 8 below) is proposed to be retained in front of the proposed new dwelling.



**Figure 8** – Existing primary street fencing (left) and proposed (right)

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

- The front fence maintains surveillance between the street and the building behind it. It is also noted that the site is retained in the front portion so the fencing allows for this space to be utilised appropriately.
- The fence is considered to enhance the streetscape and is consistent with other fences in the street.

#### Car Parking - Office

Element	Requirement	Proposed	Extent of Variation
Car Parking	1:30 m2 gla Minimum 3 spaces = 5 bays	2 bays	3 bays
Delivery bays	1:500m2 = 1 bay	1 bays	Complies

The existing use of the heritage dwelling as an Office requires the provision of 5 car parking bays under LPS4. The construction of the Single house on the lot will remove the existing car parking for the site and the plans indicate that 2 tandem bays with a delivery bay will be provided to the north of the subject site solely for the use of the office, noting that the proposed dwelling will have its own provision of car parking.

Clause 4.7.3.1 of LPS4 states when Council may waive or reduce the standard parking requirement specified in Table 2 subject to meeting one or more of the following criteria:

- the availability of car parking in the locality including street parking,*
- the availability of public transport in the locality,*
- any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces,*



- (iv) any car parking deficiency or surplus associated with the existing use of the land*
- (v) legal arrangements have been made in accordance with clause 4.7.5 for the parking or shared use of parking areas which are in the opinion of the Council satisfactory,*
- (vi) any credit which should be allowed for a car parking demand deemed to have been provided in association with a use that existed before the change of parking requirement,*
- (vii) the proposal involves the restoration of a heritage building or retention of a tree or trees worthy of preservation,*
- (viii) any other relevant considerations.*

The subject site is considered to meet criteria (i), (ii) and (iii) of Clause 4.7.3.1 of LPS4. Firstly, it is noted that there is sufficient on street car parking located directly outside the subject site and across the road along Marine Terrace. The site is also located within a Transperth High Frequency bus route and located within 250m of bus stops servicing Fremantle and surrounds.

In addition to the above, the proposal involved the restoration of a heritage building as the application seeks to restore the existing heritage dwelling located on the site.

Based on the above assessment, the car parking shortfall is supported under Clause 4.7.3.1 of LPS4.

### **Heritage**

The site is Level 3 Heritage Listed. The proposed works are considered to be acceptable from a heritage perspective as they will have only a minor impact on the heritage values of the house. The City's full heritage impact assessment is available at attachment 3.

Under the Regulations, Clause 12 (1) of the Deemed Provisions states that the local government may vary any site or development requirement specified in this Scheme to –

- a) facilitate the built heritage conservation of a place entered into the register of Places under the Heritage of Western Australia Act 1990 or entered into the heritage list; or*
- b) enhance or preserve heritage values in a heritage area.*

Clause 12 (3) of the Deemed provisions also states that:

*If the local government is of the opinion that the variation of site or development requirements is likely to affect any owners or occupiers in the general locality of the place or the heritage area the local government must –*

- a) consult the affected parties by following one or more of the provisions for advertising uses under clause 64; and*





- b) have regard to any views expressed prior to making its determination to vary the site or development requirements under this clause.*

Based on the above assessment in this report, the proposal is considered to affect the owners and occupiers in the general locality of the area, particularly the adjoining lot to the south at No. 98 Marine Terrace, Fremantle. For this reason, the variations sought in respect to boundary walls (south) and overshadowing cannot be justified on the grounds of the existing heritage building on site being retained.

## **CONCLUSION**

In accordance with the above assessment, it is considered that the proposed development will have an adverse impact on the amenity of the adjoining landowners in relation to overshadowing and the bulk and scale of the boundary wall further exacerbating the overshadowing onto the adjoining properties open space and outdoor living area. For this reason, the application is recommended for refusal.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Council:**

**REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Alterations to Existing Heritage Building and Two-storey Single House at No. 96 (Lot 123) Marine Terrace, Fremantle, as detailed on plans dated 30 August 2023 for the following reasons:**

- 1. The proposal is detrimental to the amenity of adjoining landowners and incompatible with the objectives of the Mixed Use Zone set out in Clause 3.2.1 (e) (iv) of the City of Fremantle Local Planning Scheme No.4 and as per the following clauses of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.**
  - 67(2)(m)(ii) The relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.**



- 2. The proposal is inconsistent with the requirements of the Residential Design Codes in respect to Clauses 5.1.3 – Lot Boundary Setbacks and 5.4.2 – Solar Access for Adjoining Sites.**



**PC2310-3 HIGH STREET, NO. 185 (STRATA LOT 1), FREMANTLE – CHANGE OF USE TO FOUR SERVICED APARTMENTS AND ALTERATIONS TO EXISTING BUILDING – (CM DA0153/23)**

**Meeting Date:** 4 October 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  
1. Amended Development Plans  
2. Applicants justification  
3. Site Photos

**SUMMARY**

**Approval is sought for a change of use from Shop to four Serviced Apartments and alterations to existing building at No. 185 (Strata Lot 1) High Street, Fremantle.**

**The proposal is referred to the Planning Committee (PC) due to the nature of the proposal being inconsistent with the objectives of the City Centre Zone under Local Planning Scheme No.4 (LPS4), Local Planning Policy 3.1.5 – Precinct 5 and the matters to be considered under Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

**The application is recommended for refusal.**

**PROPOSAL**

**Detail**

Approval is sought for change of use to four Serviced Apartments and Alterations to an existing building at No. 185 (Strata Lot 1) High Street, Fremantle. The proposed works include:

- Change of use to four serviced apartments located on the ground floor fronting High Street.
- Alterations to the existing buildings front façade including the alterations to accommodate windows and doors to each apartment and the addition of privacy screens and planter boxes.
- Internal alterations which modifies the building from being a single tenancy to now having four serviced apartments and a large tenancy space at the rear.
- The applicant has advised that the serviced apartments will be collectively managed with the serviced apartments on the levels above (Gallery Serviced Apartments).
- There is no reception facility proposed, however, residents will have access to the facilities as part of the Gallery Serviced Apartments (including the pool and gym).
- The Serviced apartments will allow for a minimum of 2 nights stay with no formal maximum stay.

- There is no additional car parking proposed as the proposal seeks to utilise the existing car parking located at the rear of the site.

Development plans are included as attachment 1.

### Site/application information

Date received:	16 May 2023
Owner name:	Mary Lee
Submitted by:	Stephen Hart
Scheme:	City Centre Zone
Heritage listing:	Not Listed
Existing land use:	Medical Centre
Use class:	Serviced Apartments
Use permissibility:	D (Discretionary)



### CONSULTATION



## External referrals

### *Fremantle Ports (FP)*

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

## Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the land use is a discretionary land use. The advertising period concluded on 17 August 2023, and nil submissions were received.

## OFFICER COMMENT

### Statutory and policy assessment

The development assessment has been undertaken in accordance with all relevant statutory planning framework. The following elements form key consideration in the determination of this application:

1. The proposed land use and its compatibility within the City Centre Zone under Local Planning Scheme No. 4 (LPS4).
2. The matters to be considered under the Regulations.
3. The amenity impacts of the proposed development, specifically in accordance with State Planning Policy 7.0 – Design of the Built Environment

## Background

The subject site is located on the southern side of High Street in the east end of the City Centre. The site has a land area of approximately 582m<sup>2</sup> and is currently utilised for commercial uses on the ground floor, and residential (multiple dwellings) on the first floor and above. The site is zoned City Centre Zone. The site is not individually heritage listed nor located within a Heritage Area.

The existing uses on the ground floor on High Street surrounding the proposed development include shop uses, restaurant/cafes, and it is noted that the land use of Tavern has recently received approval to operate as an 'Urban Winery' next door to the proposal at No. 181 High Street (ref: DA0164/23).

## Land Use

A Serviced Apartment is a 'D' use in the City Centre Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval. The proposed land use is defined in Schedule 1 of LPS4 as follows:

**Serviced Apartment** means a group of units or apartments providing –



- (a) *Self-contained short stay accommodation for guests; and*
- (b) *Any associated reception or recreational facilities*

Clause 3.2.1 (b) of LPS4 outlines the objectives of the City Centre Zone, which are as follows:

*Development within the city centre zone shall —*

- (i) *provide for a full range of shopping, office, administrative, social, recreation, entertainment and community services, consistent with the region-serving role of the centre and including residential uses, and*
- (ii) *comply with the objectives of local planning area 1 of schedule 7,*
- (iii) *conserve places of heritage significance the subject of or affected by development*

In considering a 'D' use, the Council is to 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 and are discussed further below.

- (b) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area.*
- (f) *Any Policy of the State*
- (g) *Any local planning policy for the Scheme area*
- (m) *The compatibility of the development with its setting including*
  - (i) *the compatibility of the development with the desired future character of its setting; and*
  - (ii) *the relationship of the development to development on adjoining land or on other land in the locality, 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*

In considering the proposed land use and particularly its' location against the objectives of the zone under LPS4, and the matters to be considered under the Regulations the following assessment is made.

The land use is a discretionary use within the City centre zone under LPS4 meaning that the use is **not** permitted unless the Council has exercised its discretion. The location of the proposed use, being on the ground floor fronting High Street which is currently occupied by a mix of Shops, Restaurant/Cafes, and a Tavern warrants careful consideration to ensure it does not impact ground floor activation. A serviced apartment on the ground floor in the city centre will not only discourage streetscape activation but is inconsistent with the desired future character of its setting, which LPP3.1.5 states is to create active street frontages through design and by location of



appropriate uses to create a vibrant, diverse, interactive and safe urban environment.

Furthermore, it is also noted that the site is located adjacent to a recently approved Tavern (ref: DA0164/23) land use at No. 181 (Lot 5) High Street, Fremantle, and the subsequent approval of serviced apartments on the ground floor will discourage streetscape activation and place further strain on adjoining land uses from operating by placing accommodation immediately adjacent to the active commercial uses that are intended to operate late into the evenings. The outdoor living areas of the proposed serviced apartments will be located on the High Street frontage with permanent screening devices proposed will and will be directly impacted by the noise and activity on the street.

In addition, the apartments being located on the ground floor do not have separation from the existing ground floor uses listed above in comparison to apartments located on levels above the ground which have are generally located further away to active uses on the ground floor. The serviced apartments located on the ground floor will be directly impacted by the noise and activity from the other active uses within the streetscape. It is noted that the applicant has not provided an acoustic report to detail how the proposed use of serviced apartments will manage noise from existing and proposed uses within the surrounding area.

The use of the ground floor as serviced apartments is not compatible with the desired future character of its setting and will have adverse impacts on the amenity of the area, therefore being inconsistent with Clause 67 (2) (a)(m) and (n) of the Regulations.

**State Planning Policy 7.0 – Design of the Built Environment (SPP7.0) and  
Local Planning Policy 3.1.5 – Precinct 5 (LPP3.1.5)**

In addition to the above assessment against the matters to be considered under the Regulations, Clause 67 (2) (f) and (g) of the Regulations require consideration against any State Policy and any Local Planning Policy. SPP7.0 provides the broad framework for design of the built environment across the state and is applicable in the assessment of development applications. The policy sets out 10 design principles which establish a definition of 'good design' that can inform the review and decision-making process. The proposal is generally consistent with the 10 design principles with the exception of the following design principle:

*Design Principle 1: Context and Character – good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.*

The proposed development is considered to not respond to the context and character of the local area, particularly streetscape activation and public realm.





Whilst the proposed use is not defined as a residential land use, the definition of Serviced Apartment under LPS4 states that a serviced apartment consists of units or apartments, in this case, apartments, which will provide for accommodation for people and a place where privacy for visitors is expected, similarly to a residential land use with the only exception being that visitors will stay for shorter periods.

The subject site also falls within Precinct 5 under LPP 3.1.5, which provides design provisions to complement the land use and development requirements prescribed in LPS4. LPP3.1.5 sets out provisions for new development located on primary street, and states that new development shall address specific provisions, including:

- 5.1.3 Residential uses and on-site vehicle parking are not permitted at ground level adjacent to primary streets.*
- 5.1.4 Multiple ground level tenancies shall be provided and shall obtain their main public pedestrian entry directly from and level with the primary street. Wide building frontages with a single use or tenancy should be limited.*
- 5.1.5 Ground floor frontages are to be predominantly glazed or open to the street and shall incorporate design measures to contribute to an interesting, safe and diverse public realm.*

The proposed land use of serviced apartment is considered to be inconsistent with the intent of LPP 3.1.5 as the use is comparable to a residential land use, which does not encourage public realm activation of the local area and adjacent streetscape. In addition to this, the application seeks approval for screening on the front elevation to High Street to enable privacy to the apartments which is further discouraging of active street frontages and directly conflicts with provision 5.1.5 of LPP3.1.5, outlined above.

Figure 1 below shows an excerpt of the plans which details the proposed screening devices located on the ground floor of the serviced apartments. The provision of these screening devices whilst allows for privacy of the residents of the apartments, further restricts any ground floor interaction and completely blocks off the building from the street enabling no interaction.



**Figure 1** – Elevation showing the proposed 'decorative privacy screen' on the ground floor of the Serviced Apartments'

Furthermore, the provision of the screening to allow for the privacy of the residents of the serviced apartments not only compromises on streetscape interaction, but also compromises on the internal amenity of each unit by restricting natural sunlight and ventilation, noting that the windows behind these screens are the only windows into each apartment.

## CONCLUSION

Having regard to the above assessment, the proposed land use of Serviced Apartments located on the ground floor in the City Centre Zone is considered to be incompatible with the relevant state and local planning framework and is therefore recommended for refusal.

## STRATEGIC IMPLICATIONS

Nil

## FINANCIAL IMPLICATIONS

Nil

## LEGAL IMPLICATIONS

Nil



## **OFFICER'S RECOMMENDATION**

### **Council:**

**REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of Use to Four Serviced Apartments and Alterations to Existing Building at No. 185 (Strata Lot 9) High Street, Fremantle, as detailed on plans dated 12 July 2023, for the following reasons:**

- 1. The proposed Serviced apartments are inconsistent with Clause 67(2) (m) and (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Deemed Provisions) as it is not compatible with the desired future character of its setting and will have an adverse impact on the amenity of the area.**
- 2. The proposal is inconsistent with the objectives of the City Centre Zone under Clause 3.2.1 (b) of Local Planning Scheme No. 4 and more specifically, the precinct vision as outlined in Clause 5.1.5 of *Local Planning Policy 3.1.5 – Precinct 5* as it restricts active street frontages at ground level and does not contribute to the public realm along this section of high street.**



**PC2310-4 JACKSON STREET, NO. 20 (LOT 1), NORTH FREMANTLE –  
ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE  
– (JD DA0199/23)**

**Meeting Date:** 4 October 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  
1. Development Plans  
2. Heritage Impact Assessment  
3. Site Photos

**SUMMARY**

**Approval is sought for additions and alterations to an existing Single house at No. 20 Jackson Street, North Fremantle (subject site). 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**
- **Lot boundary setback**
- **Vehicular access**

**The application is recommended for refusal.**

**PROPOSAL**

**Detail**

Approval is sought for alterations and additions to an existing Single house at the subject site. The proposed works include:

- Bedroom addition on the rear of the existing dwelling.
- A kitchen/living room located on the east side boundary linked with the existing dwelling via a new front door entry.
- A studio and store addition on the east side boundary towards the rear of the lot.
- An open framed structure over the proposed parking space on the front boundary. This structure is not considered a carport as it does not include a roof and it is not considered a pergola as it has a door on the front aspect. It will be referred to as an 'ancillary structure'.

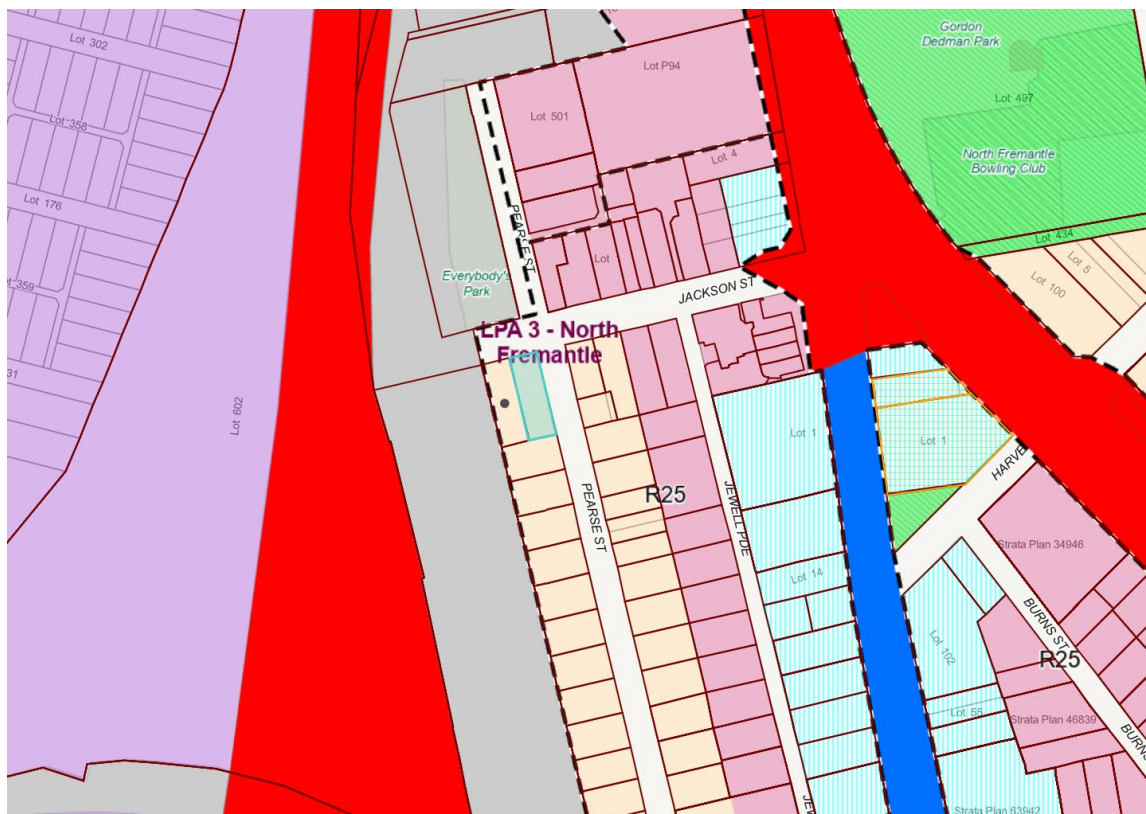
The City's Heritage Officers determined that the proposed ancillary structure would detract from the heritage significance of the place. It was also deemed that the proposed structure was inconsistent with applicable local planning policies. The

applicant was therefore advised that the proposed ancillary structure in front of the dwelling alignment would not be supported and the application would be recommended for refusal should amended plans not be submitted. The applicant chose to continue with the proposal with no amendments noting that the application would be referred to the Planning Committee for determination.

Development plans are included as attachment 1.

**Site/application information**

Date received:	6 July 2023
Owner name:	Anthea Guazzelli
Submitted by:	Allessia Richards – Space Agency
Scheme:	Residential R25
Heritage listing:	Individually Listed Category 3 and North Fremantle Heritage Area
Existing land use:	Single House
Use class:	Single House
Use permissibility:	P



**CONSULTATION**

**External referrals**

Nil required.



### **Community**

Nil required. A copy of the plans, signed and dated by the singular landowner located directly adjacent the proposed east side boundary, was provided with the application confirming they had reviewed the plans.

### **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
- Lot boundary setback
- Vehicular access

The abovementioned matters are discussed below.

#### **Background**

The subject site is located at the western cul-de-sac end of Jackson Street and abuts a railway reserve on its west side boundary. The site has a land area of approximately 430m<sup>2</sup> and is currently a Single house. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed and located within the North Fremantle Precinct Heritage Area.

North Fremantle is significant as a mixed residential and industrial area located to the north of the Swan River and the Port of Fremantle with a history of European settlement dating back to the Pensioner Guards in the mid nineteenth century. The houses built in Jackson Street were generally modest brick, stone or timber cottages for people working in the area.

The City's Heritage Officers have estimated that the narrow brick and iron dwelling on the subject site was constructed between 1897 and 1913. In 1940, the cottage retained its original form filling the front half of the block. By this time, a verandah and galvanised iron addition had been built to the rear. Within the remaining back yard were a galvanised iron wash house and water closet. A photograph of the place taken in 1979 shows that the front verandah had been enclosed with a wall of louvres, brick and weatherboard. Aluminium windows were inserted in this cladding. No records of these additions/alterations are evident under the property file.





## Land Use

A Single House is a 'P' land use within the Residential zone which means that the use is permitted by the Scheme.

## Primary street setback

Element	Requirement	Proposed	Extent of Variation
Ancillary structure	1m behind front dwelling alignment (4.8m from front boundary)	3.8m in front of dwelling alignment (nil street setback)	4.8m

The ancillary structure on the primary street boundary is not considered to meet the Design principles of Local Planning Policy 3.6 Heritage Areas in the following ways:

- The siting of the proposed structure is inconsistent with the built form of Jackson Street. There are no examples of additions on the front boundary, in front of the dwelling, alignment along Jackson Street. The proposed structure would therefore be inconsistent with the established streetscape.
- The visibility of the heritage listed dwelling will be reduced due to the siting of the structure on the front boundary. The siting of the structure is not considered to respect the heritage significance of the site due to its prominent location on the front boundary.
- The bulk and scale of the structure is not considered to compliment the heritage significance of the site due to the 2.3m high screen door located on the front boundary line as well as the structure extending 7m across the front boundary for approximately 57% of the lot frontage.
- The bulk and scale of the structure will result in a detrimental impact on the character and amenity of the streetscape.
- LPP3.6 states that "additions in front of contributory buildings or within the established building setback in the prevailing streetscape will generally not be supported unless restoring an original feature in the original architectural style". The proposed structure does not involve the restoration of an original feature and is therefore not supported under this provision of LPP3.6.
- The nil street setback of the addition would result in a projecting element into the established streetscape.
- The 'tilt panel door' would open into the footpath area which presents a safety risk to users of the footpath.

## Lot boundary setback (Boundary Walls)

Element	Requirement	Proposed	Extent of Variation
Kitchen/living east side boundary wall	1m	Nil	1m

Studio east side boundary wall	1m	Nil	1m
Ancillary structure on east boundary	1m	Nil	1m

Local Planning Policy 2.4 (LPP2.4) varies the boundary wall deemed to comply requirements of the R-Codes. The single storey kitchen/living boundary wall is considered to meet the Design principles of the R-Codes in the following ways:

- The wall abuts an existing boundary wall on the adjoining lot for 7.7m (approximately 72%) of the total proposed length (10.7m).
- The portion of single storey exposed wall (not abutting this opposing wall) is located to the west of the adjoining lot and will not result in any significant overshadowing.
- The wall height is 3.3m above the finished ground level of the adjoining lot which is considered an appropriate height and will not result in any significant impact from bulk or scale.
- The portion of the exposed wall does not immediately oppose any major openings, unenclosed outdoor active habitable spaces or the primary outdoor living area.
- There are no openings of any nature on the proposed boundary wall, there will therefore be no issues relating to visual privacy.
- A condition will be applied to any potential development approval requiring an appropriate finish to the external face of the wall.

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

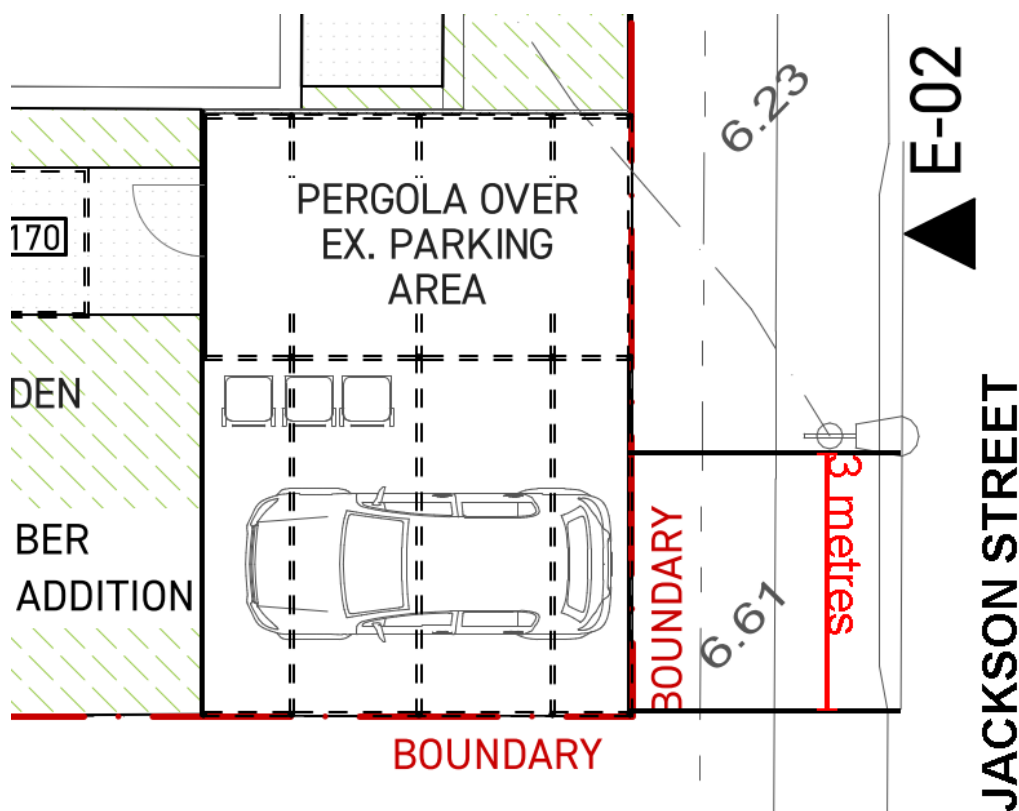
- The wall abuts an existing boundary wall on the adjoining lot for 2.6m (approximately 63.4%) of the total proposed 4.1m length.
- The portion of single storey exposed wall (not abutting this opposing wall) is located to the west of the adjoining lot and will not result in any significant overshadowing.
- The portion of the exposed wall will oppose the car parking area for the ancillary dwelling on the adjoining lot.

### **Vehicular access**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Driveway location	No closer than 0.5m from a side lot boundary or street pole	Approx. 0.05m to side boundary and street pole	0.45m

The driveway location is not considered to meet the Design principles of the R-Codes in the following ways:

- As illustrated in Figure 1 below, the minimum driveway width supported under LPP2.9 at the street boundary is 3m. This results in a separation from the side boundary and the street pole of 50mm. This is considered to be an insufficient separation and will not allow for vehicles to safely enter and exit the site.
- The existing mountable kerbing on the road edge is considered redundant as it is not servicing any existing driveway/parking space (i.e., the existence of a mountable kerb is not taken to be approval for vehicular access). Regardless of the existence of this mountable kerb, it would require further modification to provide vehicular access to the proposed parking space on the east boundary which would not be supported by the City's Engineering and Infrastructure services.
- The area to the west of the street pole is currently being used for parking and is considered to be the appropriate location to provide the one (1) parking space required under the R-Codes (the subject site is located within 250m of a high frequency bus route).



**Figure 1** – Location of driveway on eastern side of lot.

## CONCLUSION

The proposed development is supported with the exception of the proposed ancillary structure on the front boundary. This structure will detract not only from the streetscape but also from the heritage value of the dwelling which should be the defining feature of the site.



## **STRATEGIC IMPLICATIONS**

### Green Plan 2020

Encourage the retention of vegetation on private land.

1. Two (2) trees are proposed to be removed.
2. They are proposed to be replaced by four (4) new trees.
3. No DA is required for the removal of trees on private land.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Council:**

**REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions and Alterations to Existing Single House at No. 20 (Lot 1) Jackson Street, North Fremantle, as detailed on plans dated 6 July 2023, for the following reasons:**

- 1. The proposal is inconsistent with the City of Fremantle's Local Planning Policy 3.6 Heritage Areas as the ancillary structure will detract from the heritage significance of the place due to its proposed location on the front boundary in front of the heritage listed dwelling.**
- 2. The proposal is inconsistent with the City of Fremantle's Local Planning Policy 2.9 Residential Streetscape Policy and the Residential Design Codes by reason of the vehicular access driveway being located less than 0.5m from a side boundary and street pole.**
- 3. The proposed 'tilt panel door' presents a risk to users of the footpath due to it's potential to extend into the footpath area upon opening/closing.**



**PC2310-5 MANNING STREET, NO. 5 (LOT 28) FREMANTLE – VARIATION TO DA0100/22 (TWO STOREY ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE) (ED VA0012/23)**

<b>Meeting Date:</b>	4 October 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. Development Plans</li><li>2. Site Photos</li><li>3. Original Decision Notice and Approved Plans</li><li>4. Applicant Covering Letter</li><li>5. Site Survey</li></ol>

**SUMMARY**

Approval is sought for variations to development approval (ref. DA0100/22) that comprised two storey additions and alterations to an existing Single House at No. 5 (Lot 28) Manning Street, Fremantle. The original application was approved by Council at its meeting on 7 December 2022.

A summary of the proposed amendments to the approved plans are as follows:

- Increase proposed rear Cellar addition floor area;
- Modify proposed ground and first floor rear addition floor layouts (southern and northern lot boundary setbacks to remain as previously approved); and
- Extend roof 0.6m (600mm) over western end of First Floor addition.

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

- Overshadowing
- Boundary Wall (north)
- Visual Privacy

The application to vary the approval is recommended for conditional approval.

**PROPOSAL**

**Detail**

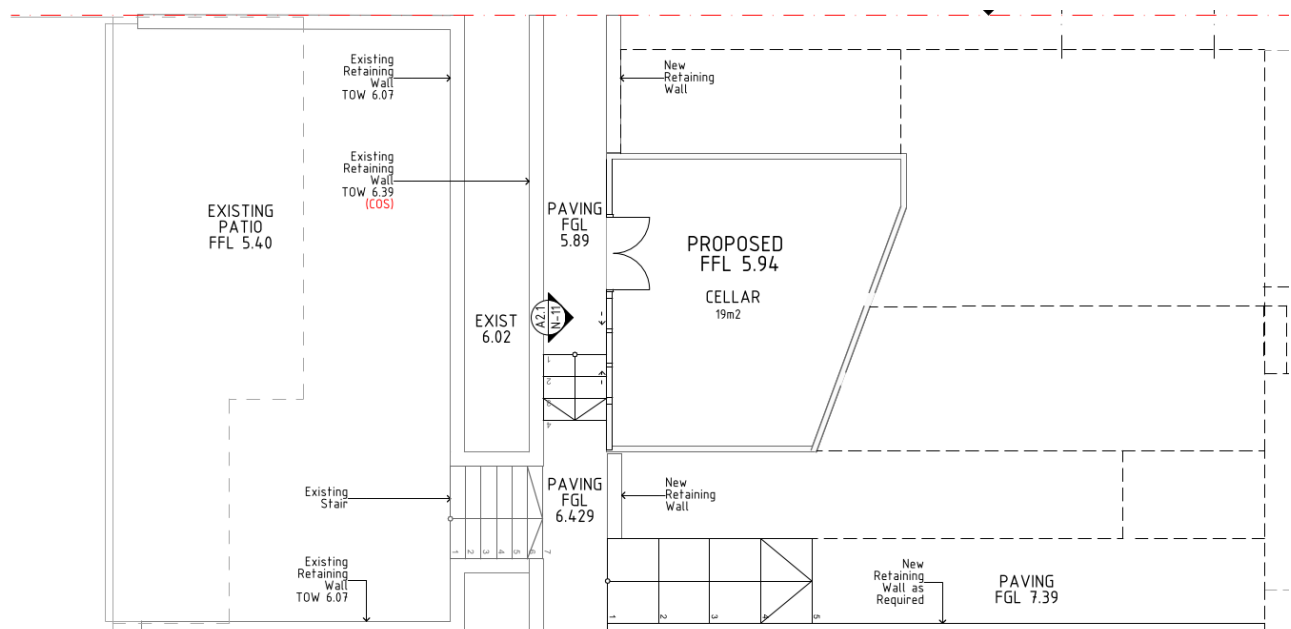
Approval is sought for a variations to development approval (ref. DA0100/22) that comprised two storey additions and alterations to an existing Single house at No. 5

(Lot 28) Manning Street, Fremantle. The original application was approved by Council at it's meeting on 7 December 2022.

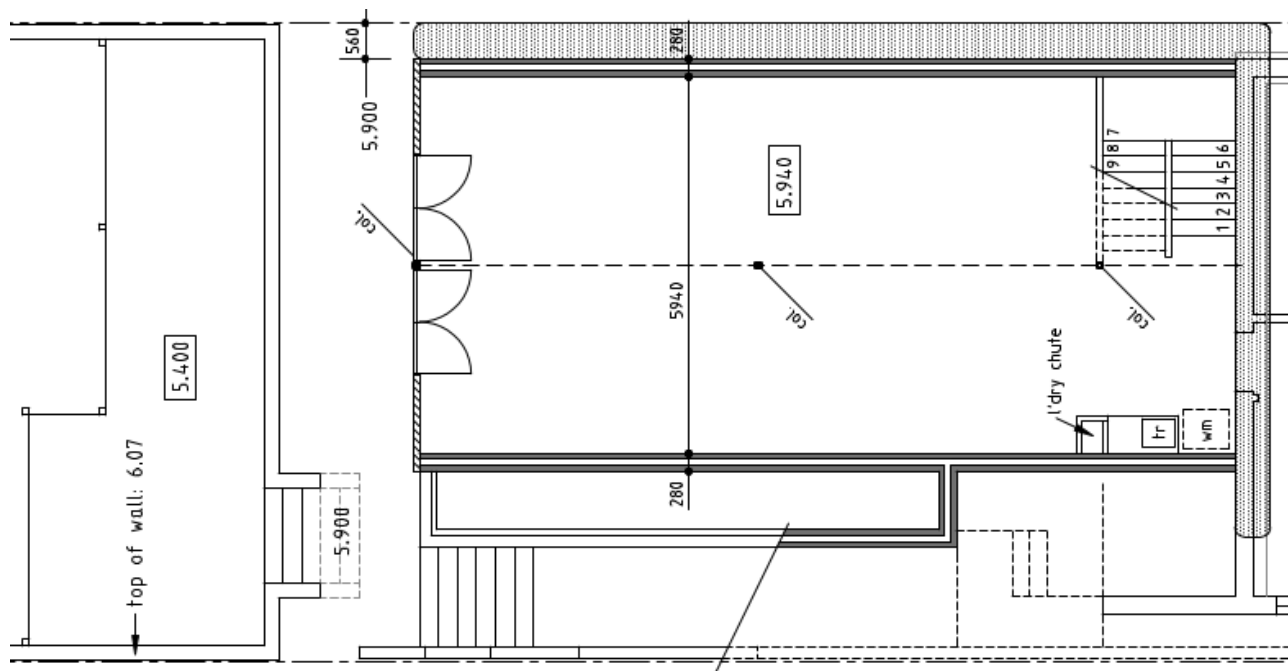
A summary of the proposed amendments to the approved plans, are as follows:

- Increase proposed rear Cellar addition floor area;
- Modify proposed ground and first floor rear addition floor layouts (southern and northern lot boundary setbacks to remain as previously approved); and
- Extend roof 0.6m (600mm) over western end of First Floor addition.

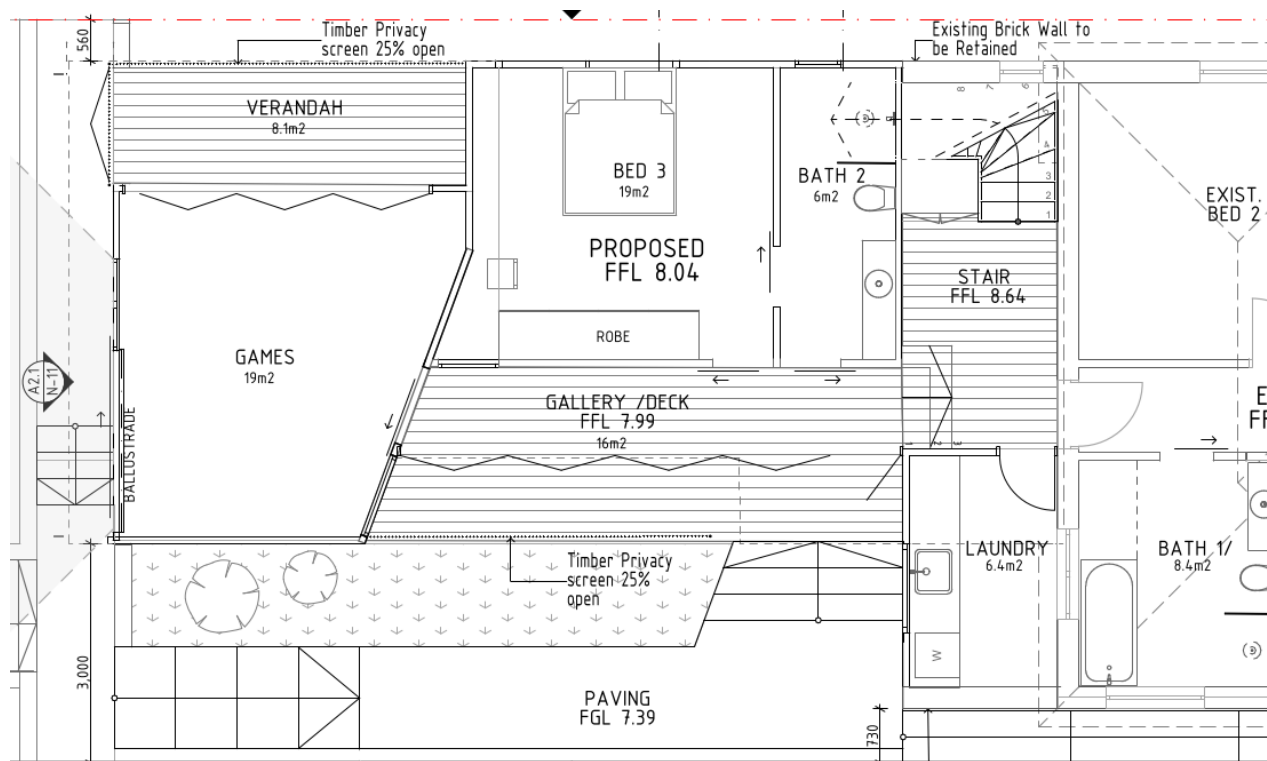
The illustrate the above amendments and provide a visual comparison of the amended plans with those previously approved under DA0100/22, Figures 1 – 6 are provided on the following pages:

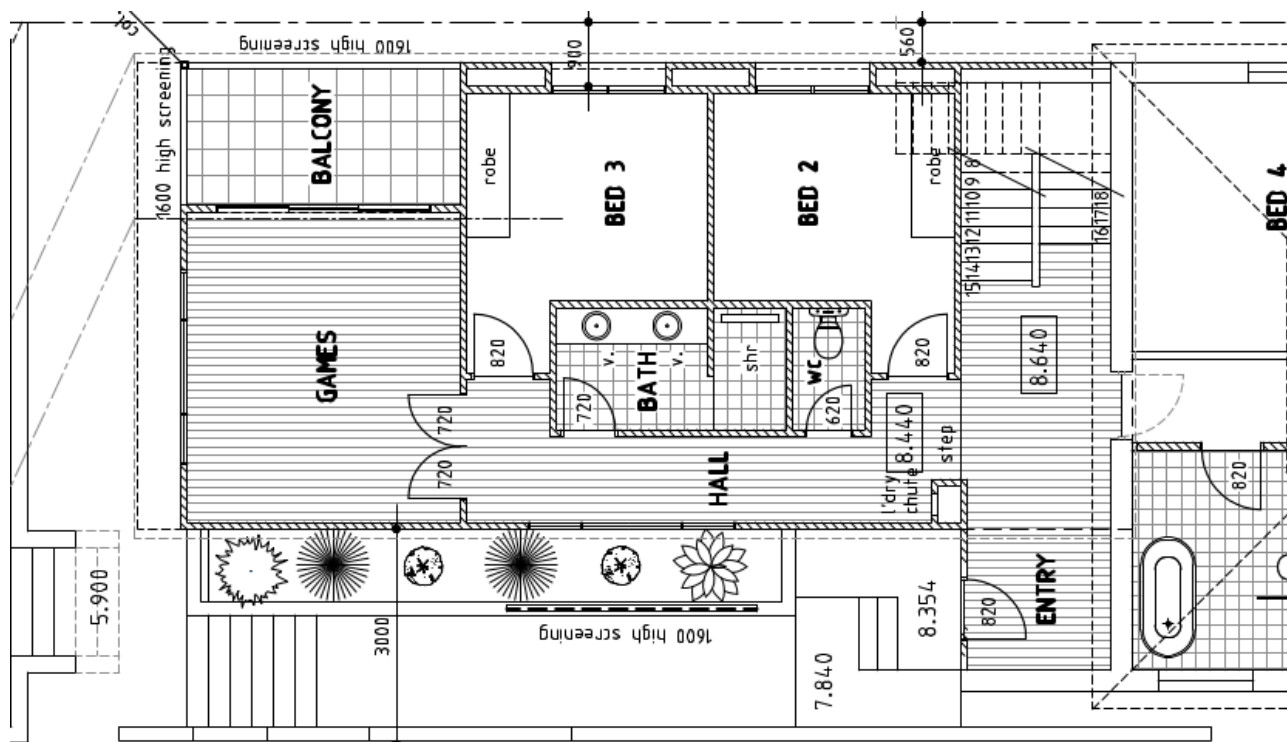




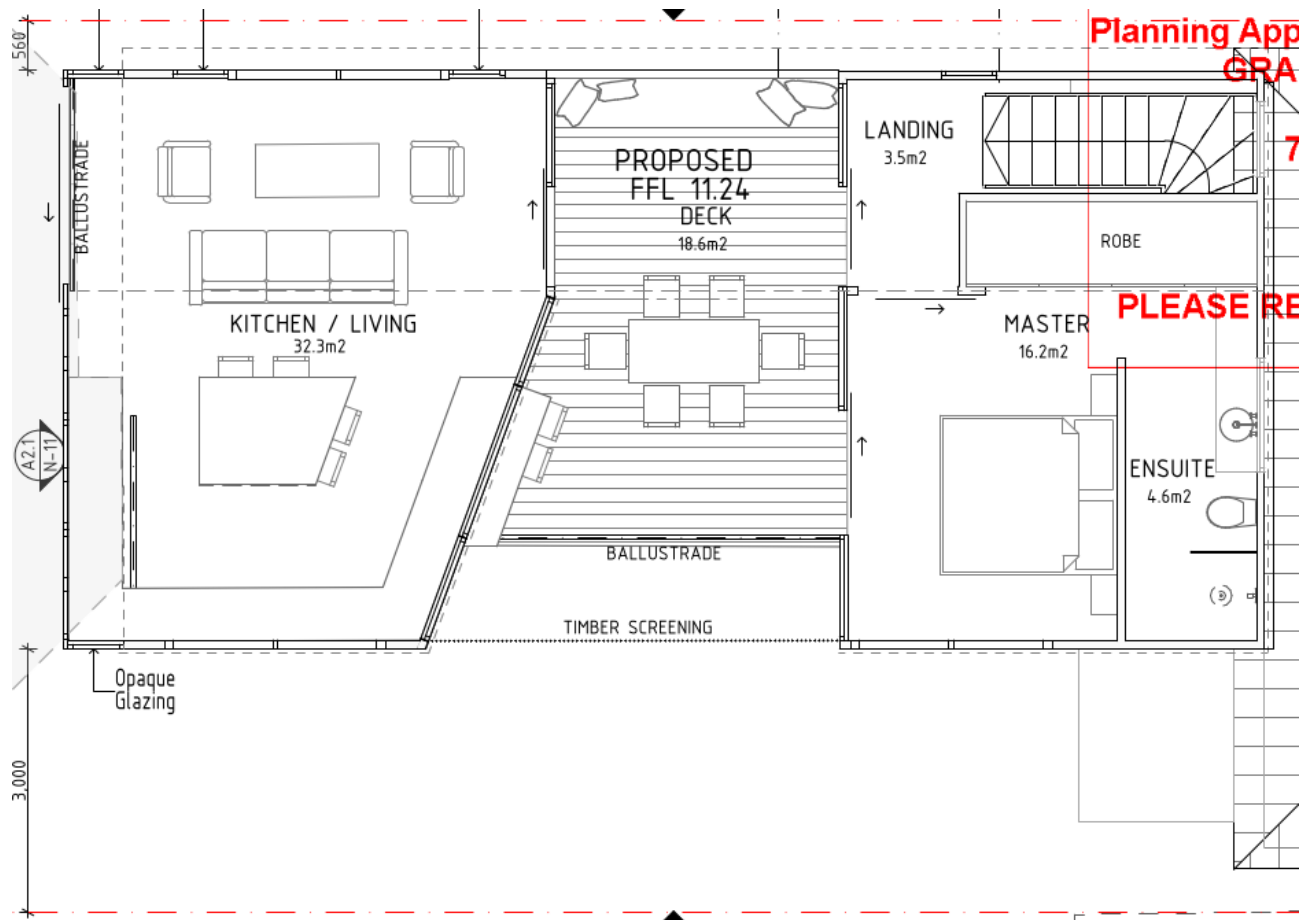


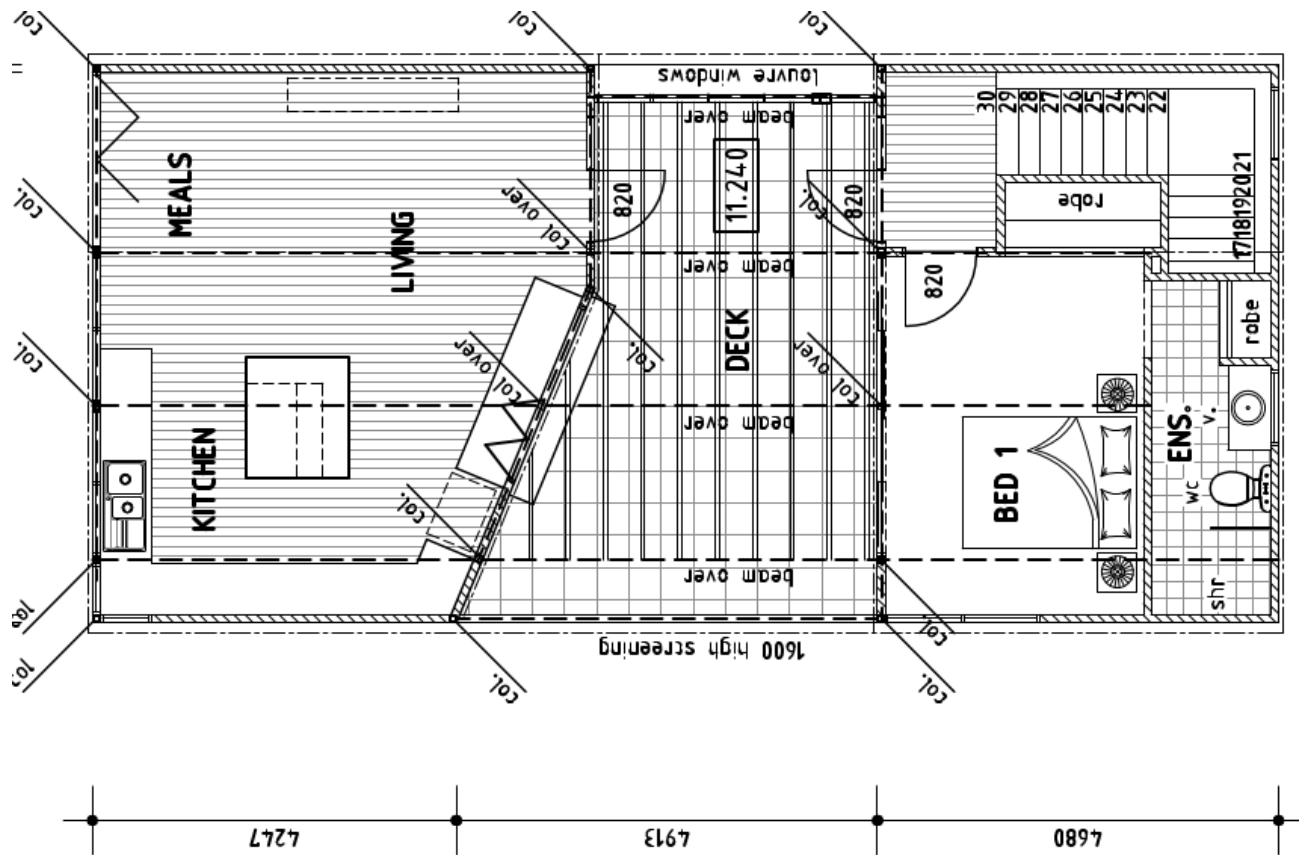
**Figure 1.** Approved Cellar Floor Plan, 19m<sup>2</sup> (top) and Amended Cellar Plan, 70m<sup>2</sup> (bottom)



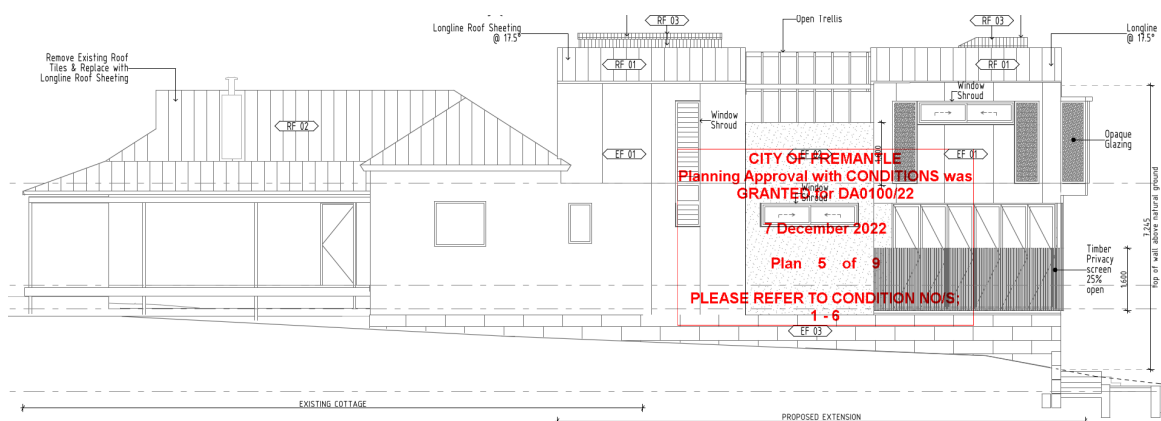


**Figure 2.** Approved Ground Floor Plan (top) and Amended Ground Floor Plan (bottom)



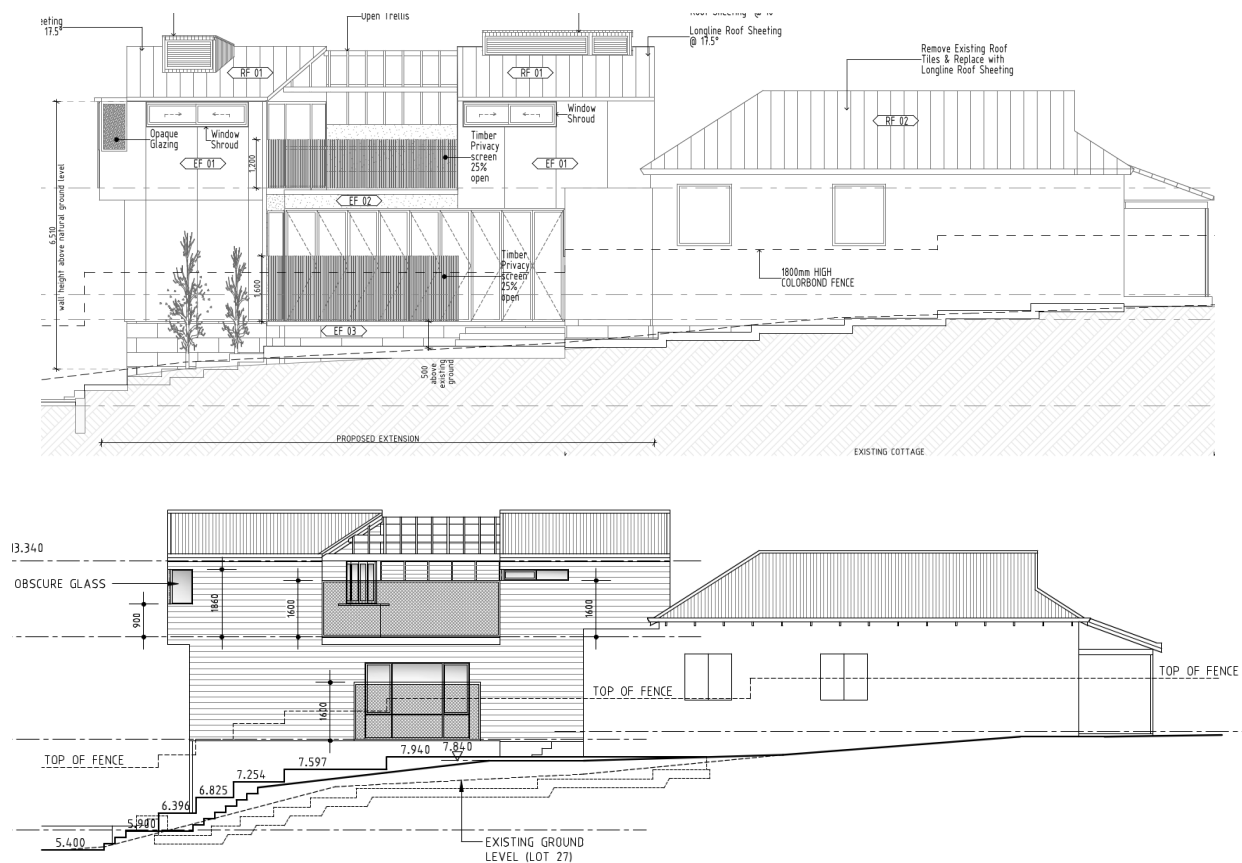


**Figure 3.** Approved First Floor Plan (top) and Amended First Floor Plan (bottom).

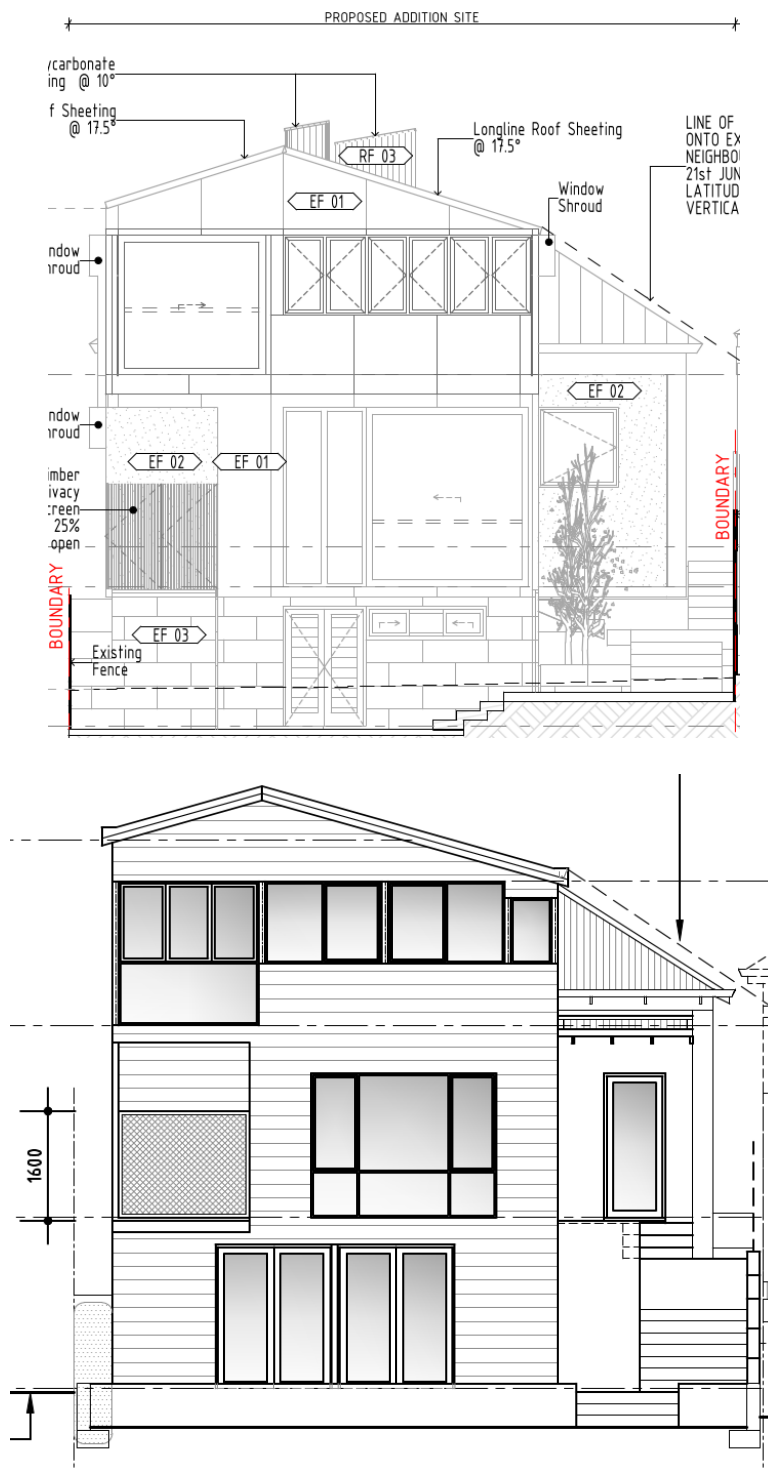




**Figure 4.** Approved North Elevation (top) and Amended North Elevation (bottom).



**Figure 5.** Approved South Elevation (top) and Amended South Elevation (bottom).



**Figure 6.** Approved west elevation (top) and Amended West Elevation (bottom).

The amended Development plans for approval are included as **Attachment 1** and the original decision notice and approved plans are provided as **Attachment 3**.



**Site/application information**

Date received:	6 July 2023
Owner name:	Jeremey John Carter & Rebecca Leigh Carter
Submitted by:	Jeremey John Carter
Scheme:	Residential R30
Heritage listing:	Level 3, Not in a 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 following discretions being posed:

- Boundary wall (north)
  - Visual privacy (north / south)

- Overshadowing

The advertising period concluded on 4 August 2023 and one (1) submission was received. The following comments were made on the amended proposal which were shared with the applicant for a response, both have been summarised in the following table:

Submitter Comment	Applicant Response
The roof has been extended to the west considerably. This increases the overshadowing area, increases the bulk of the building, and decreases open space	Based on the information provided in the variation, this is opinion and not objective. As per the submitted plans for the variation (Sheet 1), the increase overshadowing onto the external existing outbuilding due to the extension of the main roof over the kitchen is negated by the decreased portion of overshadow as per the DA approved (15/12/22) due to the deletion of the vented roof skylights.
It appears that the original house has been drawn further from the boundary than it really is. This most likely affects the overshadowing calculations of the proposed plans, and also the approved plans. A boundary survey should be completed to ensure the plans correlate with the actual boundary.	<p>A boundary survey has been completed in February 2012 (as attached – <b>Attachment 5</b>), and a copy has been provided to the neighbour.</p> <p>The survey (as attached - <b>Attachment 5</b>) is what has been used to seek DA approval and also approval for ancillary accommodation back some years back.</p>
The approved plans include an uncovered walkway on the southern side. This area is enclosed in the updated plans, reducing open space and changing the visual impact of the building.	<p>The approved drawing had this as a south facing veranda (rather than just a walkway as referred to by the submission).</p> <p>By enclosing the veranda does not increase the build footprint and thus no increase to overshadowing 7 Manning St.</p> <p>The proponent considers this variation greatly improves the privacy between 5 and 7 Manning by no longer having a veranda that looks directly at their back deck / outdoor entertaining area.</p>
The kitchen can only be accessed by the open deck area. I remain concerned that this arrangement is not practical,	This arrangement was already approved under the previous proposal and remains the same.

and that it would need to be covered in order for the home to be functional (walking through the rain to access the only kitchen), further increasing overshadowing.	The original submission to the City had the open deck on the west of the entire build. Due to overshadowing, the proponent engaged an architect to produce a solution for this issue (and bulk and scale). Hence, now the build had a balcony in the middle of the first floor build. This change improved daylight/sunlight access for the southern neighbour over more sensitive garden areas and has been retained in this proposal.
The updated plans do not present any information demonstrating how the new overshadowing area changes from the approved (and from the R-code requirements).	The proponent's variation remains within the footprint, including build height of the approved DA. Hence the proponent and Draftsman considers this submission as minor. A revised overshadowing diagram, highlighting changes, is provided alongside the ground floor plan, in the amended plans.

Officer comment on how the amended plans have increased and/or altered any areas of discretion being sought by the amended proposal, in particular overshadowing, boundary walls and visual privacy, are discussed 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:

- Boundary wall (north)
- Visual privacy (north / south)
- Overshadowing

The above matters are discussed below.



## Background

The subject site is located on the west side of Manning Street. The site has a land area of approximately 481m<sup>2</sup> and is currently a Single house. The site is zoned Residential and has a density coding of R30. The site is individually heritage listed. The site has a significant slope from south-east to north-west of approximately 3.0m

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

- DA0100/22 – 'Two Storey Additions and Alterations to Existing Single House'. Approved by Council on 7 December 2022.
- DA0361/11 – 'Detached Two Storey Ancillary Accommodation Addition to an existing Single House'. Approved by Planning Committee on 25 January 2012. This Ancillary dwelling is currently present on the site.

It should be noted application ref. DA0100/22 was originally referred to the 6 July 2022 Planning Committee meeting and was recommended for refusal. The Planning Committee invited the applicant to amend the development plans to address the reasons for deferral, namely the bulk and scale of the proposal, the impact on the southern neighbouring lot, and the impact on the existing heritage dwelling. Following several revisions, the applicant provided a final set of amended plans on 24 October 2022, which were the subject of consideration by the Council on 7 December 2022.

The amended plans were ultimately considered to have adequately addressed previous concerns and were approved by Council; the decision notice and approved plans can be found at **Attachment 3**. This application seeks to vary the approval.

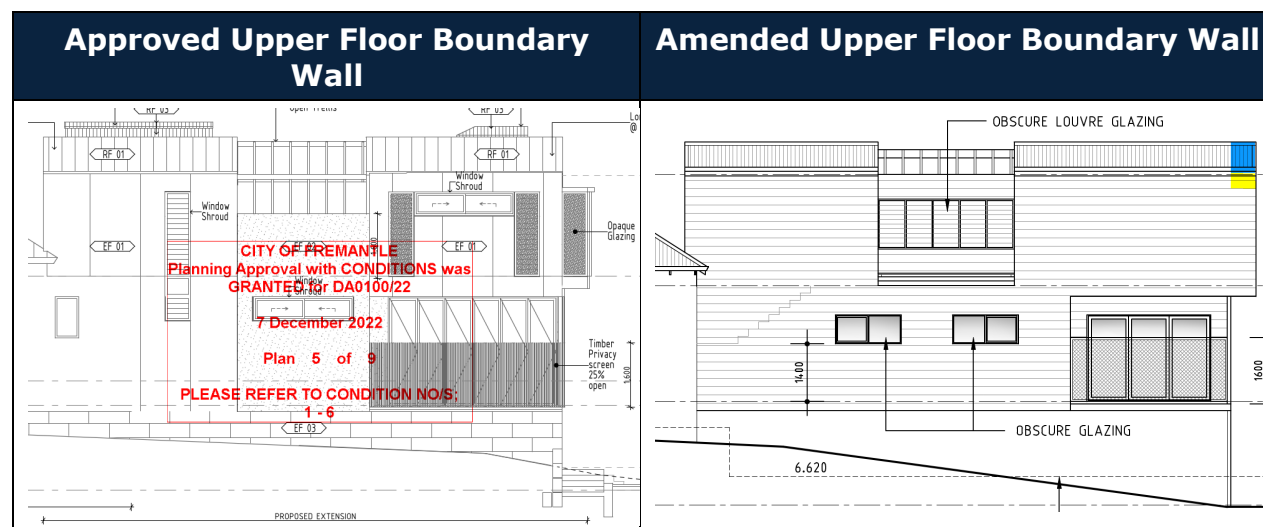
## Heritage Assessment

The minor variations will not have any further impact upon the heritage values of the place or the streetscape as compared with the approved plans, and is supported on heritage grounds.

## Boundary walls

Element	Required setback	Proposed setback	Extent of Variation
North – upper floor	1.9m	0.56m	1.34m

The proposed setback of both the ground and upper floor boundary walls between the previously approved plans and the amended proposal is largely identical except for a small portion of wall toward the western end of the upper floor where the roof has now been extended over. The below images with a yellow highlight indicate the increased upper floor boundary wall extent and the blue highlight indicate the roof extension on the amended proposals northern elevation plan.



The north facing ground and upper floor boundary walls are still considered to meet the Design Principles of the R-Codes for the following reasons:

- The proposed boundary walls do not result in a loss of access to winter sunlight of the affected neighbour owing to their location on the northern boundary.
- The boundary wall is not considered to contribute to a sense of confinement or building bulk as it doesn't have an unacceptable adverse impact on any existing major openings of the adjoining northern dwelling. Further, the ground floor boundary wall abuts an existing boundary wall present on the northern neighbours site. Whilst the upper floor doesn't abut a boundary wall, it is considered that the presence of the neighbours boundary wall at the ground floor reduces any adverse building bulk impact upon adjoining northern dwelling.
- No visual privacy variations are posed by this boundary wall.
- The boundary wall does not impact on any views of significance or existing significant vegetation.

### Overshadowing

Element	Requirement	Proposed	Extent of Variation
<i>Approved</i> Overshadowing (original proposal)	168m <sup>2</sup> (35% of southern neighbours parent lot)	190m <sup>2</sup> (39% of southern neighbours parent lot)	22m <sup>2</sup> (4% of total site area of southern neighbours parent lot)
<i>Amended</i> Overshadowing (this proposal)	168m <sup>2</sup> (35% of southern neighbours parent lot)	193.4m <sup>2</sup> (40.3% of southern neighbours parent lot)	25.4m <sup>2</sup> (5.3% of total site area of southern parent lot)



As noted in the table above, due to the 600mm extension of the upper floor roofing over western end of First Floor Kitchen/Living rooms, the amended proposal has increased the overshadowing of the southern lot by 3.4m<sup>2</sup>, bringing the total overshadowing of this lot to 40.3% (193.4m<sup>2</sup>) in lieu of the 35% (168m<sup>2</sup>) permitted by the deemed-to-comply controls of the R-Codes.

This marginal additional area of shadow is to fall over the roof of the adjoining southern property's ancillary dwelling only and not cause any further overshadowing of sensitive major openings and/or outdoor living spaces of this southern property beyond the previous approval. The additional area of overshadowing is depicted in the following figure which includes superimposed aerial imagery of the southern affected property:







**Figure 7.** Image depicting area of additional overshadowing of neighbouring southern property falling on existing roof areas as per the amended development plans.

The overshadowing variation is therefore supported under the design principles of the R-Codes.

### **Visual privacy**

As per the amended development plans that form part of this variation application, all direct north and south facing major openings and/or balconies are now shown to be provided visual privacy screening and/or obscure glazing to prevent direct overlooking of adjoining properties. To ensure the proposed screening and/or obscure glazing satisfies R-Code requirements, a condition of approval is recommended to secure this detail.

Despite the minor layout changes to the ground and first floors, the views northwest and southwest from habitable room windows of the western elevation remain as previously considered and approved under the original application. As such, the views northwest from the ground floor Games Room and upper floor Kitchen/Living room as well as the view southwest from the upper floor Kitchen/Meals are all still considered to meet the design principles of the R-Codes as outlined in the committee report for the original application and have not been altered by this amended proposal.

Similarly, the view southwest from the ground floor Games Room is still not considered to meet the Design Principles of the R-Codes due to the potential for sensitive outdoor living areas of the adjoining property (No. 7) to be overlooked from this opening. As such, this major opening is still recommended to be effectively visually screened in accordance with the R-Codes and this is to be secured by the modified visual privacy condition, outlined below.

### **CONCLUSION**

Based on the above assessment, it is considered that the amendments proposed to the previously approved plans are minor in nature and that any of the additional discretions being sought are marginal and do not materially increase any adverse amenity impact upon the neighbouring dwellings beyond what has already been approved previously. As such and on balance, the amended proposal is considered worthy of approval, subject to any modified conditions contained in the officers recommendation below.

### **STRATEGIC IMPLICATIONS**

Nil



## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Council:**

**APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 for the Variations to Planning Approval for DA0100/23 (Two Storey Additions and Alterations to Existing Single House) granted 7 December 2022 at No. 5 (Lot 28) Manning Street, subject to the same terms and conditions, except whereby modified by the following condition(s):**

- A. Condition(s) 1 of the Planning Approval dated 7 December 2022, be deleted and replaced with the following condition(s):**
  - 1. This approval relates only to the development as indicated on the approved plans dated 4 July 2023. 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 7 December 2022. 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.**
- B. Condition(s) 4 of the Planning Approval dated 7 December 2022, be modified and replaced with the following condition(s):**
  - 4. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the ground floor Games room (view southwest) is 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,**



**Further, details of all other visual privacy screens and/or obscure glazing shown on the plans hereby approved across the northern, southern and western elevations are to demonstrate compliance with Clause 5.4.1 C1.1 of the Residential Design Codes.**

**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.**



**PC2310-6 SOLOMON STREET NO. 83 (LOT 62), FREMANTLE – TWO STOREY SINGLE HOUSE WITH BASEMENT – (CM DA0160/23)**

**Meeting Date:** 4 October 2023  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  
1. Amended Development Plans  
2. Applicant's justification  
3. Site Photos

**SUMMARY**

**Approval is sought for Two Storey Single House with Basement at No. 83 (Lot 62) Solomon 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:**

- **Building height**
- **Retaining and earthworks**
- **Visual privacy (north)**
- **Vehicular access**

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

**PROPOSAL**

**Detail**

Approval is sought for a two storey Single house with basement. The proposed works include:

- The ground floor which accommodates for the kitchen, lounge, and dining area, with a bedroom and balcony at the rear.
- The first floor which accommodates for the remainder of the bedrooms, gym, study, ensuite and a balcony to the rear of the site.
- A basement located at the rear of the site to accommodate for a cellar, store and double garage which gains access from the right of way which connects to Ashburton Terrace.

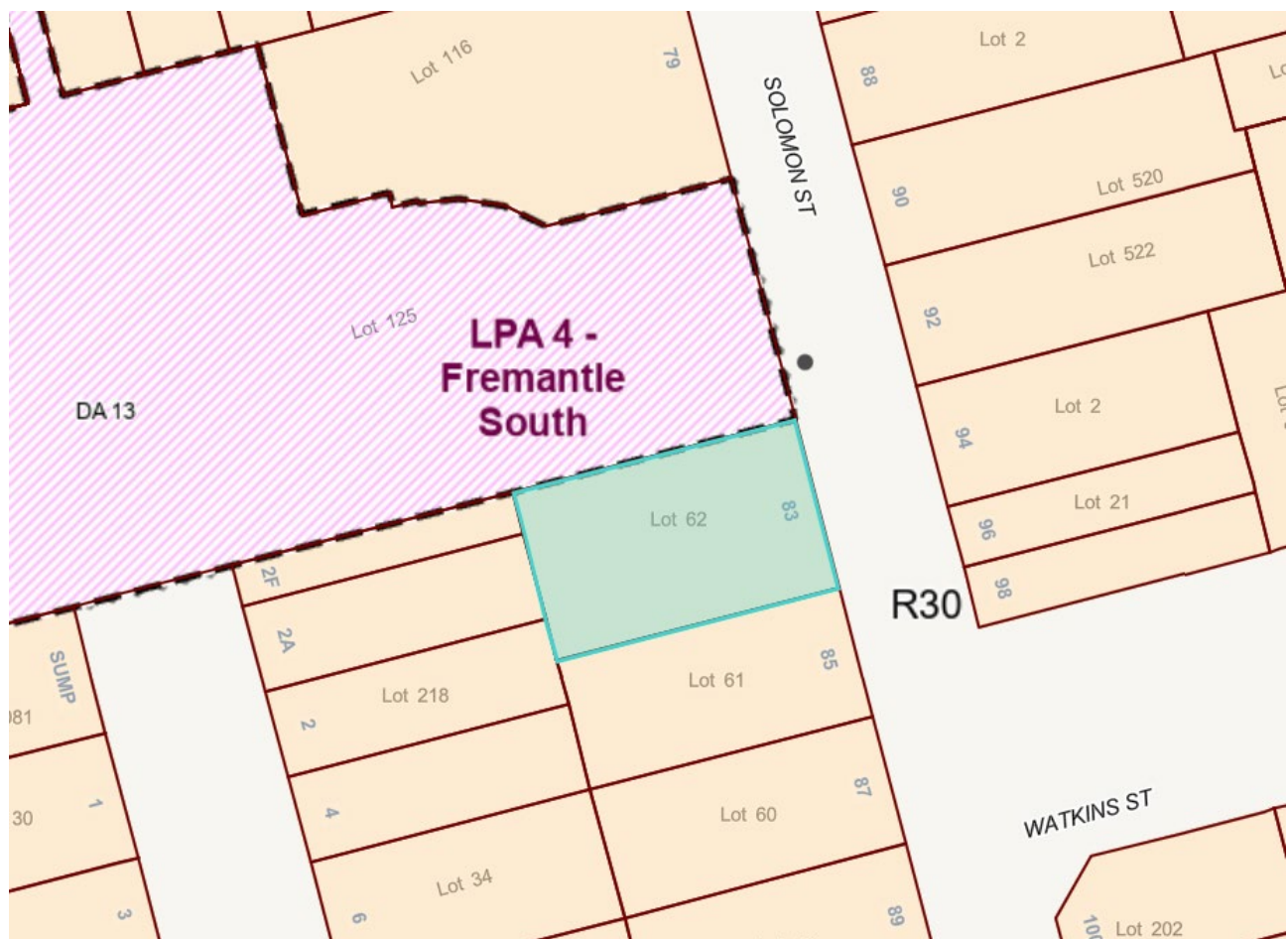
The applicant submitted amended plans on 7 September 2023 including the following:

- Modifications to the first-floor balcony to be setback an additional 950mm from the rear of the site and addition of screening.

Development plans are included as attachment 1.

### Site/application information

Date received:	29 May 2023
Owner name:	Jack Norman Ross Johnson and CX Transport PTY LTD
Submitted by:	Jack Norman Ross Johnson – Solh Studio
Scheme:	Residential (R30)
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





proposal seeks variations to the deemed to comply requirements in the R-Codes and the City's local planning policies. The advertising period concluded on 20 July 2023, and one (1) submission was received. The following issues were raised (summarised):

- Concerns regarding the height of the dwelling creating issues in relation to visual privacy.
- Concerns regarding the removal of the rear dividing fence being demolished and rebuilt.
- Concerns regarding the construction process involving trucks or heavy vehicles utilising the right of way access.

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

- The applicant shifted the first-floor balcony back to be setback further from the western lot boundary and has provided additional screening measures even though the cone of vision satisfies the deemed to comply requirements of the R-Codes.
- The applicant also provided additional justification which can be viewed at attachment 2.

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

- With regards to visual privacy concerns to the west, the proposal meets the deemed to comply requirements of the R-Codes and the cone of vision from the western balconies do not impede on the adjoining property. Notwithstanding this, the applicant has made some amendments to the plans in an attempt to reduce concerns. All other visual privacy variations are discussed further in the officer comment section below.
- With regards to the concerns about the dividing fence, the applicant is advised that this is a civil matter between neighbours. Notwithstanding this, an advice note has been recommended to advise the applicant to liaise with the adjoining property owner.
- With regards to the concerns raised about the vehicles and the construction of the development, the applicant is required to comply with Local Planning Policy 1.10 – Construction Sites.

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:

- Building height

- Retaining and earthworks
- Visual privacy (north)
- Vehicular access

The above matters are discussed below.

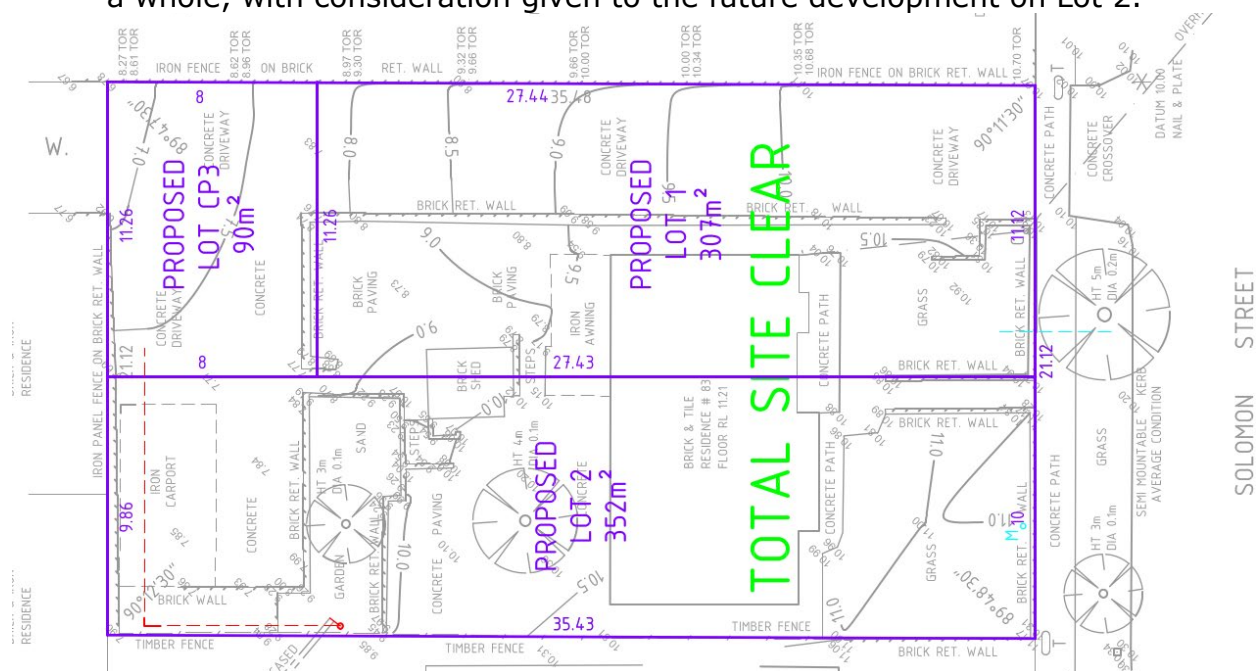
## Background

The subject site is located on the western side of Solomon Street. The site has a land area of approximately 747m<sup>2</sup> and is currently a vacant lot. The site is zoned Residential and has a density coding of R30. The site is not individually heritage listed, nor is it located within a heritage area.

The site has a varying topography and slopes approximately 3.5 metres from the front of the site at Solomon Street (~10.5) to the rear of the site where it adjoins 2A Ashburton Terrace (~7.0).

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

- The site has subdivision approval for two lot survey strata with common property (ref: WAPC1342-21). It is noted that subdivision clearance for the site has not yet been granted, and therefore the lots remain on a single certificate of title. Figure 1 below shows the approved plan of subdivision.
- The application seeks approval for a dwelling on Proposed Lot 1 seeking access from the common property and the rear Right of Way, however, given the titles have not been issued yet, the application is considered on the lot as a whole, with consideration given to the future development on Lot 2.



**Figure 1 – Approved subdivision plan (Ref: WAPC1342-21)**

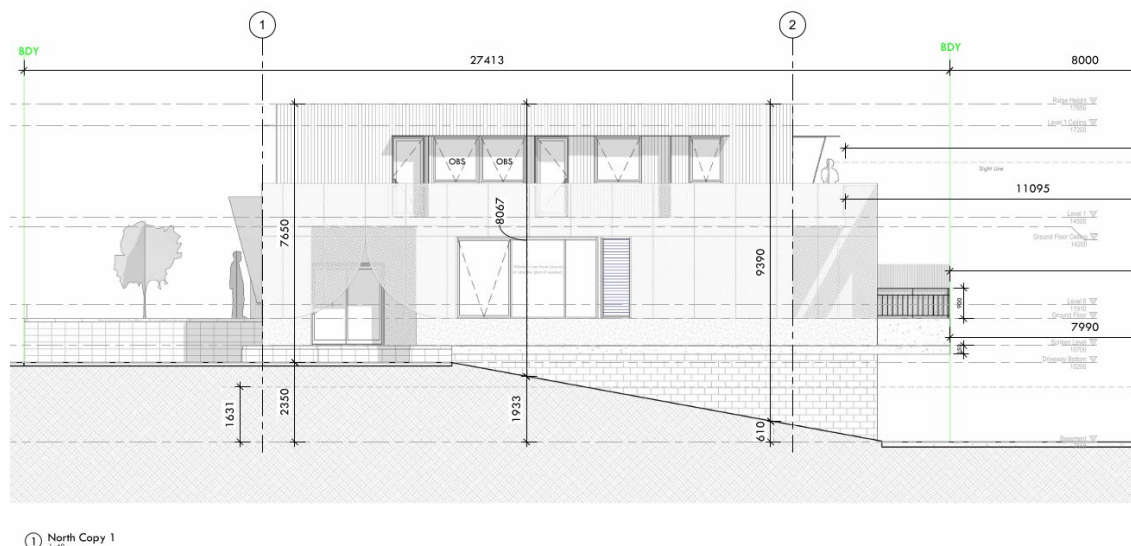
## Building height - wall

Element	Requirement	Proposed	Extent of Variation
Top of wall height	7.0m	7.1m – 8.8m	1.8m
Total Building height (concealed roof)	8.0m	7.65m – 9.39m	1.39m

The proposed dwelling seeks a total building height which ranges from 7.65 – 9.39 metres above the natural ground level due to the natural topography of the site sloping down to the rear.

The building height variation is considered to meet the Design principles of the R-Codes in the following ways:

- The building height will not have an adverse impact on the amenity of the adjoining properties or the streetscape. It is noted that the wall height complies toward the front of the property as viewed from Solomon Street, and exceeds the 8.0 metre deemed to comply requirement toward the rear of the site where the sites topography drops. Figure 2 below shows the building in relation to the existing natural ground level. It is also noted that the building is stepped in from the rear to reduce the building bulk impact on the property to the west.



**Figure 2** – Building height in relation to the site's topography.

- The building height allows for adequate access to direct sun into buildings and open spaces on adjoining lots, noting that any overshadowing that will occur from the building will only impact the vacant portion of the site to the south. It

is noted that the property to the north is an apartment building which consists of only car parking that will be impacted by the proposed development.

- The dwelling is positioned to the north of the existing lot, with the intention for another dwelling to be built on the southern lot. At this stage there is no application or approval for the dwelling, however the applicant/owner of the sites has provided a potential outline of a dwelling (Refer Figure 3 below) showing that it is possible for a dwelling to be designed on proposed Lot 2 without its outdoor living area being impacted by overshadowing or the bulk of the building height. It is also noted that the adjoining future lot to the south (Lot 2) has a higher natural ground level than Lot 1 as referenced on the approved subdivision plan which will assist with access for sunlight and ventilation to openings.



**Figure 3** – Potential layout of dwelling on Lot 2

The proposed building height allows for access to views of significance, allowing for ocean views to the west, and does not block the views of other dwellings, particularly those located to the east of the site on Solomon Street (94 Solomon), noting that the building height complies toward the front of the property.

Based on the above, the building height variation is supportable under the design principles of the R-Codes.

### Visual Privacy (north)

Element	Requirement	Proposed	Extent of Variation
Cone of vision to the north from	7.5m	3.0m	4.5m



ground and first floor balconies			
Cone of vision to the north from lounge/dining/bar (ground floor)	6.0m	1.0m	5.0m
Cone of vision to the north from bed 1, 2 & 3 (first floor)	4.5m	1.516m	2.984m

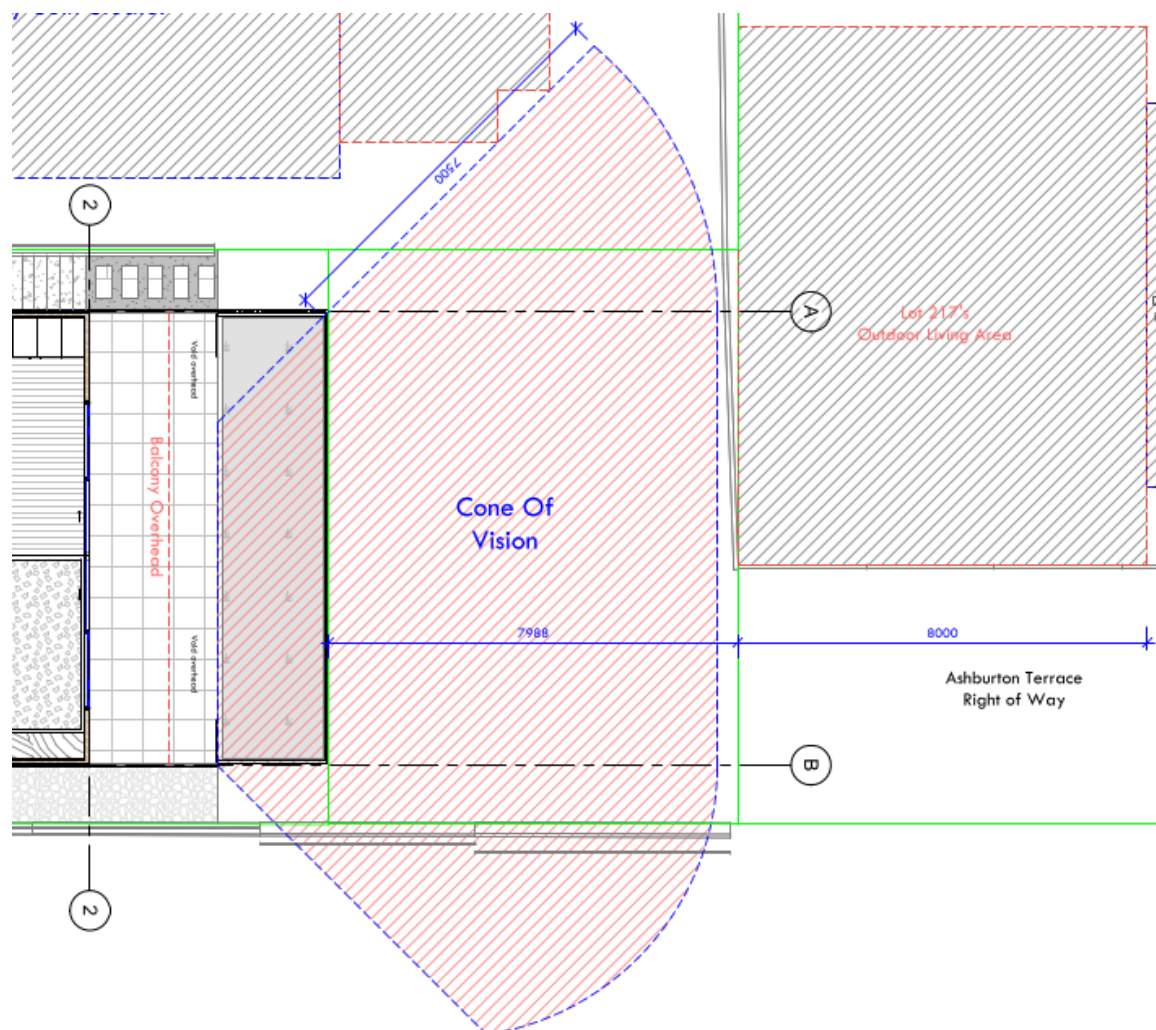
It is noted that the property directly to the north consist of apartments, however, where the cone of vision overlooks is largely utilised for car parking and access of the adjoining commercial property (refer figure 4 below).



**Figure 4** – Adjoining property to the north where the cone of vision overlooks

### Visual Privacy (west)

Noting that the property seeks a building height discretion and proposes a balcony on the ground and first floor looking to the west, cone of vision to the western property complies with the deemed-to-comply requirements of the R-Codes. Figure 5 below shows the cone of vision in relation to the adjoining property to the west (2A Ashburton Terrace). Whilst it is not a requirement, the applicant has implemented some screening devices on the first-floor balcony and provided a description of this at attachment 2.



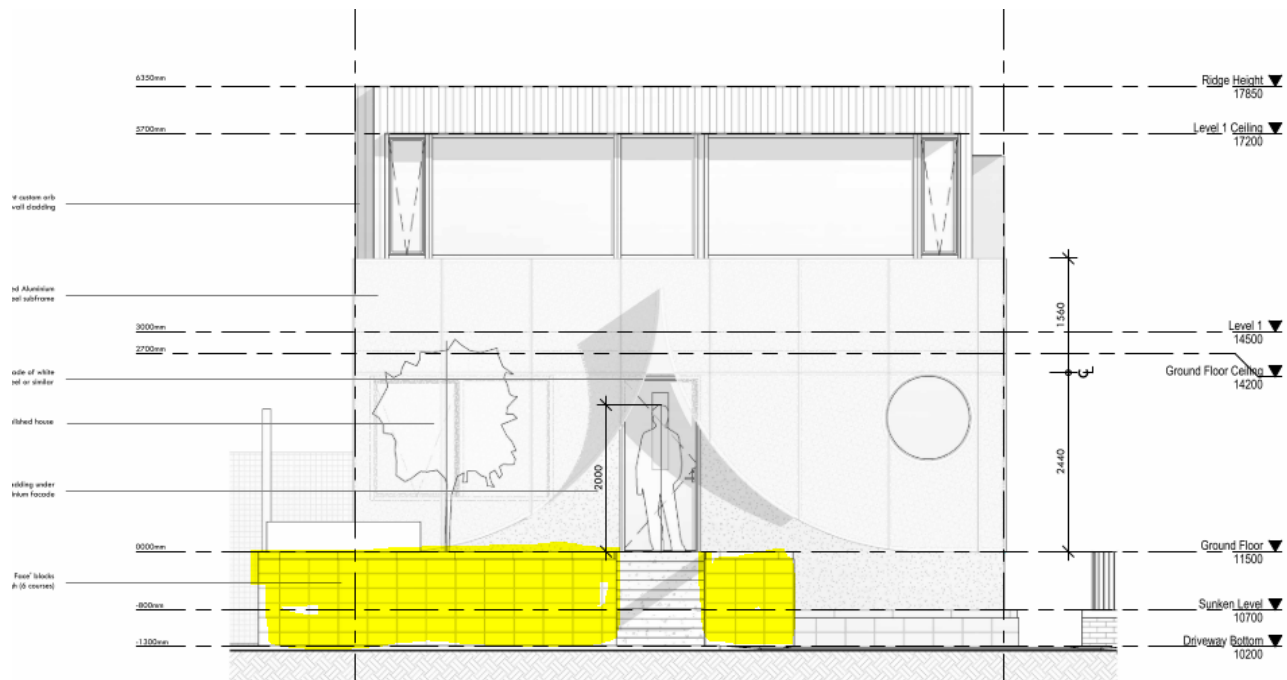
**Figure 5** – Cone of vision from ground floor balcony to the rear

### Site works

Element	Requirement	Proposed	Extent of Variation
Retaining and fill (front setback area)	0.5m height	1.2m height	0.7m

The proposal seeks to retain and fill within the primary street setback area to accommodate for a raised garden bed which is consistent with the height of the front door of the dwelling (FFL 11.500). Figure 3 below shows the retaining as viewed from Solomon Street for context.





**Figure 3** – Proposed retaining in front setback area (in yellow) as viewed from Solomon Street

The proposed site works are considered to meet the Design principles of the R-Codes in the following ways:

- The development as a whole is deemed to consider and respond to the natural features of the site.
- The retaining, as viewed from the street, complies with the solid portion of fencing height allowed under the deemed to comply requirements of the R-Codes, and therefore will appear as a fence the primary street (Solomon Street).
- The retaining wall results in land that can be effectively used for the benefit of the residents and will not detrimentally impact on the amenity of adjoining properties.

## Vehicular Access

The proposal seeks to have a secondary vehicular access point from Solomon Street in addition to having access from the rear right of way off Ashburton Terrace. It is noted that this crossover is existing, and will remain in place.



Element	Requirement	Proposed	Extent of Variation
Vehicular access	From a secondary street where no right-of-way or communal street exists; or From the primary frontage where no secondary street, or right-of-way or communal street exists	New crossover proposed from the primary street frontage, with a right-of-way access provided from the rear of the site.	Crossover from the primary street in addition to right-of-way.

The retained additional vehicular access point is considered to meet the design principles of the R-Codes in the following ways:

- The additional vehicular crossover provides for safe vehicle access and clear legibility to the dwelling, as it allows for visitors to the site to contain parking on-site and not be parked on the street and provides a clear indication of where visitors are to park, unless they were aware of the rear access via Ashburton Terrace.
- The additional vehicular access point maintains minimal crossovers onto Solomon Street, noting the right of way is off Ashburton Terrace.

## CONCLUSION

In accordance with the above assessment, the proposal as amended 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 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. 83 (Lot 62) Solomon Street, Fremantle, as detailed on plans dated 7 September 2023, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 7 September 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 occupation of the development hereby approved, the screening shown on the approved plans 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 of the development, a minimum 2m x 2m tree planting area and a minimum of one (1) tree is to be planted in accordance with State Planning Policy 7.3 – Residential Design Codes Volume 1 and to the satisfaction of the City of Fremantle.**
- 7. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**



**Advice notes:**

- i) A Building permit is required for the proposed Building Works. The building permit must be issued prior to commencing any works on site.**
- ii) 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](http://buildingcommission.wa.gov.au/bid/Dividing_Fences.aspx).**
- iii) 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.**
- 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) 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.**



**PC2310-7 MILKY WAY, NO. 1 (LOT 2), BEACONSFIELD - TWO STOREY  
SINGLE HOUSE – (JD DA0166/23)**

**Meeting Date:** 4 October 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. 1 Milky Way, Beaconsfield (subject 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:**

- **Primary street setback**
- **Lot boundary setback (boundary wall)**
- **Visual privacy**

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

**PROPOSAL**

**Detail**

Approval is sought for a two storey Single house at the subject site. The subject lot was created under subdivision approval WAPC303-20 and cleared of all existing buildings/structures. The site is accessed via a privately owned right of way (named Milky Way) which extends between Smith Street and Cadd Street.

The proposed works include:

- Construction of a two storey Single house (4 bedroom, 2 bathroom, double garage).
- The master suite features a single storey boundary wall on the eastern boundary.
- Construction of a retaining wall in the primary street setback area on the north front and east side boundary.

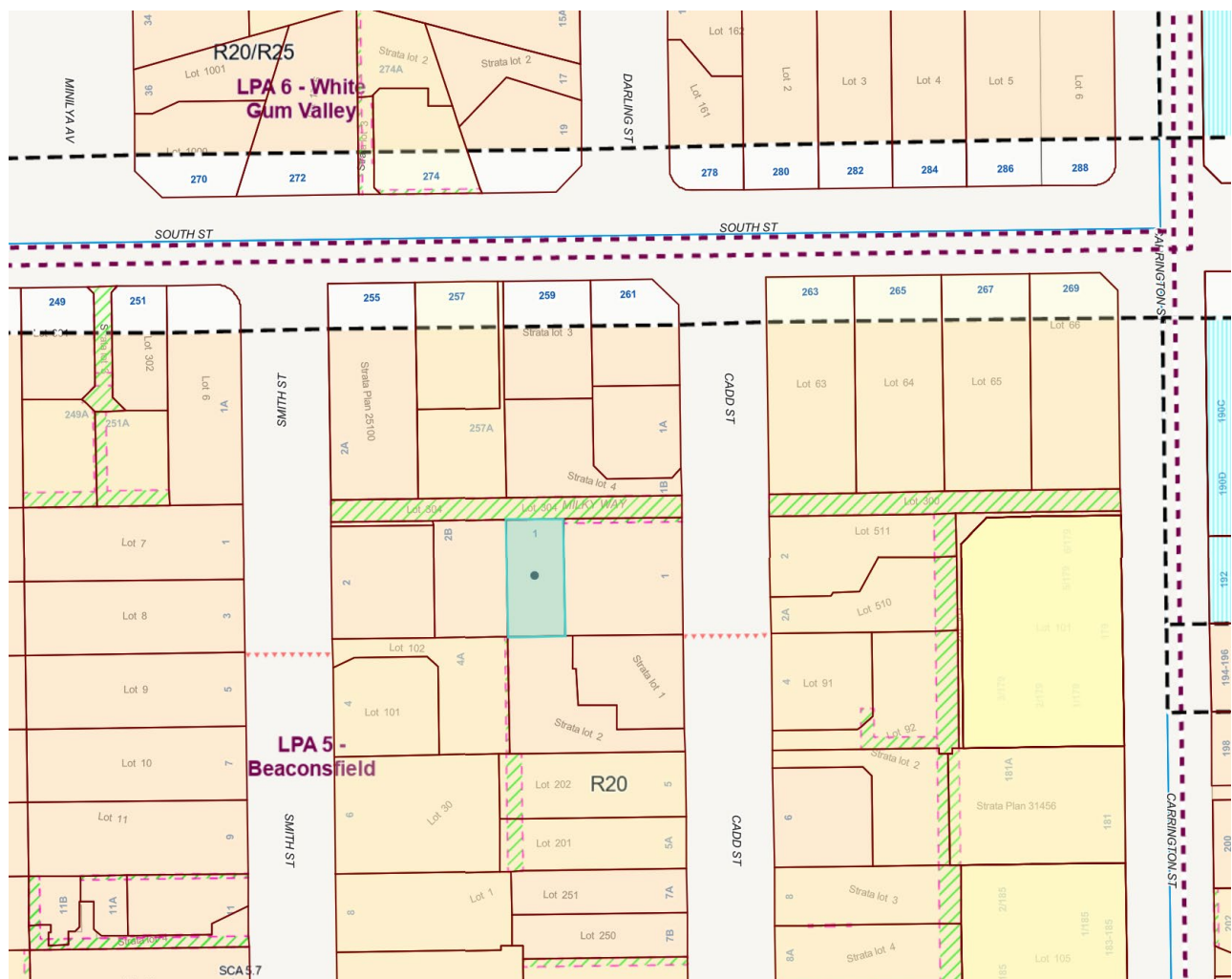
The applicant submitted amended plans on 9 August 2023 including the following:

- Increase of the proposed primary street setback from 3.35m to 4.67m.

Amended development plans are included as attachment 1.

**Site/application information**

Date received: 8 June 2023  
 Owner name: Rhys Patrick Daniel and Sanu Shrestha  
 Submitted by: Oswald Homes & Residential Attitudes  
 Scheme: Residential R20  
 Heritage listing: Not Listed  
 Existing land use: Vacant Lot  
 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 sought a Design principle assessment against the R-Codes and local planning policies. The advertising period concluded on 14 July 2023, and three (3) submissions were received. The following issues were raised (summarised):

- Potential damage to the private right of way during construction of the dwelling.
- Potential adverse impact on the adjoining landowner resulting from the east side boundary wall as well as adverse impact on privacy and solar access resulting from the 1.5m setback to the upper floor.
- Wall height on the western aspect of the dwelling to be reduced to 6.5m above natural ground level.

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

- The 1.5m setback to the upper floor on the east side boundary meets the deemed-to-comply for lot boundary setback and does not include major openings ensuring visual privacy is deemed to comply (window to bedroom 3 facing east side boundary has a sill height of 1.6m).
- The wall height on the western aspect does not exceed the deemed to comply of the R-Codes.
- The lot was lawfully created and cleared through the subdivision application process with vehicular access to the lot being from the right of way. Maintenance of the right of way is a civil matter and cannot be considered in the assessment of this application.

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:

- Primary street setback.
- Lot boundary setback (boundary wall).
- Visual privacy.

The above matters are discussed below.

### **Background**

The subject site is within the Beaconsfield Local Planning Area 5, located on a right of way (Milky Way) extending from Cadd Street to the east and Smith Street to the west. The site is approximately 352m<sup>2</sup> in size and is a vacant lot. The site is zoned

Residential and has a density coding of R20. The site is not individually heritage listed or located within a heritage area.

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

- BP0580/21 – Building permit for a retaining Wall (south and west boundaries) – Issued 2021.
- DA0268/21 – Development approval for a two Storey Grouped Dwelling (pre-subdivision, development never commenced) – Approved 2021.
- WAPC303-20 – Survey-strata subdivision (2 x lots, no common property) of 1 Cadd Street – Cleared and lot created 2021.

### **Primary street setback**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Ground floor (wall less than 4m in height)	7m	4.67m	2.33m
Upper floor (walls 4m or greater in height)	10m	4.67m	5.33m

The primary street setback is considered to meet the Design principles of Local Planning Policy 2.9 Residential Streetscapes in the following ways:

- Figure 1 below illustrates the setback of the proposed dwelling and the dwelling on the adjoining lot to the west (2b Smith Street).
- The proposed dwelling is setback 4.67m from Milky Way with 2b Smith Street setback 5.89m.
- The reduced setback of the proposed dwelling is not considered significant and will not result in a projecting element into the streetscape of Milky Way.
- Prevailing streetscape is defined under LPP2.9 as “the 3 properties, where appropriate, adjoining either side of the subject site, fronting the same street and in the same street block”. Milky Way has a limited established prevailing streetscape as there is only 1 adjoining property which addresses Milky Way. The reduced setback will therefore have no significant impact on the legibility of the streetscape as there is no established prevailing streetscape along Milky Way.
- The corner lots on each end of Milky Way address Smith and Cadd Street (Milky Way is considered their secondary street). Clause 1.2v. of LPP 2.9 elaborates that these lots can be considered in addition to the buildings in the defined prevailing streetscape. As these properties will be read in the same context and propose a similar or lesser setback, the layout of this proposed dwelling will not significantly disrupt the existing limited pattern.



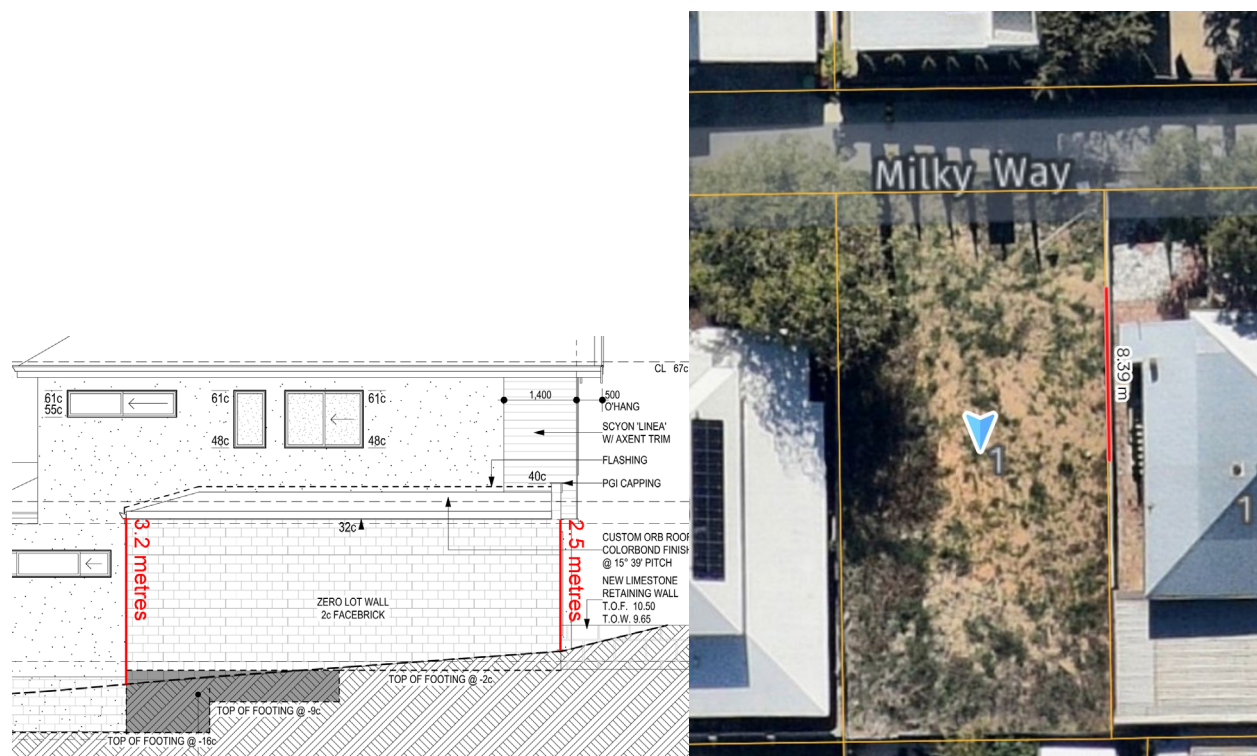
**Figure 1** – Street setback of proposed and adjoining dwellings.

#### Lot boundary setback (boundary wall)

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

The east side boundary wall is considered to meet the Design principles of Local Planning Policy 2.4 Boundary Walls in the following ways:

- The proposed boundary wall will be 3.2m above Natural Ground Level (NGL) at its highest point. This height is considered appropriate in the residential context of the surrounding area.
- The floor level of the dwelling opposing the proposed boundary wall is elevated substantially above NGL (>1m above NGL) which will minimise any potential impact from bulk or scale.
- There will be a 2.3m separation between the boundary wall and the opposing dwelling ensuring appropriate levels of ventilation and sunlight are maintained.
- The opposing lot is located to the east of the boundary wall and will therefore not result in any reduction in solar access resulting from the proposed single storey boundary wall.
- There is not considered to be any significantly established streetscape along Milky Way (which is a right of way), regardless of this, it is considered that the 4.67m setback is sufficient such that there will be no significantly detrimental impact on the streetscape.
- The boundary wall is setback 4.67m from Milky Way which is considered sufficient to maintain sightlines.



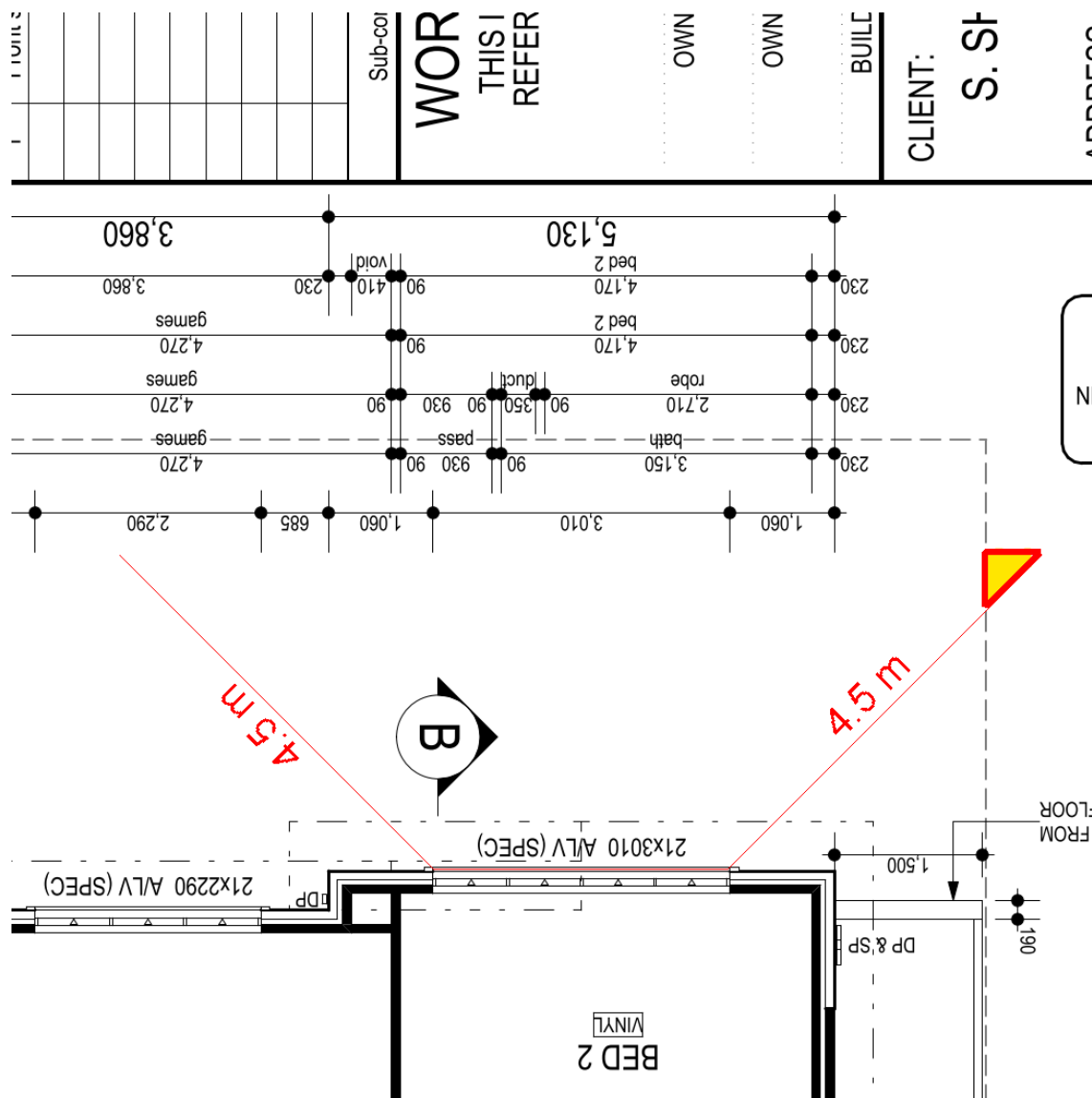
**Figure 2** – Height and location of proposed boundary wall.

### Visual privacy

Element	Requirement	Proposed	Extent of Variation
Visual privacy – bedroom 2	4.5m	3.7m	0.8m

The visual privacy variation is considered to meet the Design principles of the R-Codes in the following ways:

- The variation is considered minor and will not result in a significant loss of privacy on the adjoining lot to the east (refer Figure 3 below).
- The overlooking will not be directed into any major openings and is confined to a small portion at the rear of the opposing lot.



**Figure 3** – Extent of overlooking to the east.

## CONCLUSION

The variations mentioned above are considered minor and will have no significant impact on the surrounding properties. The applicant amended the development plans to ensure consistency with a previously approved dwelling on the subject site (primary street setback was subsequently increased). The applicant has responded to the ground levels and contours of the site by cutting the dwelling into the site to address the decrease in ground level from the front to the rear of the lot rather than proposing any significant fill. The proposed development is recommended for conditional approval.





## STRATEGIC IMPLICATIONS

### Strategic Community Plan 2015-25

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

## FINANCIAL IMPLICATIONS

Nil

## LEGAL IMPLICATIONS

Nil

## OFFICER'S RECOMMENDATION

**Council:**

- 1. APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Two Storey Single House at No. 1 Milky Way (Lot 2), Beaconsfield subject to the following conditions:**
  - 1. This approval relates only to the development as indicated on the approved plans, dated 9 August 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. Prior to the lodgement of a Building Permit application for the development hereby approved, the property driveway is to taper from garage to the street at a maximum rate of 1:5, and be a maximum width of 4.5 metres at the front property boundary, and thereafter maintained to the satisfaction of the City of Fremantle.**
  - 4. 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.**

- 5. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**

**Advice note(s):**

- 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 of the Building Code of Australia.**
- iii. 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.**



## PC2310-8 INFORMATION REPORT- October 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.

1. Application Reference
DAP001/22
Site Address and Proposal
34-38 Amherst Street and Stack Street, Fremantle – Proposed Grouped dwelling development
Current Status
<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> <li>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.</li> </ul>



- 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.
- On the 14 September 2023, it was confirmed that the applicant had withdrawn their appeal.

<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>Current Status</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.</li> <li>• An additional Mediation session was held on 5 September 2023.</li> <li>• A Directions Hearing is scheduled for 29 September 2023 to determine next steps.</li> </ul>

<b>3. Application Reference</b>
DAP003/23
<b>Site Address and Proposal</b>
87-93 Queen Victoria Street, Fremantle – Service station alterations
<b>Current Status</b>
<ul style="list-style-type: none"> <li>• At its meeting on 14 June 2023, the Joint Development Assessment Panel (JDAP) resolved to approve a development for alterations to the existing Service Station, subject to an additional condition to restrict the sale of non-petroleum products to between 6am and 10pm.</li> <li>• The applicant has submitted an application for review of the condition in the State Administrative Tribunal.</li> </ul>



- A mediation session between JDAP and the applicant is scheduled for October.

<b>1. Application Reference</b>
DAP005/23
<b>Site Address and Proposal</b>
94 South Terrace, Fremantle – Four storey Civic Use (District Police Complex)
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• At its meeting held on 6 September 2023, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation and provided an alternate position on the development.</li> <li>• At the time of writing this report, a JDAP meeting had not been scheduled.</li> </ul>

<b>2. Application Reference</b>
DAP004/23
<b>Site Address and Proposal</b>
37 South Terrace, Fremantle – Three storey Tavern
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• At its meeting held on 6 September 2023, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to approve the development, subject to the amendment of a condition of approval in relation the awning.</li> <li>• At its meeting on 18 September 2023, the Joint Development Assessment Panel (JDAP) resolved to approve the development in accordance with the Planning Committee's recommendation, with minor amendments.</li> </ul>

## **OFFICER'S RECOMMENDATION**

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

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



### **10.3 Council decision**

Nil

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

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

Nil

### **12. Urgent business**

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

Nil

### **13. Late items**

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

Nil

### **14. Confidential business**

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

Nil

### **15. Closure**