



# Agenda

## Planning Committee

Wednesday 6 April 2022 6pm



## Notice of Planning Committee Meeting

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday 6 April 2022** by electronic means (MS Teams) commencing at 6.00 pm.

This meeting will be available live on the City of Fremantle [YouTube](#) channel for public viewing.

A handwritten signature in black ink, appearing to read "Paul Garbett".

Paul Garbett  
**Director Strategic Planning and Projects**

1 April 2022



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## 1. Official opening, welcome and acknowledgement

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

## 2. Attendance, apologies and leaves of absence

Mayor, Hannah Fitzhardinge - apology

## 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

The following questions were taken on notice at the Planning Committee Meeting held on 2 March 2022:

**Elizabeth Megroz asked the following questions:**

### Question 1

There is significant value in the fact the Policy is an explicit statement of policy which clearly sets out the desired outcomes of protecting the residential amenity and function of the hotel as a local community tavern. The proposed revocation would render the Policy implicit and would therefore obscure existence of the policy and greatly reduce its clarity. This will create ambiguity making it more likely that consideration of and the enforcement of the substance of the Policy is eroded over time. If it is agreed that the substance of the Policy is appropriate (which does not appear to be a contention) it should be clearly stated, as is currently done in D.G.S1, and it does not make sense to reduce its prominence.

### Response

The fundamental role of a local planning policy is to guide decision making under the planning scheme. This policy acknowledges the role of the existing Seaview Tavern (now 'The Local') as a neighbourhood tavern and states a presumption against its expansion outside the current site boundaries due to the inconsistency of this with its neighbourhood role, and its location in a predominantly residential area.



Whilst it is arguable that there is no particular harm in retaining the policy, the position outlined in the report is that it provides no constructive benefit either: the zoning of the adjoining car park lot already precludes expansion of tavern use onto it and the physical constraints of the lots to the north provide a practical constraint.

Further, the objectives for the Mixed Use zone reinforce the intent that development within the zone be compatible with residential uses and not detrimental to the area's amenity. In the view of City officers, any proposal to expand the tavern onto adjoining land (in terms of built form and increased scale and intensity of use) would not be compatible with this objective of the scheme. The scheme provisions (zoning controls and statement of objectives) provide statutorily much stronger controls than the policy which can be varied at Council's discretion.

## **Question 2**

The argument relied upon by the officer to revoke the Policy is that it is superfluous. This seems to be primarily based on the zoning of the Seaview Tavern/Local Hotel. However, this is not a particularly robust protection, given that there is no guarantee that an attempt will not be made to change the zoning in the future. In this context, the Policy is an important safeguard to ensure that the tavern's role as a neighbourhood tavern is considered in any future application to change the zoning.

Further, the current zoning restrictions only address the issue of use and not the separate issue of encroachment of the footprint of the tavern into the residential area.

## **Response**

A local planning policy operates under the planning scheme so does not normally inform the content of the scheme - i.e. the scheme is the higher order statutory document. It is the role of the Local Planning Strategy to set strategic direction which forms the basis of future land zoning, and the Strategy would be the primary document that would guide assessment of any future proposal to rezone the lots on which the tavern is located. The current zoning of the tavern car park lot as residential (and the residential zoning of lots to the east) would address the issue of encroachment of the footprint of the tavern (as well as use) into the residential whether the policy exists or not, as a tavern is an 'X' use (meaning not permitted) in the residential zone under the local planning scheme, and therefore a development application to extend the tavern building onto land which is zoned residential would not be permitted to be approved due to the planning scheme controls.



### **Question 3**

The officer's comments on the lot to the north of the Seaview/Local, seems to be aimed at explaining why a separate policy is not required to address the issue of encroachment. The officer notes that a heritage duplex is located on this site and the implication appears to be that this prevents the Seaview/Local expanding to this site. This logic is flawed because (1) expanding the Seaview/Local to this site would not necessarily require demolition of the existing duplex; and (2) the officer's comments themselves acknowledge that while support for demolition would be "highly unlikely", rejection of such a proposal is not guaranteed. Therefore again, the Policy is an important safeguard to protect the existing character of the tavern and the interests of the surrounding residents.

### **Response**

Officers acknowledge the mixed use zoning of the lot to the north of the existing tavern does not preclude an expansion of the tavern use in the same way that the residential zoning of the lots to the east does (see response to question 2 above). However in the view of officers the practical constraints and the heritage status under the planning scheme of the property to the north carry sufficient weight to guide Council's assessment of any such proposal, if it were to occur in the future, without the provisions contained in the policy. Further, the objectives for the Mixed Use zone reinforce the intent that development within the zone be compatible with residential uses and not detrimental to the area's amenity. As stated in the response to question 1 above, in the view of City officers any proposal to expand the tavern onto adjoining land to the north (in terms of built form and increased scale and intensity of use) would not be compatible with this objective of the scheme and this factor would weigh heavily against the approval of any future development application proposing such an expansion.

### **Question 4**

Further, on the issue of encroachment, the officer's comments only refer to the lot immediately to the north of the Seaview/Local and nothing is said about the current carpark and other surrounding residential lots. Whilst the view may be that the current residentially zoned lots would not be re-zoned, the Policy is an important safeguard to prevent this from ever happening.

### **Response**

See response to question 2 above.



## 5. Public question time

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

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

## 6. Petitions

Petitions to be presented to the committee.

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

## 7. Deputations

### 7.1 Special deputations

A special deputation may be made to the meeting in accordance with the City of Fremantle Meeting Procedures Policy 2018.

There are no special deputation requests.

### 7.2 Presentations

Elected members and members of the public may make presentations to the meeting in accordance with the City of Fremantle Meeting Procedures Policy 2018.

## 8. Confirmation of minutes

### OFFICER'S RECOMMENDATION

**The Planning Committee confirm the minutes of the Planning Committee meeting dated 2 March 2022.**

## 9. Elected member communication

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





## 10. Reports and recommendations

### 10.1 Deferred items

**PC2204-1 DEFERRED ITEM - BROMLEY ROAD, NO. 32 (STRATA LOT 1)  
HILTON – PATIO ADDITION TO EXISTING GROUPED  
DWELLING (TG DA0459/21)**

<b>Meeting Date:</b>	6 April 2022
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Agenda attachments:</b>	1. Amended development plans
<b>Additional information:</b>	1. Site Photos 2. Heritage assessment of amended plans

#### **SUMMARY**

**Approval is sought for the addition of a patio in front of the existing dwelling at 32 Bromley Road, Hilton.**

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

- Lot boundary setback (south)
- Heritage impact

**The subject application was considered at the Planning Committee meeting on 2 February 2022, where the Planning Committee deferred consideration of the application for the applicant to make amendments to the proposal plans in accordance with the following:**

***Refer the application to the Administration with the advice that the Council is not prepared to grant planning approval to the application for patio addition to existing Grouped Dwelling at No. 32 (Strata Lot 1) Bromley Road, Hilton based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider submitting amending plans that retain a more open vista of the original cottage from the streetscape.***



**On 9 February 2022, the applicant submitted amended plans reversing the orientation of the proposed patio and on 29 March 2022 the applicant submitted further amended plans making the following amendments:**

- **Reversing the orientation of the patio so the high side faced the primary street.**
- **A reduction in the width of the eave which overhangs the dwelling roof from 1.06m to 0.8m.**
- **Increasing the overall height of the patio from 2.45m to 2.9m.**

**The amended application remains recommended for refusal.**

## **PROPOSAL**

### **Detail**

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

The subject application was considered at the Planning Committee meeting on 2 February 2022, where the Planning Committee deferred consideration of the application for the applicant to make amendments to the proposal plans in accordance with the following:

*Refer the application to the Administration with the advice that the Council is not prepared to grant planning approval to the application for patio addition to existing Grouped Dwelling at No. 32 (Strata Lot 1) Bromley Road, Hilton based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider submitting amending plans that retain a more open vista of the original cottage from the streetscape.*

On 9 February 2022, the applicant submitted amended plans reversing the orientation of the proposed patio and on 29 March 2022 the applicant submitted further amended plans making the following amendments:

- Reversing the orientation of the patio so the high side faced the primary street and the patio slopes away from the primary street.
- A reduction in the width of the eave which overhangs the dwelling roof from 1.06m to 0.8m.
- Increasing the overall height of the patio from 2.45m to 2.9m.

Amended development plans are included as attachment 1.

**Site/application information**

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



**CONSULTATION**

**External referrals**

Nil required.

**Community**

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal involved a reduced lot boundary setback to the southern site boundary. The advertising period concluded on 29 November 2021, and no submissions were received.

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



Consultation was not undertaken in relation to the amended plans submitted by the applicant on 29 March 2022 due to the minor nature of the changes.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

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

- Lot boundary setback (south)
- Heritage impact

The above matters are discussed below.

### **Background**

The subject site is located on the eastern side of Bromley Road in Hilton. The site has a land area of approximately 376m<sup>2</sup> and is currently occupied by an existing dwelling with a front deck. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed but is located within the Hilton Heritage Area.

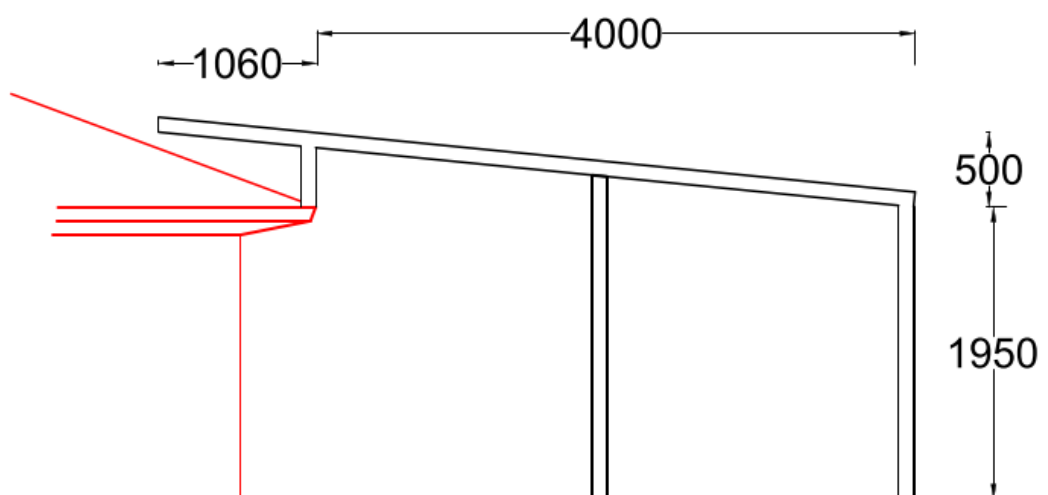
The site is generally flat and occupied by an existing original Hilton house which has been recently upgraded and restored, including a large deck in front of the dwelling. The original parent lot was subdivided in approximately 2016 to create a new lot to the rear of the site accessed by the shared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

The subject application was considered at the Planning Committee meeting on 2 February 2022, where the Planning Committee deferred consideration of the application for the applicant to make amendments to the proposal plans in accordance with the following advice:

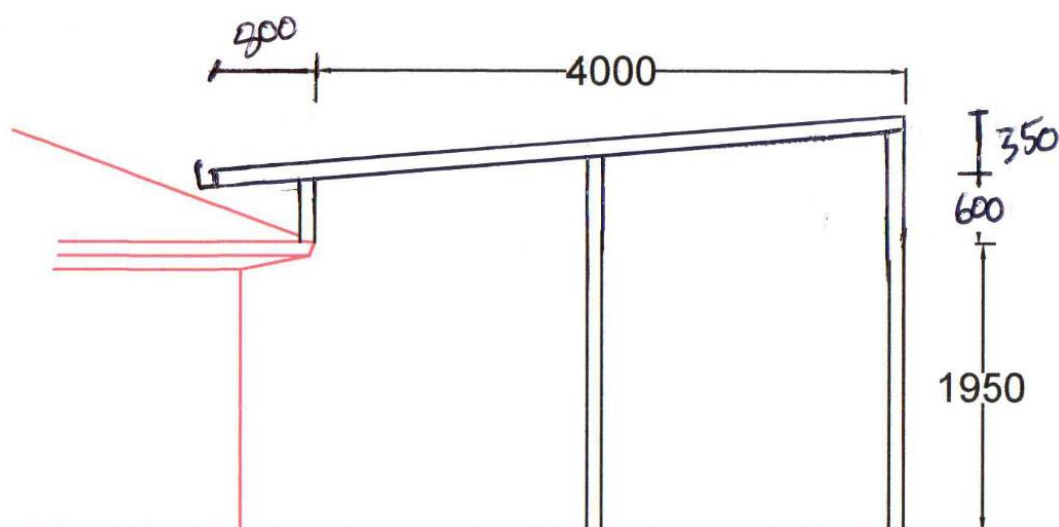
*Refer the application to the Administration with the advice that the Council is not prepared to grant planning approval to the application for patio addition to existing Grouped Dwelling at No. 32 (Strata Lot 1) Bromley Road, Hilton based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider submitting amending plans that retain a more open vista of the original cottage from the streetscape.*

On 9 February 2022, the applicant submitted amended plans reversing the orientation of the proposed patio and on 29 March 2022 the applicant submitted further amended plans making the following amendments:

- Reversing the orientation of the patio so the high side faced the primary street.
- A reduction in the width of the eave which overhangs the dwelling roof from 1.06m to 0.8m.
- Increasing the overall height of the patio from 2.45m to 2.9m.



**Image 1: Original proposal elevation**



**Image 2: Amended proposal elevation**



## Heritage impact

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

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

Following the submission of the updated proposal plans on 9 February 2022, the City suggested several alternative design solutions which could have been supported by the City on heritage grounds, however the applicant elected to maintain the amended plans with the patio sloping away from the primary street boundary.

While it is acknowledged that the amendments may allow a clearer view of the front wall of the house from the street, the changes do not address key comments from the earlier heritage assessment:

- The structure is attached to the eaves of the front elevation of the house in an awkward and visually intrusive way.
- The structure is very large and extends across more than half of the building façade, concealing the form of the house behind.
- The revised roof form is higher than the previous scheme and is a more dominant feature in front of the house.

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

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



### Lot boundary setback (south)

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

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

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

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

### CONCLUSION

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

### Alternative recommendation

Should PC consider that the proposed Patio is not going to have a significant impact on the heritage significance of the place or streetscape, the following alternate recommendation is provided for consideration.

*Council, under delegation 3.22:*

*APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the additions (patio) to existing Grouped Dwelling at No. 32 (Strata Lot 1) Bromley Road, Hilton at subject to the following conditions:*

1. *This approval relates only to the development as indicated on the approved plans, dated 29 March 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.*



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

*Advice note*

- 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.*

**STRATEGIC IMPLICATIONS**

Nil

**FINANCIAL IMPLICATIONS**

Nil

**LEGAL IMPLICATIONS**

Nil

**OFFICER'S RECOMMENDATION**

**Council:**

**REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the additions (patio) to existing Grouped Dwelling at No. 32 (Strata Lot 1) Bromley Road, Hilton, as detailed on plans dated 29 March 2022, for the following reasons:**

- 1. The proposal is detrimental to the amenity of the area and incompatible with the objectives of the Residential Zone set out in clause 3.2.1 (a) of the Local Planning Scheme No. 4 as per clauses 67(a) (ensuring that the aims and provisions of the Scheme have been met) (k) (the built heritage conservation of any place that is of cultural significance) and (m) (the compatibility of the development with its setting) of the Deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
- 2. The proposal is inconsistent with the City of Fremantle's Planning Policy *Local Planning Policy 3.7 – "Hilton Garden Suburb Precinct" Heritage Area Local Planning Policy* as the proposed patio addition is located in front, and over the roof of the existing dwelling and will have an adverse impact upon the presentation of this heritage place and its contribution to the Hilton Heritage Area due to the dominance of the addition.**





**PC2204-2      REFERRED ITEM - JOSLIN STREET, NO. 16 (LOT 1132),  
HILTON - ALTERATIONS AND CHANGE OF USE TO GROUPED  
DWELLING TO EXISTING BUILDING AND TWO STOREY  
GROUPED DWELLING (TG DA0425/21)**

**Meeting Date:** 6 April 2022  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Amended Development Plans  
**Additional information:** 1. Site Photos  
2. Heritage Assessment

**SUMMARY**

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

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

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

The subject application was considered at the Planning Committee meeting on 2 March 2022, where the Planning Committee referred the application back to the administration to allow the applicant to make amendments to the proposal plans in accordance with the following:

*Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for alterations and change of use to Grouped dwelling to existing building and two storey Grouped dwelling at No. 16 Joslin Street, Hilton based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting amended plans to reduce the impact of the height of the new dwelling on the streetscape and amenity of the retained dwelling.*



**On 21 March 2022, the applicant provided amended plans, comprising the following amendments:**

- **Changing the upper floor roof pitch of the rear dwelling from 35 degrees to 30 degrees, reducing the overall height of the roof by 0.39m from 8m to 7.6m.**
- **The upper floor setback of the rear dwelling from the internal boundary was increased by 0.5m from 1.62m to 2.12m.**
- **The upper floor master bedroom window was modified to be a large vertical feature window.**

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

## **PROPOSAL**

### **Detail**

An application was submitted on 28 September 2021 for demolition of an existing dwelling and addition of two Grouped dwellings at No. 16 Joslin Street, Hilton. As a result of initial feedback from officers that the demolition works would not be supported, the applicant has submitted amended plans (16 December 2021) that now seek approval for restoration works, additions, and alterations to the existing dwelling and the construction of a two storey Grouped Dwelling to the rear of the site. The proposed works include:

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



The subject application was considered at the Planning Committee meeting on 2 March 2022, where the Planning Committee deferred consideration of the application for the applicant to make amendments to the proposal plans in accordance with the following:

*Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for alterations and change of use to Grouped dwelling to existing building and two storey Grouped dwelling at No. 16 Joslin Street, Hilton based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting amended plans to reduce the impact of the height of the new dwelling on the streetscape and amenity of the retained dwelling.*

On 21 March 2022, the applicant provided amended plans, comprising the following amendments:

- Reducing the upper floor roof pitch of the rear dwelling from 35 degrees to 30 degrees, reducing the overall height of the roof by 0.39m from 8m to 7.6m.
- The upper floor setback of the rear dwelling from the internal boundary was increased by 0.5m from 1.62m to 2.12m.
- The upper floor master bedroom window was modified to be a large vertical feature window.

Amended development plans are included as attachment 1.

**Site/application information**

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



## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal initially involved the demolition of an existing dwelling in a heritage area, in addition to some matters which varied the applicable planning requirements. The advertising period concluded on 29 October 2021, and two submissions were received. The following issues were raised (summarised):

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



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

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

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

The remaining comments are addressed in the officer comment below.

It is noted that no additional consultation was required to be undertaken in relation to the final set of amended plans which are the subject of this report.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

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

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

The above matters are discussed below.

### **Background**

The subject site is located on the northern side of Joslin Street, Hilton. The site has a land area of approximately 905m<sup>2</sup> and is currently occupied by an existing Single house. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed but is located within the Hilton Heritage Area.

The site exhibits multiple trees in front of the existing dwelling and to the rear of site, the majority of which are to be removed in the proposed development. The Residential Design Codes require that a new tree be provided to the rear lot, and a condition of development approval is recommended to ensure that this is installed. Two existing patios and a single garage are proposed to be demolished.



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

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

- DA0297/21 – Demolition of existing Single house and construction of Two Storey Single House.  
This proposal was withdrawn following heritage advice that the demolition of the existing dwelling would not be able to be supported.
- DA419/08 – Subdivision of subject property – the City recommended that the subdivision of the parent property be approved.

The subject application was considered at the Planning Committee meeting on 2 March 2022, where the Planning Committee deferred consideration of the application for the applicant to make amendments to the proposal plans in accordance with the following:

*Refer the application to the administration with the advice that the Council is not prepared to grant planning approval to the application for alterations and change of use to Grouped dwelling to existing building and two storey Grouped dwelling at No. 16 Joslin Street, Hilton based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting to consider submitting amended plans to reduce the impact of the height of the new dwelling on the streetscape and amenity of the retained dwelling.*

On 21 March 2022, the applicant provided amended plans, comprising the following amendments:

- Reducing the upper floor roof pitch of the rear dwelling from 25 degrees to 30 degrees, reducing the overall height of the roof by 0.39m from 8m to 7.6m.
- The upper floor setback of the rear dwelling from the internal boundary was increased by 0.5m from 1.62m to 2.12m.
- The upper floor master bedroom window was modified to be a large vertical feature window.

In their submission in support of the amended plans, the applicant notes that they consider that the reduction in roof pitch and increased upper floor setback will reduce the impact of building bulk and increase solar access for the front lot. They also note that the modified upper floor window will break up the elevation and reduce the impact of building bulk.





### **Indicative subdivision layout**

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

The proposed lot layout achieves both the minimum (350m<sup>2</sup>) and average (450m<sup>2</sup>) lot area requirements applicable at the lower R20 density coding that applies to the site. On this basis it would not be necessary to recommend conditions related to LPP 2.2 relating to the City's energy efficiency and sustainability schedule as the site does not need to utilise the higher applicable density (R25) to create compliant lots.

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

### **Heritage Impact**

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

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

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

#### *Original heritage Hilton house:*

- The retention and conservation of this original Hilton house is to be commended including:
  - o The removal of the later sleepout and reinstatement of the open front verandah
  - o The replacement of the asbestos and batten cladding and weatherboard dado with new material in matching profile
  - o The retention and restoration of original external doors and windows
  - o The retention of the original roof form and eaves detail
- The proposed new side addition is supported as the room and verandah is set back over 1000mm behind the front wall of the building and is constructed using materials that are sympathetic with the character of the existing house



- The proposed internal works are acceptable as they will not detract from the heritage values of the house and the streetscape of Joslin Street

*Proposed new house to rear of block*

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

*Local Planning Scheme 4 Cl. 4.14*

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

**Land Use**

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

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

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

- The proposed lot arrangement satisfies the density requirements of the R-Codes and layout requirements of LPP 3.7 and will retain the existing dwelling on site with a new lot to the rear.
- The development satisfies the site area requirements at the lower applicable density coding (R20) resulting in no need to apply conditions under LPP 2.2 in accordance with the City's Energy Efficiency and Sustainability Schedule.





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

#### **Lot boundary setback (west)**

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

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

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

This element has not changed from the previous version of plans.

#### **Building height (external wall)**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Building height	Maximum wall height 3.5m	Wall height: 5.7m	Wall height: 2.2m
	Maximum roof ridge height 6.5m	Roof ridge: 7.6m (amended from 8m)	Roof ridge: 1.1m (amended from 1.4m)



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

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

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

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



On this basis, the proposed building height is supported. The amendment to reduce the overall height of the building by reducing the proposed roof pitch is considered to be worthy of support for the reasons outlined above.

### Fencing height

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

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

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

Based on the above prevailing streetscape, it is considered that there may be an argument in favour of a higher fence to the front boundary than would normally be permitted under the Hilton policy, however on balance, a compliant fence may be a more suitable approach in this instance. It is considered that the proposal may result in a streetscape which is not in keeping with the intent of the Hilton Heritage Area.

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

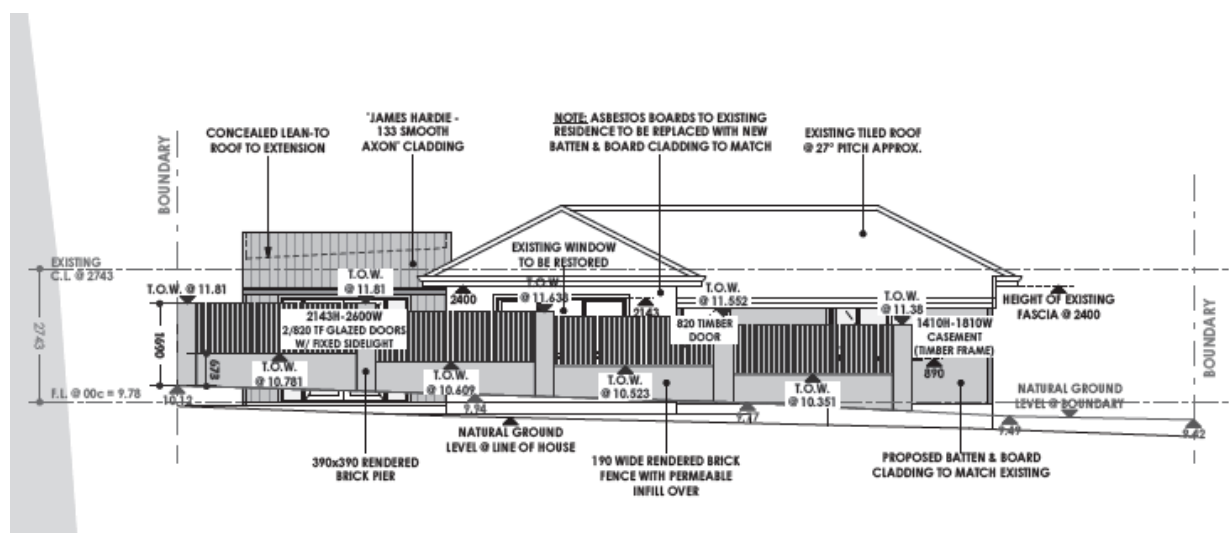


Image 1: front elevation showing proposed fence.

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

This element has not changed in the amended plans.

## CONCLUSION

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



The amended proposal plans, submitted on 21 March 2022 seek to reduce the impact of the new rear dwelling onto the retained dwelling by reducing the overall height of the roof, increasing the setback of the upper floor by 0.5m from the internal boundary, and introducing a full height window to the southern elevation.

The amended proposal which sought to retain the existing dwelling on site was recommended for support, and the amended proposal plans are likewise considered worthy of support and are recommended for approval, subject to conditions.

### **STRATEGIC IMPLICATIONS**

#### Green Plan 2020

Encourage the retention of vegetation on private land.

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

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

### **OFFICER'S RECOMMENDATION**

**Council:**

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

- 1. This approval relates only to the development as indicated on the approved plans, dated 21 March 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**



**2. Prior to the issue of a Building Permit, all fencing within the Primary Street setback area of the subject site, shall be amended to satisfy the following fencing requirements:**

- **0.9m high and 20% visually permeable above 0.3m,**
  - **1.2m high and 50% visually permeable above 0.3m, or**
  - **1.5m high and 85% visually permeable above 0.3m.**
- as per clause 1.5.1 of the City of Fremantle's Local Planning Policy 3.7 – "Hilton Garden Suburb Precinct" Heritage Area Local Planning Policy, to the satisfaction of the City of Fremantle.**

**3. Prior to the issue of a Building Permit for the development hereby approved, a detailed landscaping plan in accordance with clause 5.3.2 of the R-Codes, including information relating to species selection of the required tree to Lot 2, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.**

**Prior to occupation of the development hereby approved, the approved landscaping shall be completed in accordance with the approved plans and maintained for the life of the development to the satisfaction of the City of Fremantle.**

- 4. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 5. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Any damage shall be rectified to the satisfaction of City of Fremantle.**
- 6. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**
- 7. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**



**8. Prior to occupation/ use of the development hereby approved, the boundary wall located on the southern internal boundary between Lots 1 and 2 shall be of a clean finish in any of the following materials:**

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

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

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

**Advice note**

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

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



**PC2204-3 LOCAL HERITAGE SURVEY AND HERITAGE LIST - ANNUAL  
UPDATE 2021 – 63 THOMPSON ROAD, NORTH FREMANTLE**

<b>Meeting Date:</b>	6 April 2022
<b>Responsible Officer:</b>	Manager Strategic Planning
<b>Decision Making Authority:</b>	Council
<b>Agenda Attachments:</b>	1. Heritage Assessment Review, Hi Fidelity Studio, Griffiths Architects 25/03/2022 2. City officers' Heritage Assessment, 63 Thompson Road, North Fremantle, City of Fremantle 30/08/2021
<b>Additional Information:</b>	Schedule of Submissions Yearly LHS & Heritage List Update 2021

**SUMMARY**

**The purpose of this report is to consider the inclusion of Hi-Fidelity Recording Studio (Fmr.), 63 Thompson Road North Fremantle on the Heritage List and the Local Heritage Survey as part of the periodic update of the Local Heritage Survey (LHS) required under the *Heritage Act 2018* and Council's Local Planning Policy 2.6. The consideration of this place for heritage listing was deferred from the 23 February 2022 Council meeting to provide the landowner additional time to obtain advice and provide comment on this proposal. An independent review of the City of Fremantle heritage assessment was provided by the landowner on Friday 25 March 2022 and it recommended that the property should not be included on the Heritage List or if it was included then the Local Heritage Survey management category should be changed from Level 2 to Level 3.**

**After considering the further information provided by the landowner, this report recommends that the place should be included on the Heritage List and LHS as originally recommended.**

**BACKGROUND**

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





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

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

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

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

On 15 September 2021, Council considered a report on the 2021 annual update and resolved to invite comment from 18 landowners affected by the proposed modifications to the Local Heritage Survey (LHS) and Heritage List with the intention that: *"In the event of landowners making no objection to modifications recommended to the Local Heritage Survey and Heritage List, that these changes be adopted, documented and communicated to the Heritage Council of Western Australia, and the City's records updated accordingly. Where objection is received, the recommendation be referred back to Council."*

In relation to 63 Thompson Road, the following changes were proposed to the Heritage List and LHS:

Place	Local Heritage Survey	Heritage List	Reason
Hi Fidelity Recording Studio (Fmr.), 63 Thompson Road, North Fremantle	Add as "Level 2"	Add to Heritage List	Heritage Assessment has confirmed that the place has cultural heritage significance and is worthy of conservation



The Heritage Assessment prepared by City Officers in August 2021 (see Agenda Attachment 2) found that Hi Fidelity Recording Studio (Fmr.), 63 Thompson Road, a concrete block commercial building from the Late Twentieth Century had considerable cultural heritage significance in its own right within the context of Fremantle and its conservation was a priority. The Statement of significance read as follows:

*Hi Fidelity Recording Studio (Fmr.), 63 Thompson Road has cultural heritage significance for the following reasons:*

- *It has aesthetic and rarity value as a simple but well composed example of the work of Iwan Iwanoff and as an idiosyncratic example of the Late Twentieth Century Brutalist style of architecture,*
- *it has historic and social value as an example of the light industrial and commercial development that was established in North Fremantle between the 1890s and 1970s. It illustrates the development of this traditional mixed use industrial and residential working class area before the rise of car ownership and the introduction of Post-War zoning plans, and*
- *it contributes to the character of the North Fremantle Heritage Area*

Consultation with affected landowners and tenants was undertaken between 3 November and 26 November 2021 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*. The following is a summary of the two objections received during the consultation period:

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

The outcomes of consultation with affected landowners on the proposed updates and the officer recommendations on the consultation were presented at the 2 February 2022 Planning Committee.



Officers considered each submission and reconsidered each property's significance in relation to the Burra Charter criteria (as per local planning policies 1.6 and 2.6) but remained of the view that both properties meet the thresholds for listing and were worthy of protection. No change to the recommendation was therefore proposed.

Planning Committee supported the officer recommendations regarding the heritage listings where no objections were received during consultation, and the two properties where objection were received were referred to the Council Meeting on 23 February 2022 for consideration.

At the Council Meeting on 23 February 2022 Council resolved to modify the Heritage List and Local Heritage Survey in regard to 84 Hampton Road as recommended, but resolved to defer consideration of the recommended listing of 63 Thompson Road to allow the landowner additional time to obtain advice and provide comment.

The purpose of this report is to consider the additional information provided by the landowner of 63 Thompson Road, North Fremantle to support their objection to the proposed heritage listing of their property.

#### **OFFICER COMMENT**

The heritage assessment review by Griffiths Architects dated 25/03/2022 (see Agenda Attachment 1) disagreed with the recommendations of the City's internal heritage assessment and concluded that *"the City's assessment overstates the significance of the place"* and that *"the property should not be placed on the Heritage List. Alternatively, should the council be inclined to include the place in the Heritage List, at best its heritage value sits more comfortably as a Management Category 3 place."*

The independent report included some new information on the physical condition of the place but no significant documentary information. Griffiths Architects gained access to the interior of the place on 10 March 2022 and they recorded that, apart from some interior partitioning and some fittings and services installed for laboratory use, the interior of the building was largely intact. The plan form was found to be much the same as constructed and the original purpose of the studio remained discernible. Internal photographs are included in the heritage assessment review.

Most of the reasons presented in the heritage assessment review to demonstrate the limited heritage significance of the place had already been raised by the landowner during the public consultation phase of the annual update and these arguments had previously been rebutted by officers, refer to Schedule of Submissions.



Officers have considered the findings of the Heritage Assessment Review by Griffiths Architects and re-assessed the heritage significance of 63 Thompson Road but remain of the view that:

- the place meets the threshold for inclusion on the City of Fremantle Heritage List;
- the management category for the place should be Level 2 – “The City of Fremantle has identified this place as being of considerable cultural heritage significance in its own right within the context of Fremantle and its conservation is a priority” because it has individual and collective significance and is largely intact.

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

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

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

## **CONSULTATION**

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

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple Majority Required



## OFFICER RECOMMENDATION

### Council

- 1. Note the further information provided by the landowner of 63 Thompson Road North Fremantle in relation to the 2021 Local Heritage Survey and Heritage List Yearly Update as outlined in Attachment 1.**
- 2. Modify the Local Heritage Survey and Heritage List as follows:**

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



## 10.2 Committee delegation

**PC2204-4    PARRY STREET, NO. 26 (LOT 440), FREMANTLE - FOUR STOREY MIXED USE DEVELOPMENT, (MULTIPLE DWELLINGS AND TOURIST ACCOMMODATION) – (TG DA0486/20)**

**Meeting Date:** 6 April 2022  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Council  
**Agenda attachments:** 1. Amended Development Plans  
**Additional information:** 1. Site Photos  
2. Context and character  
3. R-Codes Volume 2  
4. Landscaping plan

### SUMMARY

**Approval is sought for a four storey Mixed use development comprising 8 Multiple dwellings and 22 Tourist Accommodation units at 26 Parry Street, Fremantle.**

**The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and submissions received through the consultation process. 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:**

- **Plot ratio (density)**
- **Building height**
- **Car parking**
- **Boundary walls**
- **R-Codes Volume 2 Matters**

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



## PROPOSAL

### Detail

Approval is sought for a new four storey Mixed use development to a vacant site. The proposed works include:

- Four storeys plus lift shaft
- 8 Multiple dwellings (serviced apartments)
- 22 Tourist Accommodation units
- 14 parking bays (inclusive of two car stackers)
- Ground floor parking, lobby, laundry and servery (*Note: All services and spaces are intended for use of owners/occupiers/tourists of the units, not for the general public.*)
- Façade composed of brick and limestone, with laser cut screens proposed.
- Two metal panels on the street front elevation intended for the use of the public art requirement.

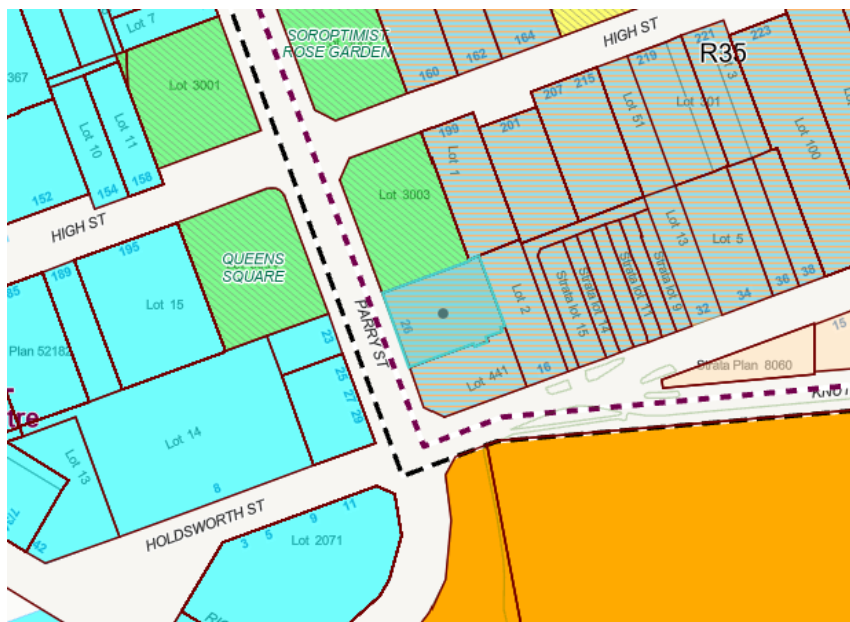
The applicant submitted multiple sets of amended plans following Design Advisory Committee (DAC) and City Officer advice. These changes included deletion of three Multiple dwelling units (reduced from 11 in originally submitted proposal), deletion of 6 Tourist units (originally 28 units) and significant design changes including relocation of the pool, alterations to the form and material of the façade, and alterations to the unit layouts to provide better internal and external amenity. In the most recent set of amended plans, the applicant removed one studio unit abutting the pool area from consideration due to internal amenity concerns raised by the Design Advisory Committee and replaced this unit with a gymnasium.

On 14 March 2022, the applicant provided a final set of amended plans which modified the extent of indicative works within Queens Square to align with the updated landscaping plan.

The final set of amended development plans received on 14 March 2022 are included as Attachment 1.

### Site/application information

Date received:	5 October 2020
Owner name:	MFT Investments (WA) Pty Ltd
Submitted by:	Property Genesis
Scheme:	Mixed Use R35
Heritage listing:	WECA Heritage Area
Existing land use:	Vacant site
Use class:	Multiple Dwellings, Tourist Accommodation
Use permissibility:	A, A



## CONSULTATION

### External referrals

#### *Heritage Service (Department of Planning Lands and Heritage)*

The application was referred to the state government's Heritage Services as the subject site is adjacent to a state heritage listed property and near the Fremantle Prison. Heritage Services have advised that they have no objection to the proposal as it will not impact on the heritage significance of the two properties in question.

#### *Fremantle Ports (FP)*

The application was referred to FP as the subject site is located within Fremantle Port Buffer Area 2. No comments were received, and the City has therefore only recommended the standard Area 2 conditions and advice notes be imposed.

#### *Design Advisory Committee (DAC)*

The subject development was referred to the City's Design Advisory Committee as the development comprised a building height greater than 11 metres in accordance with Local Planning Policy 1.9. The application was presented three times to the City's DAC. At its first two meetings the DAC raised concerns regarding the external styling of the development, the internal layout of apartments and rooms, and the overall internal and external amenity. After the second DAC meeting, the applicant met with City Officers and the Chair of the committee to discuss specific design changes needed to address DAC concerns.





Following these meetings, the applicant amended the proposal to reduce the number of apartments and tourist units, significantly altered the layout by relocating the pool, and improved the internal amenity of the remaining apartments and rooms. These plans were presented to the DAC on 13 September 2021, where the Committee provided the following comments:

<b>Design quality evaluation</b>	
<b>Strengths of the Proposal</b>	<p>The DAC acknowledges the importance of the subject site. Any development will be highly visible along this gateway route into the Fremantle CBD.</p> <p>The development has a unique opportunity to capitalise on its location immediately adjacent to Queens Square.</p> <p>The DAC supports aspects of the proposal including:</p> <ul style="list-style-type: none"> <li>• The consolidation of WC/amenities at the north-east corner has successfully allowed for enhanced ground floor activation and passive surveillance over Queens Square.</li> <li>• The extent of inactive sleeved space on Parry Street has been minimised in favour of active lobby frontage.</li> <li>• The reorganisation and relocation of the pool to the northern edge of level 1 has successfully released the Garden Deck to be generous, accessible and more useable.</li> <li>• The corresponding introduction of the 'slot' at level 1 connecting the pool to the garden deck creates depth, interest and access to light, view and vista to the Garden Deck.</li> <li>• Unit/Apt corridors have access to natural light, ventilation, view and vista as well as lounge areas.</li> <li>• The introduction of a function room adjacent to the Garden Deck provides additional occupant amenity.</li> <li>• The relocation of the unit bathrooms in-board has enabled the living areas to better engage with the balcony, view and vista.</li> </ul> <p>The selection of materials including face brick and solid limestone is contextually appropriate and supported. As is the modulation, articulation and facade presentation.</p>
<b>Principle 1 Context and character</b>	<p><i>Good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.</i></p>
	<p>a) The proposal has not been supported by a coherent context and character study. Such a study would be valuable in illustrating "how" consideration of the context has influenced the design approach.</p> <p>b) The decorative screens provide an interesting opportunity for</p>



	Public Art. See further comments below under Aesthetics.
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. It is recommended that any future submission includes streetscape elevations that illustrate the proposal in relation to adjoining properties in its current and future context.</li> <li>2. The applicant is encouraged to engage an artist early in the design process if the screens are intended to be used for Public Art.</li> </ol>
Principle 2 <b>Landscape quality</b>	<i>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, within a broader ecological context.</i>
	<ol style="list-style-type: none"> <li>a) There is no demonstration of a coherent landscape design proposal.</li> <li>b) There is little or no deep planting provision within the proposal, nor sufficient on- structure planting that could be deemed as an appropriate alternative.</li> </ol>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. The applicant is encouraged to engage a landscape architecture professional to develop a landscape concept design, including demonstration of appropriate deep soil provision and integration with ESD strategies.</li> <li>2. The applicant should demonstrate how the design achieves appropriate deep soil areas or provides suitable alternatives of on-structure planting consistent with SPP7.0.</li> </ol>
Principle 3 <b>Built form and scale</b>	<i>Good design ensures that the massing and height of development is appropriate to its setting and successfully negotiates between existing built form and the intended future character of the local area.</i>
	<ol style="list-style-type: none"> <li>a) The overshadowing diagram does not appear to accurately illustrate the overshadowing impact of the development.</li> <li>b) See further comments and recommendations under Context and Character.</li> </ol>
<b>Recommendations</b>	It is recommended that any future submission includes streetscape elevations that illustrate the proposal in relation to adjoining properties in its current and future context.
Principle 4 <b>Functionality and build quality</b>	<i>Good design meets the needs of users efficiently and effectively, balancing functional requirements to perform well and deliver optimum benefit over the full life-cycle.</i>
	<ol style="list-style-type: none"> <li>a) The proposed plans do not illustrate any apparent services allocation and location including AC condensers, tanks and pumps to support sprinkler allocation and sub-station provision.</li> <li>b) The proposed plans do not illustrate any necessary spaces for the operational requirements of the short-stay rooms such as on-floor laundry and/or cleaning rooms.</li> </ol>



<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. The applicant is encouraged to review the servicing requirements of the building as well as the proposed uses and consider an allocation and location for such services.</li> <li>2. Consider moving Store 2 to connect with Store 1 and thereby consolidate wasted space into a more useable configuration and add secure access.</li> <li>3. The applicant is encouraged to explore ways in which the main stair can be comfortably and intuitively used by occupants in lieu of the lifts.</li> </ol>
Principle 5 <b>Sustainability</b>	<i>Good design optimises the sustainability of the built environment, delivering positive environmental, social and economic outcomes.</i>
	The submission does not include an Environmental Sustainability Design (ESD) strategy.
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. The applicant is encouraged to engage an ESD professional to prepare ESD strategies which are suitably responsive to the site's opportunities and integrated with the architectural intent.</li> <li>2. Consideration of the proposal's performance against market-based ESD and evaluation tools (e.g. GreenStar) is encouraged.</li> <li>3. Particularly consideration should be given to opportunities for on-site photovoltaic energy production.</li> </ol>
Principle 6 <b>Amenity</b>	<i>Good design optimises internal and external amenity for occupants, visitors and neighbours, providing environments that are comfortable, productive and healthy.</i>
	There are opportunities to improve the amenity and functionality of several studios and apartments, particularly Studio Apartment 2, and Suite 1 which appears to have restricted access to light, external views and vistas.
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Consider removing studio Suite 1 or rotating 90 degrees and reorganising the residual space into communal terrace and/or lounge area.</li> <li>2. Consider high level windows to Suite 1 and Studio Apt 2.</li> </ol>
Principle 7 <b>Legibility</b>	<i>Good design results in buildings and places that are legible, with clear connections and easily identifiable elements to help people find their way around.</i>
	Whilst concern remains for the combined private and public entry, the entry has been made more generous for both short stay and residents.
<b>Recommendations</b>	None
Principle 8 <b>Safety</b>	<i>Good design optimises safety and security, minimising the risk of personal harm and supporting safe behaviour and use.</i>
	Further consideration of design opportunities to improve safety and surveillance along Parry Street is encouraged.



<b>Recommendations</b>	To address safety and surveillance issues at the corner of Parry Street and Queens Square, consider reducing the extent of recess at ground level in the brick facade, or, open the facade at ground up more extensively while maintain some articulation and depth in the facade.
Principle 9 <b>Community</b>	<i>Good design responds to local community needs as well as the wider social context, providing environments that support a diverse range of people and facilitate social interaction.</i>
	No specific comment
<b>Recommendations</b>	None specifically
Principle 10 <b>Aesthetics</b>	<i>Good design is the product of a skilled, judicious design process that results in attractive and inviting buildings and places that engage the senses.</i>
	Artwork is an important part of the Parry Street frontage. It is therefore recommended that an artist or art consultant should be engaged early to establish a coherent and contextually appropriate response.
<b>Recommendations</b>	Refer to comments and recommendations under Context and Character.

### Concluding Remarks

Whilst the proposal has improved incrementally the proponent is encouraged to consider removing Suite 1 to fully realise the potential for high quality amenity associated with the garden deck and pool area.

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

- The studio apartment adjoining the pool has been removed and replaced with a gym as a communal amenity. This was undertaken in response to the concerns raised by the DAC with respect to the amenity of this apartment, in that in the original location it may have been subject to undue noise from the shared pool amenity.
- The applicant provided an updated context and character statement which is provided as an attachment, detailing the design intent put forward by the applicant in response to the development context.
- The applicant has provided a detailed landscaping plan which is provided as an attachment, noting that any works outside the property boundary to Queens Square are not subject to this application but they have been reviewed by the City's Parks and Landscaping team and given in principle support. The provision of landscaping area to the building is discussed further in the officer comment section of the report and the implementation of the landscaping plan of the development site (excluding the indicative



works to Queens Square which would be subject to further approvals) is required as a recommended condition of approval.

- The development, as subject to the R-Codes, is not subject to the City's ESD policy, and the development has addressed the requirements of the R-Codes through the provision of a rooftop solar array. The development is however subject to LPP 3.1.5 which requires that development address specific ESD standards where the highest applicable building heights are sought, this element is discussed further in the officer comment section below.
- The applicant provided an updated overshadowing plan which updated the proposal to demonstrate the shade cast at midday on midwinter. The shade cast by the development is discussed further in the officer comment section of the report.

The additional changes provided in the latest set of amended plans are considered to have met the design recommendations made by the DAC. It is noted that matters such as the provision of public art elements are recommended to be addressed through a condition of approval and are discussed in the context of the City's Local Planning Policy.

Through the multiple reviews of the subject application through the development application and design review process, the proposal is considered to have provided an appropriate response to the design criteria and the provision of clause 78B (6c) LPS4.

### **Community**

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as notification was required under LPS4. Advertising included:

- Letters to owners and occupiers adjoining the subject site
- Sign on site
- Precinct notification
- Talk to a Planner session
- Plans and documents on the City's MySay website

The advertising period concluded on 11 January 2021, and six (6) submissions were received. The following issues were raised (summarised):

- Submitters raised concerns with the height of the proposed building being inconsistent with the remainder of the area. Submitters were concerned with respect to the bulk of the building, and it being built up to property boundaries.
- The design of the building and its response to the context and character of Fremantle was raised as a concern.
- A submitter was concerned that the building would provide for overlooking of adjoining buildings.



- A submitter raised concerns in relation to the design of the building in the context of the proximity of the building to Fremantle Prison.
- A submitter was concerned that the private café was poorly positioned to provide public service.
- A submitter was concerned with regard to the installation of retaining walls to support excavated levels on site.

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

- Although the proposed building would be the first to develop in the Queens Square (east) sub-area of Local Planning Area 2 under the LPS4 (Schedule 7) building height requirements, the subject building is considered to be consistent with the expected heights as provided for in Schedule 7 of LPS4 for the immediate locality.
- The application was referred to Heritage Services (DPLH) for comment due to its proximity to Fremantle Prison and as discussed in the officer comment section, no concerns were raised with the design of the development.
- It is noted that the café is proposed as a private amenity for residents and visitors to the building, a further approval would be required to operate a public café from this area, should one be pursued following any approval of the 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:

- Plot ratio (density)
- Building height
- Car parking
- Boundary walls
- R-Codes Volume 2 matters

In addition to the above R-Code provisions, discretion is also being sort against LPS4 with regards to the proposed land uses.

these matters are discussed in detail below.



## **Background**

The site is zoned 'Mixed use' with a density coding of R35. The site is located in the Fremantle Local Planning Area and is subject to the provisions of Schedule 7 (Sub Area 2.3.2) of LPS4. The development seeks discretion for the density to be increased to R60 under clause 4.2.5 of the scheme (further discussed below).

The application also proposes landscaping works to Queens Square. These works are outside of the lot boundaries and do not form part of this application. Works to Queens Square are subject to a separate agreement and/or future application between the applicant and the City's Infrastructure and Project Delivery Services directorate but have been reviewed on a preliminary basis and given in principle support. It is noted that the City's Management Orders for Queens Square do not permit leasing to third parties. Any change to the orders requires the approval of the Council and the Minister, and may be the subject of future discussions between the applicant and the City.

The subject site is located on the east of Parry Street between High Street and Holdsworth Street in Fremantle. The land slopes upwards approximately 1.5 metres from the street to the rear. To the north, the site abuts a portion of the Queens Square reserve and a small portion of land containing a commercial building. Abutting the rear of the site is a single storey lodging house comprising nine units. The site to the south is the old Fremantle Dental Clinic, which is situated in a different sub-area under the scheme that does not permit a four-storey building height.

The previous building on-site was demolished in late 2016 and the site has been vacant since that time. The relevant history of the site is as follows:

- On 12 December 2014, JDAP conditionally approved a four storey plus basement Mixed use development comprising Offices, Shops, Restaurant and 8 Multiple dwellings.
- On 12 June 2015, JDAP conditionally approved amendments to the internal configuration and height of the above development.
- On 26 June 2018, JDAP conditionally approved a four storey Mixed use development comprising Tourist Accommodation, Multiple Dwellings, Restaurant and Lunch Bar.

The approved development applications have not been acted upon, and the most recent one is the only one that is still valid.





### LPP 2.19 - Public Art

A public art contribution is required to be provided in accordance with LPP 2.19 - Contributions for Public Art and/or Heritage Works policy. At present no approach has been confirmed by the applicant as to how compliance with LPP2.19 is envisaged. It is not uncommon that this element of the development isn't given full consideration or planning at this early stage of the proposal and accordingly the imposition of a planning condition is recommended to address this requirement.

### LPP 3.1.5 – Precinct 5

This policy relates to design provisions for the inner part of the broader Fremantle Centre area, with the subject site being located within the 'Contemporary Influence' area of the precinct, an area noted in the policy exhibiting no strong unifying character. The requirements of the policy with respect to, with the following elements requiring further discussion or conditions of development approval:

The site is located on one of the secondary streets identified in the policy, and subject to the following requirements.

Policy Requirement	Officer Comment
Ground level frontages to secondary streets may incorporate a mix of land uses and must incorporate design measures and passive surveillance to contribute to an interesting, safe and diverse public realm.	The development provides the active lobby onto the private residences and tourist accommodation units and provides an active façade from the private café onto Queens Square.
Retail and commercial floorspace shall provide major pedestrian entries directly from and level with from the street.	While the ground floor of the development predominantly provides for parking access and access to the apartments and tourist accommodation units, the lobby has been designed so as to be broken up into a number of areas being the lobby, private dining area facing onto Queens Park, and the seating area in front of the reception desk.
Weather protection along footpaths of secondary streets adjoining retail/commercial/entertainment uses shall be provided, either in the form of awnings or first floor balconies, and satisfy all of the following: a) The weather protection shall be integrated with the building design; b)	The development provides a permanently fixed awning up to the property boundary for weather protection to people exiting and entering the building.  In the context of the subject development site, an awning is not





<p>The weather protection shall be permanently fixed and shall be constructed of materials that provide sun and rain protection (i.e. a high degree of sun shading and water impenetrability);</p> <p>c) The weather protection shall project a minimum horizontal distance of 2 metres over the adjacent footpath; and</p> <p>d) Awnings shall have a consistent clear height above footpath level of 2.75m</p>	<p>considered to be as important as some of the sites on secondary streets identified in LPP 3.1.5 as it forms the outer edge of the policy area and it is a location with limited pedestrian movement compared to the core of the policy area.</p> <p>The width of the awning would also be limited by the location of existing on street infrastructure.</p> <p>For these reasons the requirement to provide an awning over the pedestrian path is considered appropriate to be waived.</p> <p>The requirement to provide an awning over the footpath was waived through the 2018 approval and this requirement is not applied through this approval for consistency in decision making.</p>
<p>Vehicle entrance points and services areas are to be integrated in to the overall building design and shall minimise detracton from the pedestrian environment and street vitality. Vehicle crossovers are to be minimised, consolidated and shared where possible. On-site vehicle parking is not permitted at ground level adjacent to secondary streets.</p>	<p>The development provides a varied façade to the primary street and minimises the extent to which the façade is taken up by vehicle entry points.</p>
<p>Where residential uses are located at ground level, the design should achieve a clear distinction between the private place and public space, whilst still allowing for passive surveillance and interaction with the street.</p>	<p>Not applicable.</p>



## Land Use

Multiple dwelling and a Tourist Accommodation are both 'A' uses in the Mixed Use Zone, which means that the uses are not permitted unless the Council has exercised its discretion by granting planning approval. In considering an 'A' use the Council will have regard to the matters to be considered in *the Planning and Development (Local Planning Schemes) Regulations 2015*. In this regard the following matters have been considered:

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

The objectives of the mixed use zone are as follows:

Local Planning Scheme 4 cl 3.2.1 (e):

*Development within the mixed use zone shall –*

- i) provide for a mix of compatible land uses including light, services and cottage industry, wholesaling, trade and professional services, entertainment, recreation and retailing of goods and services in small scale premises, including showrooms, where the uses would not be detrimental to the viability of retail activity and other functions of the City Centre, Local Centre and Neighbourhood Centre zones;*
- ii) provide for residential at upper level, and also at ground level providing the residential component is designed to contribute positively to an active public domain;*
- iii) ensure future development within each of the mixed used zones is sympathetic with the desired future character of each area;*
- iv) ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality, and*
- v) conserve places of heritage significance the subject of or affected by the development.*



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

- The proposed development provides for a mix of land uses which support the variety of land use mix in the surrounding area. These uses provide a range of accommodation options for visitors to help support surrounding shops, cafes and tourist targeted uses (Fremantle Markets, Fremantle Prison etc).
- The development is considered to provide an appropriate response at the ground level with respect to its public domain interface, providing landscaped area and active frontages to both Queens Square and Parry Street.
- The development has been considered in the context of its proximity to the Fremantle Prison as a World Heritage Listed site and supported by the Department of Planning, Lands and Heritage.
- The subject uses are unlikely to generate significant noise in their operation.
- The proposed residences will provide for all day inhabitation and surveillance of the subject locality and support the increase of the resident population within the City Centre of Fremantle. The residences will provide for inhabitation and activation in any tourism 'off seasons'.
- The uses provide for a buffer between the residential dwellings on Holdsworth Street and more active uses in the City Centre.
- The development has been designed to respond to the requirements applicable to the subject development under LPS4 with respect to building height, for the reasons discussed further in the officer comment section. The design of the building is supported by the attached context and character statement, prepared in response to DAC comments.

### **Density**

The subject site has a density coding of R35, however in accordance with LPS4 cl. 4.2.5, the residential density of a property in the Mixed-Use zone can be increased up to R60 where residential development is part of a mixed use development, provided the development is not considered to be detrimental to the amenity of the Area.

The subject proposal is a mixed-use development as defined in LPS4, as the proposal includes more than 25% of its gross lettable area as a non-residential use class – in this instance, being Tourist Accommodation. The amendments to remove several apartments and tourist accommodation units from consideration have not affected this proportion of uses throughout the development which is currently provided as 41.6% non-residential, and 58.4% residential.



It is noted that should a change of use to residential be proposed in the future for any of the tourist accommodation apartments, this would need to be considered by the City against both the R-Codes requirements as well as the City's Scheme to confirm that the development remained as a 'mixed use' development as defined in the Scheme. The Tourist Accommodation units would remain on one strata title.

In considering whether a development presents an acceptable change to the amenity of an area, the City is to consider the requirements of LPS4, as well as the requirements of the R-Codes. These matters are discussed further in the remainder of the officer comment section of the report, however it is considered that the development provides for an acceptable response to the amenity of the immediate area of the subject site and the development is considered to be worthy of approval, subject to conditions.

#### Plot ratio

Element	Acceptable outcome	Proposed	Extent of departure from acceptable outcome
Plot ratio	0.8 (884.8m <sup>2</sup> )	1.32 (1462.92m <sup>2</sup> )	0.52 (578.12 m <sup>2</sup> )

In accordance with the requirements of the Residential Design Codes Volume 2 (Apartments), in considering whether a proposed plot ratio is appropriate to the locality consideration is to be given to the existing and/or planned character of the area.

For non-residential development, the City does not impose specific plot ratio requirements, with the size of development generally controlled by the applicable building height requirements and setbacks. In assessing the acceptability of plot ratio it's important to understand the key objective of the R-Codes. In this instance it is to assess the overall bulk and scale of a development, ensuring it is both appropriate and complimentary within the planned and existing character of an area. In this case, the proposed development is considered acceptable as its the setbacks, height and general siting attributes are complimentary to the existing and desired bulk and scale charter of the greater sub area of Fremantle as provided for in LPS4.



### Building height

Element	Requirement	Proposed	Extent of Variation
Building height – Local Planning Scheme 4 sub area 2.3.2	<p>Maximum wall height 11 metres, with a roof plain pitch of 33 degrees</p> <p>One additional storey permitted subject to:</p> <ul style="list-style-type: none"> <li>- The upper level being sufficiently setback from the street so as to not be visible from the street (s) adjoining the subject site.</li> <li>- Maximum external wall height of 14m.</li> <li>- The development satisfies the 'matters to be considered in applying specific and general height controls'</li> </ul>	13m upper floor wall height which projects into 'visible from the street' area as viewed from Queens Square (see extract below)	Visibility from street

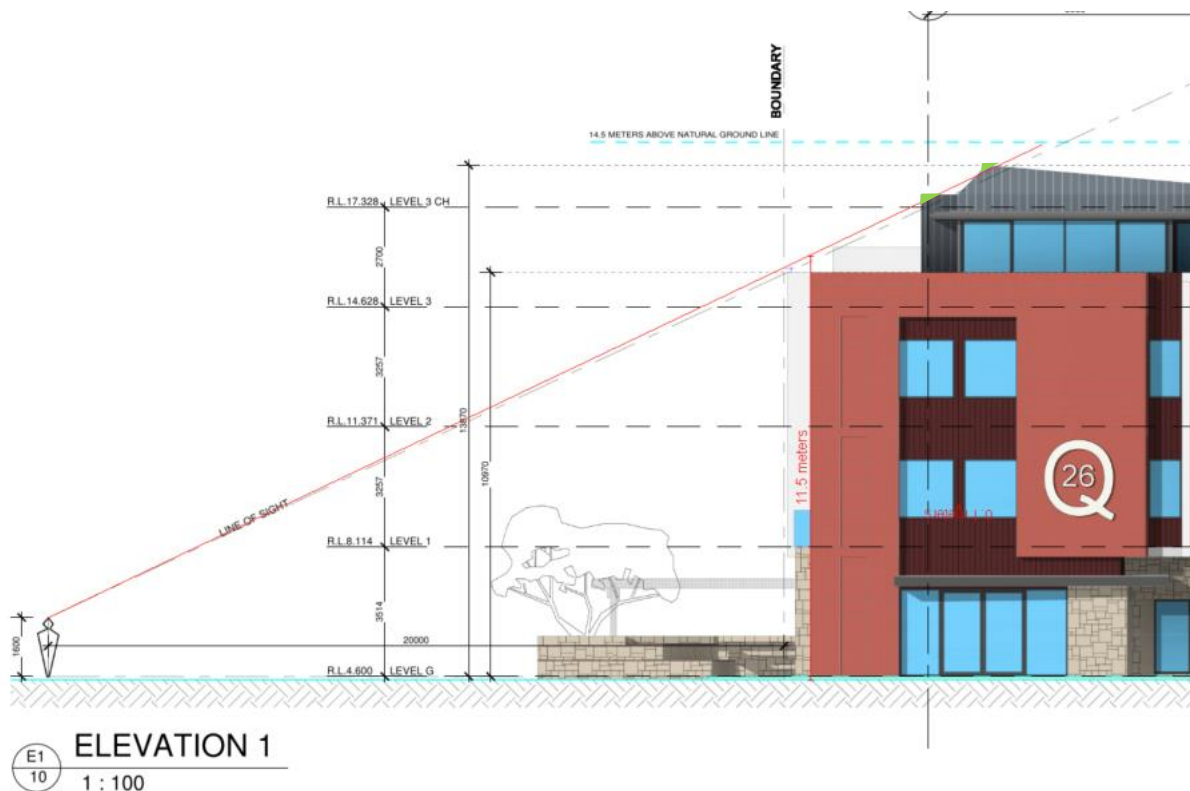


Image 1: portion of building located in 'visible from the street' area shown in green

In accordance with LPS4 cl. 4.8.1.2, where a property exhibits a fall of greater than 1 metre across the development footprint, the specific height requirements of Schedule 7 can be increased by 0.5m. As a result of this change, the allowable wall height from where the 'visible from the street' assessment is undertaken can be raised to 11.5m as shown in the image above. As demonstrated above, the portion of the building which falls above the 'visible from the street' designation when viewed from Queens Square comprises minor elements of roof only (highlighted in green).

In assessing this development a small portion of the wall and roof height of the building exceeds the 'visible from the street' building height requirement (shown in green in the image above) as viewed from Queens Square. Accordingly a condition is recommended to be included to ensure compliance with this provision of LPS4 (i.e. the condition requires a minor redesign of these parts of the building to bring them into compliance with the Scheme requirements).

The lift shaft and building plant shown on the proposal plans is likewise permitted over and above the maximum building height in accordance with LPS4. A condition of development approval is recommended to ensure that any plant is appropriately screened to maintain visual amenity.



In respect to the requirements under Cl. 2.2 of Scheme Local Planning Area 2, the following is considered:

- The proposed building height is consistent with the predominant height pattern of buildings in the general locality such as the buildings at 185 High Street and 23 Adelaide Street and is generally consistent with the building height requirements applicable to the locality which will guide future developments.
- The proposed building height is likewise consistent with the height of the buildings which have previously been approved for the property, with the 2018 approval for a taller building remaining valid.
- The proposal has been designed so as to have a minimal impact upon the amenity of the locality, with the building designed so as to interface with Queens Park. The shade cast by the development will generally fall over the roadway or adjoining commercial building.
- The proposed development has been referred to the Department of Planning, Lands and Heritage in the context of the site's location close to the Fremantle Prison and the DPLH have confirmed that they have no objection to the proposal. The site is otherwise not heritage listed and has been vacant for some time.

The subject development is generally considered to be consistent with the expected heights in the broader locality of the subject site, noting that the subject building is the first to develop to the LPS4 height requirements in Scheme Sub Area 2.3.2. The development is considered not to be detrimental to the amenity of the area and is not considered to impose unduly on surrounding heritage buildings due to it being consistent with the intended character of the area with respect to its building height.

#### **Scheme Sub Area Requirements**

<b>Requirement</b>	<b>Proposed</b>
2.3.2.2 Setbacks – 1m ground floor setback to Parry Street with the setback integrated into the adjoining footpath.  Zero minimum setback, and 3m maximum setback to Queens Square	1m Ground floor setback provided.  The development is built up to the Queens Square boundary.
2.3.2.3 Boundary walls – Boundary walls will be permitted only where the Council is satisfied that both the following criteria are met: a) The elevation presents as an integral part of the overall aesthetic of the building; and	The proposed boundary wall elements are considered to appropriately integrate into the overall building and are appropriately sympathetic to surrounding development.  Discussed further below.



b) the walls are sympathetic to the surrounding environment.	
2.3.2.4 – Vehicle parking shall not be provided for in the street setback area of any lot.	Complies
2.3.2.5 – Development abutting Queens Square shall be designed or setback so as to not undermine or compromise the integrity or well-being of the existing trees within Queens Square.	The subject site is well set back from the existing trees in Queens Square, being set approximately 16m from the existing trees. The proposal plans indicate the addition of further trees to the park in addition to landscaping elements, but these would be subject to additional approval from the City and are not subject to this application.
2.3.2.6 – New buildings shall provide for activated ground floor level frontages and passive surveillance from upper floors to Parry Street and Queens Square.	The building provides the lobby area to the ground floor accessed from Parry Street and the servery facing Queens Square to provide an activated façade. To the upper floors the apartments and accommodation units provide for surveillance to the surrounding streets.

### **Boundary walls**

In accordance with Scheme Sub Area 2.3.2.3, boundary walls are permitted in the following instances:

- (a) *the elevation presents as an integral part of the overall aesthetic of the building, and*
- (b) *the walls are sympathetic to the surrounding environment.*

These criteria are considered to be met for the following reasons:

- The building to the south of the subject site is used for non-residential purposes and would not unduly be impacted by a boundary wall.
- The adjoining development to the east predominantly provides highlight non major openings along this boundary, resulting in a limited impact with respect to afternoon shade and building bulk.
- The rear elevation is integrated into the overall design of the building as the development comprises of a number of rectangular forms across each façade, with the recessed north facing corridor opening providing a lightwell into the building and breaking up the façade.
- The proposed setbacks provide for adequate separation between the subject building and neighbouring buildings, with the development providing varied setbacks and lightwells along the eastern boundary and providing a boundary wall to the property to the south which is used for non-residential purposes.





- The building being constructed up to each property boundary is considered to be consistent with the intended character of the area in providing for a consistent streetscape. The subject building is the first in the relevant Scheme sub area to redevelop.
- The development is generally consistent with the built form outcome envisioned for the site and locality in Local Planning Scheme 4.

In accordance with the above considerations, the development is considered to satisfy the relevant criteria of LPS4 Sub Area 2.3.2 and is worthy of support, subject to conditions.

### Onsite car parking

Element	Requirement	Proposed	Extent of Variation
Tourist Accommodation – Car Parking	1: Unit or 1: Bedroom Required: 22 Bays	3 bays	19 bay shortfall
Multiple Dwellings – Car Parking	0.75/ One bedroom dwelling 1/Two or more bedroom dwelling  Visitors: 2  Required: 6.75 (7) bays	10 bays	3 bay surplus
			<b>Total: 16 bays</b>
Tourist Accommodation – Delivery bays	1: Administration Centre Required: 1	Nil	1 bay
Multiple Dwellings- Delivery Bays	N/A	N/A	Nil
			<b>Total: 1 bay</b>
Bicycle Parking – Tourist Accommodation	N/A	N/A	Nil
Bicycle Parking – Multiple Dwellings	Resident: 0.5 spaces per dwelling requirement: 5 bays  Visitor: 1 space per 10 dwellings	Bike stores provided in residential stores  2 visitor bays to ground floor	Nil



	Requirement: 1 visitor bay		
			<b>Total: Nil</b>

The provision of vehicle parking for the development is considered satisfactory in accordance with the discretionary criteria of LPS4 for the following reasons:

- Tourists accessing the accommodation component of the development do not necessarily require on-site parking facilities in the same manner as permanent residents of the dwellings.
- The site is surrounded by various public car parks which can be used by visitors, a great number of street bays are also provided:
  - Car parking is provided in the Henderson Street multi-storey parking facility.
  - The Fremantle Prison car park off Parry Street.
  - The public car park accessed from Holdsworth Street (223-225 High Street).
  - Public parking bays are also provided in the Holdsworth Street roadway.
  - Further on street bays are provided on Ellen Street.
- The site is well served by public transport facilities resulting in a lesser need for parking on site, with the site located approximately 600m from the Fremantle Train Station and various bus services operating along High Street (Transperth 160, 502, 915 services).

In regard to the delivery bay required for the tourist accommodation use, a condition requiring the submission of an appropriate delivery management plan to ensure that deliveries do not unduly impact Parry Street is recommended. It is considered that there is sufficient circulation space on site to accommodate deliveries for the tourist accommodation use without unduly impacting Parry Street.

End of trip facilities are not required to support the bicycle parking as the commercial portion of the development does have a bicycle parking requirement.

### **R-Codes Volume 2 (Apartments)**

The Residential Design Codes for Apartment Developments seeks to provide a series of objectives which should be satisfied by new developments in Western Australia. The applicant is generally required to demonstrate how these objectives have been satisfied through their proposal, and while the Volume 2 Codes provide some acceptable outcomes which represent one way these elements can be addressed the Codes do not contain prescriptive criteria which can be directly assessed. Unlike the deemed-to-comply requirements of Volume 1 of the R-Codes, not meeting the Acceptable outcomes does not mean that the objectives of the codes have not been met, and alternative methods can be used.

The below matters are considered to be preeminent in considering the application, however an assessment of the element objectives of the Volume 2 R-Codes is provided as additional information.

Element	Acceptable Outcome	Proposed	Extent of departure from acceptable outcome
Visual Privacy	Balconies 7.5m setback or screened  Bedrooms set back 4.5m or screened	Apartment 3 balcony to be screened to 1.6m high – note plan extract below showing screening  Bedroom set back 3m and unscreened	Nil, balcony screening to be required by condition. Discussed below
Overshadowing	35%, however were the neighbouring site redeveloped to R60 density, 50% overshadowing would be permitted	49.7% (401.6m <sup>2</sup> )	14.7%
Landscaping and deep soil	Deep Soil – 10% of site area  1 large tree, 1 medium tree	5% planting area provided to ground floor.  1 tree provided to front setback area.	Deep soil area provision.  Discussed below.



**Image 2:** area of screening to upper floor balcony shown highlighted

### **Visual Privacy**

In accordance with the element objectives of the R-Codes volume 2, the orientation and design of buildings should minimise direct overlooking of habitable rooms and private outdoor living area within the site and of neighbouring properties, while maintaining daylight, solar access, ventilation and the external outlook of habitable rooms. The proposed development is considered to satisfy the relevant element objective for the following reasons:

The bedroom window of the two-bedroom apartment on Level 2 is not set back from the boundary to satisfy the acceptable outcomes of the R-Codes, however as demonstrated below this window is located to provide only limited views towards the neighbouring property to the north (Residential Building – Hannick House) and the extent of oblique overlooking is provided over the roof of the building only. Accordingly, the extent of this overlooking is considered to be minor and worthy of support.

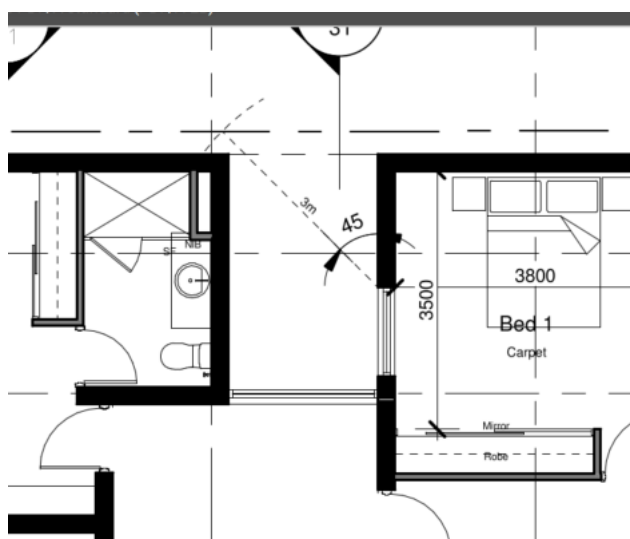


Image 3: extent of overlooking from apartment.

The north facing windows onto the access corridors are noted, however only open circulation spaces are subject to assessment under the requirements of the R-Codes Volume 2.

R-Codes Volume 2 seeks to avoid wholly enclosed balconies, and the upper floor north facing balcony has screening along its entire northern edge. This is considered supportable as the western side of the balcony is unscreened, facing Queens Square. The screened area may provide a weather protected area without impacting the overall amenity of the upper floor apartment.



A condition is recommended to ensure that this screening is established, as this area would otherwise overlook the neighbouring property to the north in addition to other properties along Holdsworth street.

### ***Orientation (overshadowing)***

In accordance with the element objectives of the Residential Design Codes Volume 2, building form and orientation should minimise overshadowing of habitable rooms, open space, and solar collectors of neighbouring properties at mid-winter. The proposed development is considered to satisfy the relevant element objective for the following reasons:

The shade cast by the building at midday on midwinter (when overshadowing is greatest) falls over the neighbouring property (12 Holdsworth Street) which is not developed for residential purposes. The shade cast by the building is considered worthy of support for the following reasons:

- The development satisfies the requirements of the R-Codes for a property developed at the higher R60 available mixed use density (50%). If the neighbouring property were redeveloped, the site may seek to develop to the highest available density and the development would satisfy this requirement.
- The neighbouring site is not currently used for residential purposes. Accordingly the shade impact at present is likely to be limited.
- If redeveloped it is likely that a new development on the neighbouring site would build against the proposed boundary wall to the southern boundary of the subject site, resulting in a reduced overall impact to the subject lot, with a shared boundary development limiting shade being cast onto the lot.
- The shade cast by the building provides for the rear area of the property to be unshaded in winter as shown on the proposal plans.

### ***Landscape design and Deep Soil***

The provision of landscaping to support the subject building is considered appropriate in accordance with the following considerations:

- In accordance with the submitted landscaping plan, the proposed landscaping elements are integrated into the overall design of the subject building and provided in key areas such as the shared pool amenity.
- The site is directly adjacent to Queens Square and inhabitants will be capable of accessing the park area. The development indicates changes to this park area to support the development, however these changes are noted only and would be subject to further approval from the City Parks and Landscaping department.
- Landscaping is proposed to the public realm to enhance the public amenity of the footpath and streetscape.



- A tree is provided in a garden bed in the amenities area however this is considered a design feature due to the limited extent of onsite planting.
- Landscaping is provided to provide for a positive outlook from apartment balconies and windows.
- It is a recommended condition of development approval that the landscaping be provided in accordance with the submitted landscaping plan.

## **CONCLUSION**

In accordance with the above assessment, the subject development is recommended for approval subject to conditions, noting that the minor element of additional building height is required to be amended to not be visible from the street as defined in Local Planning Scheme 4.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

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

### Green Plan 2020

Encourage the planting of vegetation on private land.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil



## **OFFICER'S RECOMMENDATION**

### **Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Four Storey Mixed Use Development (8 Multiple Dwellings, Tourist Accommodation) at No. 26 (Lot 440) Parry Street, Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 14 March 2022 It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 4. This development approval does not relate to any works within the road reserve of Parry Street, other than awnings for weather protection and signage. The works indicated on the subject plans as "Queens Park Integration" are not included in this approval as they are located outside the subject site. These works would be subject to further approval from the City's Infrastructure and Project Delivery Directorate.**
- 5. Prior to the issue of a building permit for the development hereby approved, the upper floor wall and roof of the development hereby approved shall be amended and setback to not be visible from the street in accordance with the requirements of Local Planning Scheme 4 to the satisfaction of the City of Fremantle.**
- 6. Prior to the issue of a building permit for the development hereby approved, the applicant/landowner shall provide confirmation of the extent of the solar panel installation to the roof of the building or another energy efficiency initiative in accordance with the Residential Design Codes Volume 2 DG4.15.1, to the satisfaction of the City of Fremantle. Prior to the occupation of the building, the approved solar array or other approved energy efficient initiative shall be installed and operational, to the satisfaction of the City of Fremantle.**



- 7. Prior to the issue of a building permit for the development hereby approved, the applicant is to provide a delivery management plan detailing the timing and frequency of deliveries to the development hereby approved, to the satisfaction of the City of Fremantle. Deliveries for the building are to be undertaken in accordance with the approved delivery management plan for the life of the development, to the satisfaction of the City of Fremantle.**
- 8. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the Apartment 3 balcony located on the east elevation, is to be screened in accordance with the Residential Design Codes by either:**
  - a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
  - b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**
  - c) a minimum sill height of 1.60 metres above the internal floor level,**

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

- 9. Prior to the issue of a Building Permit, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:**
  - a) Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.**
  - b) Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.**
  - c) Roof insulation in accordance with the requirements of the Building Codes of Australia.**
- 10. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or**





**structure; reflective, retro-reflective or fluorescent materials in its design structure.**

- 11. Prior to the occupation of the development hereby approved, the approved landscaping on the subject site (26 Parry Street, Fremantle) shall be completed in accordance with the approved plans (Revision F prepared by Spring Green Landscaping) or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.**
- 12. Prior to occupation of the development hereby approved, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be registered against the Certificate of Title to the land the subject of the proposed development advising the owners and subsequent owners of the land that the subject site is located in close proximity to the Fremantle Port and may be subject to noise, odour and activity not normally associated with residential use. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.**
- 13. The approved waste management plan, prepared by Product Recovery Industries – Revision B dated March 2021, including any amendments approved by the City of Fremantle, shall be implemented and maintained for the life of the development to the satisfaction of the City of Fremantle.**
- 14. Prior to the occupation of the development hereby approved, the owner shall contribute a monetary amount equal in value to one percent of the estimated development cost, as indicated on the Form of Application for Planning Approval, to the City of Fremantle for development of public art works and/or heritage works to enhance the public realm in accordance with *LPP 2.19: Contributions for Public Art and/or Heritage Works* and to the satisfaction of the City of Fremantle. Based on the estimated cost of the development being \$5 million the contribution to be made is \$50,000.**
- 15. Prior to the occupation of the development, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.**



- 16. Prior to the occupation of the development any redundant crossovers and kerbs shall be removed and the verge reinstated at the expense of the applicant and to the satisfaction of the City of Fremantle.**
- 17. Prior to occupation of the development, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 4.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the City of Fremantle. The applicant is to provide three (3) parking bays for the use of the Tourist Accommodation use.**
- 18. Prior to occupation of the development hereby approved, the boundary walls located on the north, east and south boundaries shall be of a clean finish in any of the following materials:**
  - coloured sand render,
  - face brick,
  - painted surface,**and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 19. Prior to the issue of a Building Permit for the development hereby approved, a Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:**
  - a) Use of City car parking bays for construction related activities;**
  - b) Protection of infrastructure and street trees within the road reserve;**
  - c) Security fencing around construction sites;**
  - d) Gentries;**
  - e) Access to site by construction vehicles;**
  - f) Contact details;**
  - g) Site offices;**
  - h) Noise - Construction work and deliveries;**
  - i) Sand drift and dust management;**
  - j) Waste management;**
  - k) Dewatering management plan;**
  - l) Traffic management; and**
  - m) Works affecting pedestrian areas.**

**The approved Demolition and Construction Management Plan shall be adhered to throughout the demolition of the existing**



**building on site and construction of the new development.**

- 20. Prior to the issue of a building permit, details are to be submitted that demonstrate that each dwelling will be individually metered for water use to the satisfaction of the City of Fremantle.**
- 21. Prior to the issue of a Building Permit for the development hereby approved, a plan detailing the provision of 10 Class 1 and 2 Class 3 (as defined in Local Planning Scheme No. 4) bicycle racks shall be provided, to the satisfaction of the City of Fremantle.**
- 22. Prior to occupation of the development hereby approved, the required bicycle racks must be installed in accordance with the approved plan and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.**
- 23. Prior to the issue of a Building Permit for the development hereby approved, all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle**
- 24. Prior to the issue of a Building Permit for the development hereby approved, final details of the external materials, colours and finishes of the proposed development, including a physical sample board or materials is to be submitted and approved to the satisfaction of the City of Fremantle, on the advice of the City's Design Advisory Committee.**
- 25. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**



**ADVICE NOTE:**

- i. The applicant is advised that in order to make the servery shown on the proposal plans open to the public, a further change of use development application would be required as this space is approved for the use of inhabitants and visitors to the Multiple Dwellings and Tourist Accommodation use only.**
- ii. The applicant is advised that the provision of bicycle racks to the individual apartment store areas will satisfy the requirement to provide class 1 bicycle bays.**
- iii. The applicant is advised that any future change of use to the Tourist Accommodation units may require approval from the City of Fremantle, and should the percentage of non-residential gross lettable area be reduced below 25% this change of use may not be supported as the development would need to remain consistent with the definition of 'Mixed Use' listed in the City of Fremantle Local Planning Scheme No. 4.**
- iv. This approval relates to the subject site and does not authorise the removal or modification of infrastructure within the verge or park area. Written approval is to be obtained for removal or modification of verge infrastructure and/or verge trees within the verge and park areas from the relevant City of Fremantle department or relevant service authority, before construction commences. Please refer to the City's Tree Planting and Vehicle Crossings Policies (SG28 and MD0015) for further information.**
- v. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**
- vi. 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.**



- vii. The applicant is advised that the use of the development hereby approved for short stay accommodation may be subject to further approval in accordance with the City of Fremantle *Short Stay Accommodation Local Law 2008*.
- viii. Levels as per existing footpath and/or ROW
- Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;
  - Any adjustment in levels is to be achieved within the property boundaries;
  - Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

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

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

- ix. In regard to the condition requiring a Construction Management Plan, Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>. A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via: <https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>. The Infrastructure Business Services department can be contacted via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.
- x. The proponent must make application to the WA Department of Health's Chief Health Officer for any new aquatic facility under regulation 5 of the *Health (Aquatic Facilities) Regulations 2007* using the [construction, alteration, or extension of an aquatic facility application form \(Word 212KB\)](#) form. A Building Permit cannot be issued for the aquatic facility, until the WA



**Department of Health has granted approval for the Facility. For further clarification please contact the City's Environmental Health Section on 9432 9999 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au) for further information.**

- xi. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Parry Street road reserve. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au).**
- xii. Fire separation for the proposed building works must comply with Part 3.7.2 of the Building Code of Australia.**
- xiii. 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.**
- xiv. All mechanical service systems including air-conditioners and pool filters etc are to be designed and installed to prevent emitted noise levels from exceeding the relevant decibel levels as set out in the *Environmental Protection (Noise) Regulations 1997* (as amended).**
- xv. 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.**
- xvi. Unless the whole premises is approved under an appropriate Liquor Licence from the Department of Local Government, Sport and Cultural Industries, the proponent must make application during the Building Permit application stage to Environmental Health Services via Schedule 3 – *Application for registration of a lodging house* as a requirement of the City of Fremantle's Health Local Laws 1997. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**



- xvii. The applicant is advised that the proposed works indicated outside of the lot boundaries of the subject site do not form part of this approval. Should the applicant wish to undertake these works separate approval is required from the City. Queries relating to these works should be directed to the City's Technical Officer, Parks and Landscape via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.**
- xviii. Prior to the occupation of the development, the approved landscaping to the subject site shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.**



**PC2204-5 HIGH STREET, NO. 81 (LOT 1), FREMANTLE – PARTIAL  
CHANGE OF USE TO TAVERN AND INTERNAL FIT OUT OF  
EXISTING BUILDING (ED DA0501/21)**

**Meeting Date:** 6 April 2022  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Amended Development Plans  
**Additional information:** 1. Site Photos  
2. Acoustic Report  
3. Revised Noise Management Plan  
4. Waste Management Plan

**SUMMARY**

**Approval is sought for a partial change of use from Club Premises to Tavern including the internal fit out of the existing rear ground floor tenancy at 81 High 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. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4) and Local Planning Policies. These discretionary assessments include the following:**

- **Discretionary Land Use (Tavern); and**
- **Car Parking.**

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

**PROPOSAL**

**Detail**

Approval is sought for a partial change of use of the now vacant 'Club Premises' (previously occupied by the Fremantle RSL Wyola Club) to a 'Tavern' land use. The application also includes an internal fit out of the rear ground floor tenancy within the existing building. Specifically, the proposal comprises the following:

- The use of the rear ground floor tenancy at the property as a Tavern, including live music performances and a full dining menu available for patrons for both lunch and dinner;
- The Tavern tenancy is approximately 434m<sup>2</sup> in area overall with 205.8m<sup>2</sup> of public bar area;





- The hours of operation are proposed to be:
  - Mon-Tues: 4:00PM – Midnight;
  - Wed-Fri: 4:00PM – 1:00AM;
  - Sat: 12:00PM – 1:00AM; and
  - Sun: 12:00PM – Midnight
- Internal fit out and alterations of the existing rear ground floor tenancy at the property to accommodate the new use.

The applicant submitted amended plans and supporting information on 14 February 2022, including the following:

- Additional details on internal fit-out (sound proofing, floorboard replacement/renovation plan, boarding up of redundant openings and other details on internal fit-out);
- Revised Venue Management Plan;
- External Noise Technical Memorandum
- Revised Noise Management Plan
- Waste Management Plan
- Waste Management Noise Technical Memo

Amended development plans are included as Attachment 1 and the above additional documents can be found as additional information to this report.

### **Site/application information**

Date received:	23 November 2021
Owner name:	P & D Civil & Structural Engineering Pty Ltd
Submitted by:	Roadhouse Promotions Pty Ltd
Scheme:	City Centre
Heritage listing:	State Registered as part of West End, CoF Listed (1B) and West End Heritage Area
Existing land use:	Vacant, previously Club Premises (RSL Wyola Club)
Use class:	Tavern
Use permissibility:	A



## CONSULTATION

### External referrals

*Heritage Comments (From the City under delegation from the Heritage Council of Western Australia)*

The subject site is located within the state registered curtilage of the West End, Fremantle (Place No. 25225), is on the State Heritage List (Place No. 00922 – RSL Club 81-83 High Street) and on the City of Fremantle Municipal Heritage Inventory (management category 1B). Given the proposed works are internal alterations, the heritage impact of the application was consequently assessed by the City acting under delegation from the Heritage Council of WA (HR401) pursuant to Section 22(1) of the *Heritage of Western Australia Act 1990*.

After requesting further details of the internal fit-out works be shown on the development plans (refer amended development plans), the City's Heritage Assessment concluded the following:



*The proposed works to this rear ground floor tenancy, which was relatively recently fitted out for the Wyola Club c. 2010, will have little impact on the heritage value of this building because affected fabric has little heritage significance. Most work is associated with the replacement of internal finishes, furniture and kitchen equipment all of which date from c. 2010. The modification of the roof to the north addition and the blocking up of small windows on the east side of the building will have little heritage impact as these elements date from the Post-War era.*

As such, the proposed works were considered acceptable subject to the following recommended conditions of approval:

1. New floor coverings are not to be stuck to the original timber floors.
2. Dry lining behind kitchen equipment fixed to original solid construction external walls.
3. Protect etched glass panels above existing bar. Carefully remove panels and safely store on site for future use.

These conditions and additional details will be required prior to the issue of a building permit application for the proposed works, should the application be approved.

#### *Fremantle Ports*

The application was referred to Fremantle Ports as the subject site is located within Fremantle Port Buffer Area 2. Fremantle Ports have requested that the development complies with the Local Planning Policy 2.3 standard built form requirements for Area 2.

As the proposal comprises a fit-out and change of use only, these elements are not readily incorporated into the proposal. The comments from Fremantle Ports are noted, however it is not considered necessary to apply conditions to this effect as the building is already in existence.

#### **Community**

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the proposal involved a land use which requires consultation in accordance with Local Planning Scheme No. 4. The advertising period concluded on 25 January 2022 and a total of 2 submissions were received in objection to the proposal. The applicant also provided 10 letters of support for the new venue from other local businesses and musicians within the Fremantle area.

The following concerns were raised in the objecting submissions (summarised) and the applicant's response to these key themes is provided in the following table:



Concern	Applicant Response
<p>The application is for 6-day trading, 4pm to midnight and extended closing hours on application; this will cause unacceptable and excessive noise nuisance for any nearby residential property and constant disturbance for residents.</p>	<p><i>The management controls and mitigation measures described in the Proponent's Venue Noise Management Plan (<b>Attachment 3</b>), Venue Management Plan and Restrictive Trading Conditions documents set out the comprehensive policies and operational procedures that will be in force at all times to ensure that all aspects of the venue, including sound issues, are managed carefully and effectively.</i></p> <p><i>From an early stage the Proponent has developed the details the proposed operation of the venue and the physical nature of the Premises in consultation with the reputable acoustic engineering firm, Herring Storer Acoustics. The acoustic attention measures that have been implemented in construction of the Premises combined with the operational controls referred to will ensure that the venue operates during all trading hours in full compliance with the strict noise levels prescribed by the Environmental Protection (Noise) Regulations, as evidenced by the report of Herring Storer Acoustics (<b>Attachment 2</b>).</i></p> <p><i>Further, the Proponent has developed a range of management operational procedures to mitigate against the risk of disturbance from deliveries, general rubbish collection and the collection, internal handling and removal of glass: See Noise Management Plan and Waste Management Noise Technical Memorandum</i></p>
<p>Patrons of the venue may cause noise and and or anti-social behaviour within the street when leaving the venue.</p>	<p><i>These comments are speculative and appear to be based on incorrect</i></p>



*assumptions about the nature of the proposed venue.*

*The following key features of the proposed venue are noted which indicate a low risk of disturbance due to the behaviour of patrons egressing the venue:*

*Size: The proposed maximum capacity of persons will not constitute a significant addition of the number of persons that typically travel to central Fremantle to socialise.*

*Ambiance: Casual, relaxed and friendly environment.*

*Patron profile: Catering to a broad range of community members covering a wide range of ages.*

*Dining services: Significant focus on dining services with benefits for the responsible service of alcohol.*

*Seating: Substantial seating for patrons provided throughout the venue to assist in the creation of a relaxed and casual ambiance and to facilitate and encourage a dining culture.*

*Patron management and RSA: The Venue Noise Management Plan (**Attachment 3**) and Venue Management Plan detail the policies and procedures that will be enforced by the Applicant to ensure that during all hours of trade, the venue is operated in a controlled manner and that noise mitigation measures are adhered to.*

*Security: licensed crowd controllers will be engaged to monitor the entrance to*



	<i>the venue and internal areas during key trading periods.</i>
Existing concerns for both the local businesses and the general public as to the current lack of parking in the area will be greatly exacerbated by the operations of this tavern proposal and they propose no parking to address this matter.	Refer 'Car Parking' section of the report in the Officer Comment section below. Detailed response from the applicant provided in response to public comments and officer request.
Odour from the kitchen exhausts will adversely impact the amenity of residential neighbours.	<i>A new exhaust system is being installed as part of the proposed kitchen fit-out by licenced companies Dunbar and Kleenduct WA. The unit is a smoke eliminating unit that complies with AS1851, AS1668.1 and AS1668.2. The unit will also be programmed for regular maintenance and filter cleaning via a works contract.</i>
The toilet facilities appear to be inadequate for the proposed numbers, which is likely to mean at closing time some people will be inclined to avail themselves of the public domain.	<p><i>The current layout for toilets does in fact satisfy the previous Wyola Club Licence for 200 persons, meeting BCA requirements.</i></p> <p><i>As part of the renovation Roadhouse Promotions will be adding a third female toilet pan and an additional two urinals for the men. This has the effect of (i) improving the amenities for the comfort and enjoyment of patrons, (ii) achieving toilet requirements above code mandated minimum requirements, and (iii) reducing the risk of toilet use congestion and public urination.</i></p> <p><i>The venue will therefore have toilet facilities in excess of what is required for the capacity.</i></p>
The proposed tavern business will be materially different and inconsistent with the previous tenant. The building has been unoccupied for many years. The previous tenant (Rheola Club) (sic)	<i>The premises and proposed tavern described in the Proponent's submissions describe a venue that has several commonalities and several differences with the previous use of the</i>



operated pursuant to a different licence designed principally to serve only members and some limited number of guests. The applicant proposes to attract the general public to a completely different style and nature of licensed premise with loud live music regularly playing during later trading hours and for larger numbers of people.

*premises as the "Wyola Club". Regardless of how the proposed venue compares with its previous use, the positive features of the Proponent's venue are apparent, as set out in these and previous submissions.*

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

- In relation to noise from the premises, the development will be required to comply with the *Environmental Health (Noise) Regulations 1997*. The applicant has provided an Acoustic Report (**Attachment 2**) and Noise Management Plan (**Attachment 3**) that provide both physical (design & material) and operational (management) noise mitigation measures to maintain compliance with the relevant regulations. The City's Environmental Health team have reviewed these documents and found them to be satisfactory, subject to additional conditions of approval being imposed.
- A Waste Management Plan (**Attachments 4**) has been submitted in support of the proposal and found satisfactory to the City. These also include provisions that glass waste will not be disposed of into bins, nor collected between 7:00PM – 7:00AM Monday to Saturday and 7:00PM to 9:00am Sunday and Public Holidays so as not to create noise nuisance associated with waste disposal/collection during these more sensitive times.
- The applicant has provided a Venue Management Plan and Noise Management Plan (**Attachment 3**) to address and mitigate any potential nuisance causing behaviour of patrons should it arise and have management practices in place to minimise disturbances.
- The adjoining footpaths and streets of the subject are well lit to allow for adequate safety for patrons late at night. The proposed Tavern is also adjacent to numerous other civic, retail and similar hospitality uses, including being only 50m from the Fremantle Police Station, that will provide passive surveillance and activity to deter any anti-social behaviour and/or nuisance associated with patrons from the venue.
- Car parking matters are assessed in detail within the Officer Comment section of the report below.
- The operating hours of the business are generally controlled by the Department of Local Government, Sport and Cultural Industries which approves liquor licenses, however, these are considered appropriate for a City centre venue.
- The City of Fremantle does not currently restrict the density of particular land uses within the City Centre area, a Tavern land use is a use which can be



considered in this zone and is generally more appropriate within a City Centre context.

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 and relevant Council local planning policies. In this particular application the areas outlined below require discretionary assessment:

- Land Use (Tavern).
- Car parking.

The above matters are discussed below.

### **Background**

The subject site is located on the southern side of High Street, bound by Market and Pakenham Street. The site has a land area of approximately 685m<sup>2</sup> and is currently vacant, however was previously used as Club Premises and occupied by the Fremantle RSL Wyola Club. The site is zoned City Centre.

The site is located within the state registered curtilage of the West End, Fremantle (Place No. 25225), is on the State Heritage List (Place No. 00922 – RSL Club 81-83 High Street) and on the City of Fremantle Municipal Heritage Inventory (management category 1B).

The existing building comprises three tenancies, one on the first floor (currently vacant), one on the rear portion of the ground floor (former 'Club Premises', subject of this application) and one on the front portion of the ground floor (currently a 'Shop'), all are accessed via the High Street frontage. This portion of High Street is characterised by a range of food and beverage, retail, office and other professional service uses with a limited number of residential dwellings and tourist accommodation in surrounding properties on upper floors.

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

- DA0293/20 - Restoration Works to Facade of Existing Building;
- DA0631/16 – Maintenance to Existing Building;
- LL0002/15 - DA - Section 40 - Liquor Licence (Club Premises)
- DA0646/14 - Removal of existing flooring and installation of replacement flooring materials;

### **Land Use**





A Tavern dwelling is an 'A' use in the City Centre Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval and has undertaken consultation with surrounding landowners. In considering an 'A' use the Council will have regard to the matters to be considered in the *Planning and Development (Local Planning Schemes) Regulations 2015*. In this regard the following matters have been considered:

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

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

- The proposed land use is consistent with existing businesses in the City Centre area and is consistent with the objectives and character of the City Centre Zone in providing for a range of entertainment services including those that service the night-time economy of Fremantle. The use contributes to a full range of social, recreational and entertainment services consistent with the region-serving role of the centre as set out in the zone objectives of LPS4.
- The proposed development is not considered to unduly impact adjoining properties by way of its scale or appearance in that there are no external changes to the existing property. Two submissions were received in objection to the proposal and these have been adequately responded to by further information from the applicant as well as discussed in detail in the officer comment section of the report; see further discussion on the issue of noise below.



- It is considered that the social and amenity impacts of the use can be appropriately managed by existing regulations, the management plans submitted with the application and recommended conditions of development approval.

Noise is perhaps the most sensitive of amenity considerations for the land use and concerns were also highlighted in the two public submissions received on the proposal, outlined above. The applicant has provided an Acoustic Report (**Attachment 2**) and Noise Management Plan (**Attachment 3**) that provide both physical (design & materials) and operational (management) noise mitigation measures to maintain compliance with the relevant noise regulations applicable to the land use. The recommendations proposed within the Acoustic Report include the following:

- External walls and windows: replacement or removal windows, with seals where openable as well as ensuring constructions is continuous with no gaps;
- Ceiling: implementation of either a:
  - i. 200mm suspended ceiling grid with 13mm high density plasterboard and insulation; OR
  - ii. 400mm suspended ceiling grid with 10mm standard plasterboard and insulation.
- Music level: general levels of music to be limited to 88dB(A) at the mixing desk.
- Operational parameters: doors and windows to be shut when possible and practicable.

Furthermore, the Noise Management Plan provides more operational and managerial noise mitigation measures through staff training and responsibilities, control of music systems, noise measurement and monitoring by an appointed Venue Noise Officer as well as management of glass and waste disposal times to minimise noise nuisance at sensitive times.

The City's Environmental Health team have also reviewed these documents and found them to be satisfactory; subject to all recommendations in the Acoustic Report being implemented. All recommendations and management practices outlined in the Acoustic Report, Venue and Noise Management Plan will be secured by condition of approval and be required to be implemented and adhered to at all times to maintain compliance with the relevant noise regulations and minimise the potential for noise nuisance to affect neighbouring properties.

On the basis of the above, it is considered that the Tavern use is appropriate for approval in this City Centre location, subject to appropriate conditions of approval.



### On Site Car Parking (Table 2 of LPS4)

Required	Provided	Extent of variation
Tavern - 1:2.5m <sup>2</sup> of public bar (205.8m <sup>2</sup> public bar area)	Nil	83 bays
Tavern - 1:5m <sup>2</sup> of lounge / garden area (0m <sup>2</sup> of outdoor garden area)	Nil	Nil
Delivery bay 1:service/storage area (1)	Nil	1 delivery bay
	<b>Total</b>	<b>83 bays and 1 delivery bay</b>
<i>Bicycle bays</i>		
Tavern		
Class1:1 per 25m <sup>2</sup> bar floor area & 1:100m <sup>2</sup> lounge and beer garden area	Nil	8 class 1 bays
Class 3: 1 per 25m <sup>2</sup> bar floor area & 1:100m <sup>2</sup> lounge and beer garden area	Nil	8 class 3 bays

The existing approved use as Club Premises required 12 car parking bays (based on requirement of 1 bay per 50sqm of gross lettable area) for this section of the building, though also provided no on-site parking, which means the shortfall against the LPS4 requirements increases by 71 bays.

In response to the City's request for further information and/or justification for the above parking shortfalls, the applicant provided the following responses (summarised):

- There are 24 street parking bays located on High Street on the same block as the property;
- There are numerous parking facilities within a walkable catchment of the property, including:
  - *Wilson Parking 'Victoria Quay' – 400+ bays*
  - *Wilson Parking 'Cantonment Street' – 250+ bays*
  - *Paddy Troy Mall parking – 70+ bays*
  - *Wilson Parking 'Essex Street' – 100+ bays*
  - *Norfolk Street Parking – 24 bays*
  - *Secure parking bay (Collie Street) – 250+ bays;*
- The site benefits from excellent public transport accessibility including the Fremantle train station services (300m from site), Transperth Fremantle CAT and multiple regular Transperth bus services along South Terrace (80m from site);
- Being located in the City centre, the site benefits from excellent walkability and cyclability from all areas of central Fremantle;
- Based on the nature of the use, patrons are more likely to carpool, use taxis or rideshare services (such as Uber) to get to and from the venue;



- There are multiple public bicycle parking facilities along High Street and other areas within 100m of the venue; and
- There are two public on-street dedicated loading/delivery bays along high street within 20m and 100m of the venue respectively.

All of the above was considered by officers, as well as an internal assessment and evaluation of the appropriateness of the parking relaxation criteria under clause 4.7.3 of LPS 4. For this particular use, in this City centre location; the shortfall was found to be acceptable for the following reasons:

- The existing property and current/former uses (including the former Club Premises which is considered of a similar nature to the proposed Tavern, being a bar) also did not have any on-site car/bicycle parking facilities in the existing situation and are considered to have operated successfully despite this.
- The Tavern use is one associated primarily with the night-time economy of Fremantle and is expected to operate and/or be busy in the evenings. Noting that this development site is in close proximity to High Street mall and a section of Market Street that has a large proportion of office and retail floor area, the peak times for this use will be expected to follow the peak operating hours of surrounding uses as the Tavern is proposed to be open in the late afternoon and evening opening hours. Therefore, the parking demands of the Tavern use should not significantly conflict with these other city centre uses that typically have a demand for parking during standard business hours and fall away in the evenings.
- Numerous public car parking facilities and on street parking bays are provided within a reasonable walkable catchment of the subject site; noting that encouraging the use of private vehicles to travel to and from a use of this nature should not necessarily be encouraged.
- The public transport accessibility level of the site is considered excellent. The subject site is close to multiple public transport services, including the Fremantle Bus Port (250m), Fremantle Train Station (225m), and Fremantle CAT Bus services (140m to Newport Hotel stop, 220m to Phillimore Street stop) that provide connections, thereby readily providing access to the premises via public transport which should be encouraged to such uses.



- Multiple public bicycle parking bays are provided in the immediate locality. LPS4 permits the waiving of bicycle parking bays for minor change of use applications which is considered applicable in this case as the previous lawful use of the subject site was already a licensed club premises. With respect to the number of persons accessing the site, this will remain generally consistent with the existing use on site.
- The previous lawful use of the subject site, the 'Club Premises' for the Fremantle RSL Wyola Club, was also a licensed premises and that operated satisfactorily without the provision of on-site car/bicycle parking bays and the proposed use is expected to be one with similar patron numbers.
- The subject site has no capacity to provide any on-site parking for any land use as the site is located within a State registered heritage precinct and any significant alteration to provide car parking would likely not be supported due to the negative impact on heritage fabric.
- Deliveries for the premises can be accommodated using existing loading bays on High Street of which there are six along High Street within 50m of the subject site that are limited to 15 minutes and for loading or delivery vehicles only.

Based on the above considerations, the shortfall in vehicle and bicycle parking for the premises can be appropriately managed and accommodated by existing facilities in the city centre locality.

#### **DBU6 – Late Night Entertainment Venues Serving Alcohol**

In accordance with the general provisions of DBU6 (Late night entertainment venues serving alcohol), it is considered the local area is well serviced by public streets and Taxi ranks to allow for safe transport to and from the site without significantly disrupting through traffic.

The adjoining footpaths and streets of the subject are well lit to allow for adequate safety for patrons late at night. The proposed Tavern is also adjacent to numerous other civic, retail and similar hospitality uses, including being only 50m from the Fremantle Police Station, that will provide passive surveillance and activity around the site that will serve to further deter any anti-social behaviour and/or noise nuisance from patrons.

It is also considered the subject site has sufficient separation, provided by adjoining buildings, from residential uses and tourist accommodation uses to ensure limited impacts on amenity. Furthermore, the applicant has provided an Acoustic Report as well as Venue and Noise Management Plans that provide both physical (design & materials) and operational (management) noise mitigation measures to maintain compliance with the relevant noise regulations applicable and reduce opportunity for conflict between other such land uses.



### **Liquor Licensing**

Should the subject application be approved, the applicant will be required to make application to the Department of Local Government, Sport and Cultural Industries for appropriate liquor license approval. Any such application will be referred to the City for comment to ensure that the site has the appropriate land use approval.

### **CONCLUSION**

As considered above, the proposed business is considered to appropriately satisfy the relevant statutory requirements of LPS 4 and Council policies. Accordingly, the change of use application is recommended for approval, subject to conditions.

### **STRATEGIC IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

### **OFFICER'S RECOMMENDATION**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of Use to Tavern and Internal Fit out of Existing Building at No. 81 (Lot 1) High Street, Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 14 February 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Prior to the issue of a Building Permit for the development hereby approved, details of all recommendations contained in the Acoustic Report, prepared by Herring Storer Acoustic, dated 31 August 2021, including, but not limited to:**
  - External walls and windows: replacement or removal windows, with seals where openable as well as ensuring constructions is continuous with no gaps;**
  - Ceiling: implementation of either a:**



- iii. 200mm suspended ceiling grid with 13mm high density plasterboard and insulation; OR
- iv. 400mm suspended ceiling grid with 10mm standard plasterboard and insulation.

Are to be submitted on plans to, and approved by, the City of Fremantle.

3. Prior to the issue of a Building Permit, further details shall be submitted to, and approved by the City on the following aspects of the works hereby approved:

- New floor coverings are not to be stuck to the original timber floors.
- Dry lining behind kitchen equipment is to be fixed to original solid construction external walls.
- Protect etched glass panels above existing bar. Carefully remove panels and safely store on site for future use.

To the satisfaction of the City of Fremantle.

4. Prior to occupation, all recommendations, works and requirements of the Accoustic Report (prepared by Herring Storer Acoustics, dated 31 August 2021) and the Smoking Alleyway Noise Technical Memorandum (prepared by Herring Storer Acoustics, dated 3 February 2022) shall be implemented and upheld for the life of the development, unless otherwise approved by the City of Fremantle.
5. Noise management shall occur in accordance with the Noise Management Plan, prepared by Roadhouse Promotions, dated 14 February 2022. All recommendations and management actions of the approved noise management plan are to be implemented and maintained for the life of the development, to the satisfaction of the City of Fremantle.
6. Prior to occupation of the development, the Waste Management Plan, prepared by Roadhouse Promotions in consultation with Write Solutions dated 6 January 2022, shall be amended to include the following:
- a. Waste collection and/or disposal of glass in external bins shall not occur before 0700 hours and after 1900 hours on any day that is not a Sunday or public holiday; and shall not occur before 0900 hours and after 1900 hours on a Sunday or public.



**The amended waste management plan is to be implemented and maintained for the life of the development 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. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.**
- ii) The applicant is advised that the premises must comply with the *Environmental Protection (Noise) Regulations 1997*. For further information contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**
- iii) Design and install all mechanical service systems, including air-conditioners, pool filter motors, gym weight equipment, amplified music, kitchen exhaust ducts and refrigeration motors, etc. to prevent noise levels from exceeding the relevant assigned levels as set out in the *Environmental Protection (Noise) Regulations 1997* (as amended). It is advised to seek the services of a competent acoustic consultant to assist the applicant to address the potential noise impacts on noise sensitive receivers.**
- iv) Work on construction sites shall be limited to between 7am and 7pm on any day which is not a Sunday or Public Holiday. If work is to be done outside these hours a noise management plan must be submitted and approved by the Chief Executive Officer, City of Fremantle prior to work commencing.**
- v) The proponent must make application during the Building Permit application stage to Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the Health (Public Buildings) Regulations 1992. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**





- vi) **The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**
- vii) **It is recommended that the applicant engages the City's Environmental Health department to determine their obligations in obtaining an alfresco dining permit. The City's Environmental Health department can be contacted on 9432 9999 or alternatively via email at [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**
- viii) **The applicant is advised that any signage may be subject to a separate application for planning approval.**
- ix) **Any removal of asbestos is to comply with the following –**

**Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the Occupational Safety and Health Act 1984 and accompanying regulations and the requirements of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)];**

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



**PC2204-6 STIRLING HIGHWAY, NO. 108 (LOT 1), NORTH FREMANTLE -  
CHANGE OF USE TO MULTIPLE DWELLING AND A TWO  
STOREY ADDITION TO EXISTING MIXED USE DEVELOPMENT  
(JL DA0521/21)**

**Meeting Date:** 6 April 2022  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1. Amended Development Plans  
**Additional information:** 1. Site Photos  
2. R- Codes Volume 2 assessment

**SUMMARY**

Approval is sought for the construction of a two storey addition above the existing Shop at No.108 Stirling Highway, North Fremantle. The addition to the building comprises of a Multiple dwelling (upper two floors) above the existing ground floor Shop (Pharmacy).

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 Volume 2 (R-Codes) and Local Planning Policies. These discretionary assessments, and performance-based assessments, include the following:

- Land use;
- Lot boundary setbacks;
- Plot Ratio;
- Landscaping;
- Building height;
- Carparking;
- Managing Impact of Noise; and
- Universal Design

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

**PROPOSAL**

**Detail**

Approval is sought for the change of use of a Caretaker's unit to a Multiple dwelling on top of the existing Shop (pharmacy) and two storey additions to the existing Mixed Use development at No. 108 Stirling Highway, North Fremantle.

The proposal includes:

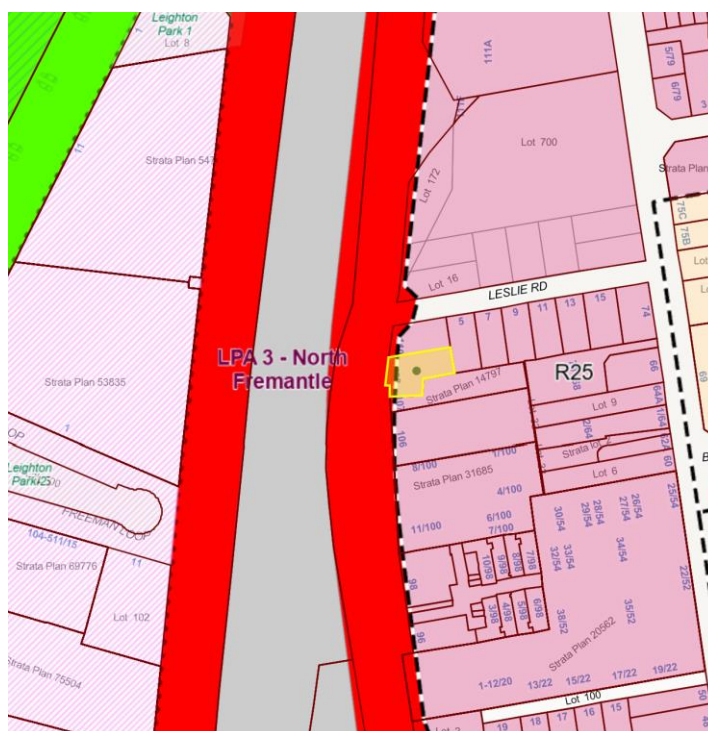
- Alterations to existing upper floor 'Caretakers unit' to convert it into a 'Multiple Dwelling' with an additional floor;
- Retention of the existing ground floor Shop (Pharmacy); and
- Landscaping of front carpark

City Officers requested additional information and amended plans regarding visual privacy, noise attenuation, energy efficiency and onsite landscaping after submission. Amended plans and the additional information was received 16 February 2022 which included more detail and increased areas of landscaping on site. The overall proposal has not altered in these plans.

Amended plans are included as attachment 1.

### **Site/application information**

Date received:	14 December 2021
Owner name:	Deborah Friedmann and Sivan Kandiah
Submitted by:	WA Housing Group
Scheme:	Mixed Use
Heritage listing:	North Fremantle Heritage Area
Existing land use:	Shop and Caretakers Residence
Use class:	Shop and Multiple Dwelling
Use permissibility:	A, A





## CONSULTATION

### External referrals

#### *Department of Planning Lands and Heritage – Heritage Services*

The application was referred to Heritage Services as the subject site abuts the *Great Southern Roller Flour Mill* (Flour Mill) to the north. They have advised that the Flour Mill will:

*The proposal is on the same alignment, retaining the existing single storey building, and will not have an impact on the cultural heritage significance of Great Southern Roller Flour Mill. The proposed development will not overwhelm or detract from the registered place."*

#### *Fremantle Ports (FP)*

The application was referred to the FP as the subject site is located within Fremantle Port Buffer Area 3. The FPA has advised that they have no objection to the proposal subject to compliance with the standard built form requirements for Area 3. These matters are recommended to be dealt with as relevant conditions and advice notes. It is noted that many of the requirements for Area 3 relate to noise, and as such are superseded by the requirements for SPP5.4 Road and Rail Noise, which is discussed further below.

#### *Main Roads Western Australia (MRWA)*

The application was referred to MRWA for comment as the site is affected by a Primary Regional Road reservation. MRWA have advised that they have no objection to the proposal subject to the imposition of several conditions relating to minimising the impact on the road reservation and ensuring that future residents are protected from road noise from Stirling Highway. These matters can be dealt with as relevant conditions and advice notes in the Officers recommendation.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), due to the following discretions being sought:

- Building height (external wall)
- On-site car parking
- Residential Design Codes Volume 2 assessment
- Land use (Multiple dwelling)

The advertising period concluded on 27 January 2022, and no submissions were received in this period. However, on 4 February 2022 a late submission was received which raised the following issues (summarised):

- Building height;
- Boundary walls;
- Landscaping and Public Realm



In response to the above, the applicant submitted revised plans to address the Landscaping and Public Realm and justification to the proposed building height and lot boundary setbacks. 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:

State Planning Policy 7.3 Residential Design Codes Volume 2 (Apartments) set out acceptable outcomes for most design elements. Meeting the acceptable outcomes does not mean automatic approval for the design element, rather they provide direction for applicants to meet the design objectives of the Codes. An assessment sheet has been included as additional information and includes both the applicant and City Officers comment on each element. The following elements are discussed in greater detail throughout the report:

- Land use;
- Lot boundary setbacks;
- Plot Ratio;
- Landscaping;
- Building height;
- Carparking;
- Managing Impact of Noise; and
- Universal Design

### **Background**

The subject site is located (No.108 Stirling Highway) on the eastern side of Stirling Highway. The sites have a combined land area of approximately 462m<sup>2</sup> and are currently occupied by a Shop and Caretakers dwelling development. The site is zoned 'Mixed Use' and has a density coding of R25, with the potential to increase to R60 in accordance with the Mixed Use provisions. No. 108 Stirling Highway is individually heritage listed (limestone features) and is located within the North Fremantle Heritage Area.

The site has a slight slope from east to west and has a limestone fence traversing the southern and eastern portions of the lot, which runs through several other north eastern property (No.5 Lesley Road). The front portion of No. 108 Stirling Highway facing Stirling Highway also contains a Main Roads Road reservation.



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

- Shop and a Caretakers Residence – DA261/99 – Approved September 2000; and
- Relocation and rebuilding of a limestone boundary wall – DA0258/11 – Approved 9 August 2011

## Land Use

A Multiple Dwelling is classified as an 'A' use in the Mixed Use Zone, meaning the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice (advertising) in accordance with clause 64 of the Regulations, Schedule 2. In considering an 'A' use the Council will have regard to the matters to be considered in the Regulations.

The proposed land uses are consistent with the objectives of the Mixed use zone as follows:

- The land use mix is generally compatible with that present and encouraged for the immediate Mixed use zone and locality,
- The new use is not considered to adversely impact the commercial viability of other businesses within this locality but only help complement the mix of uses.
- The development is sympathetic to the current and desired future character of the Mixed use zone and the North Fremantle locality;
- The proposal is considered to have an acceptable level of impact on the amenity of neighbouring properties and the locality more generally; and,
- The impacts on heritage features is considered minimal and is supported.

## Side and rear setbacks

Element	Acceptable outcome	Proposed	Extent of departure from Acceptable Outcome
Ground floor - north	3m	Nil	existing
Upper floor - north	3m	Nil	3m
Ground floor - south	3m	Nil	3m
Upper floor - south	3m	Nil	3m
Ground floor - east	3m	Nil	existing
Upper floor – east	3m	Nil -3m	3m

It is noted that the City currently has a development application (DA0265/21) for a two storey Mixed use development to be constructed to the north and east of this site (at No.110 Stirling Highway and 5 Lesley Road).

The applicant for DA0265/21 (110 Stirling Highway) has reviewed this DA and in addressing Committee concerns provided conceptual plans to date for consideration. With regards to how these two developments would interface, the bulk and scale of the proposed development is not substantially different to that proposed for 110 Stirling Highway.

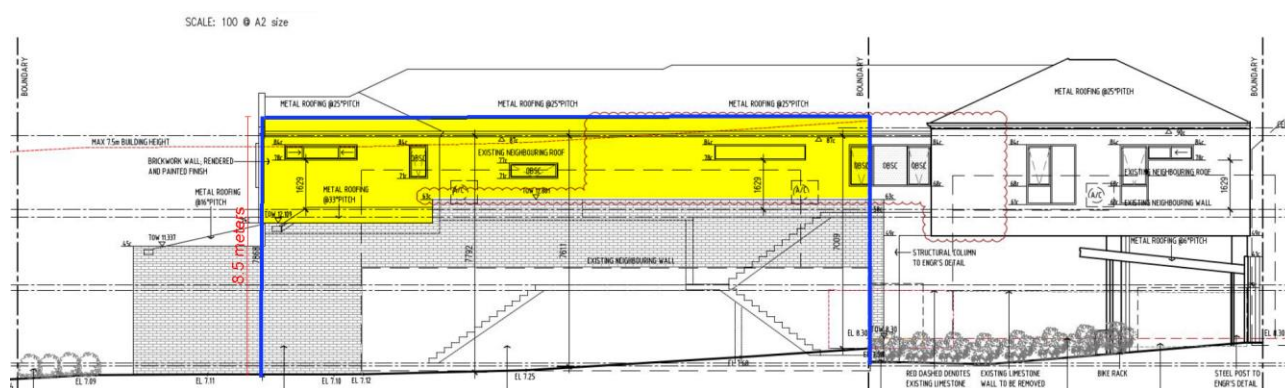


Image 1 – Proposed boundary wall for 108 Stirling Highway, shown as blue line superimposed over proposed DA plans for 110 Stirling Highway



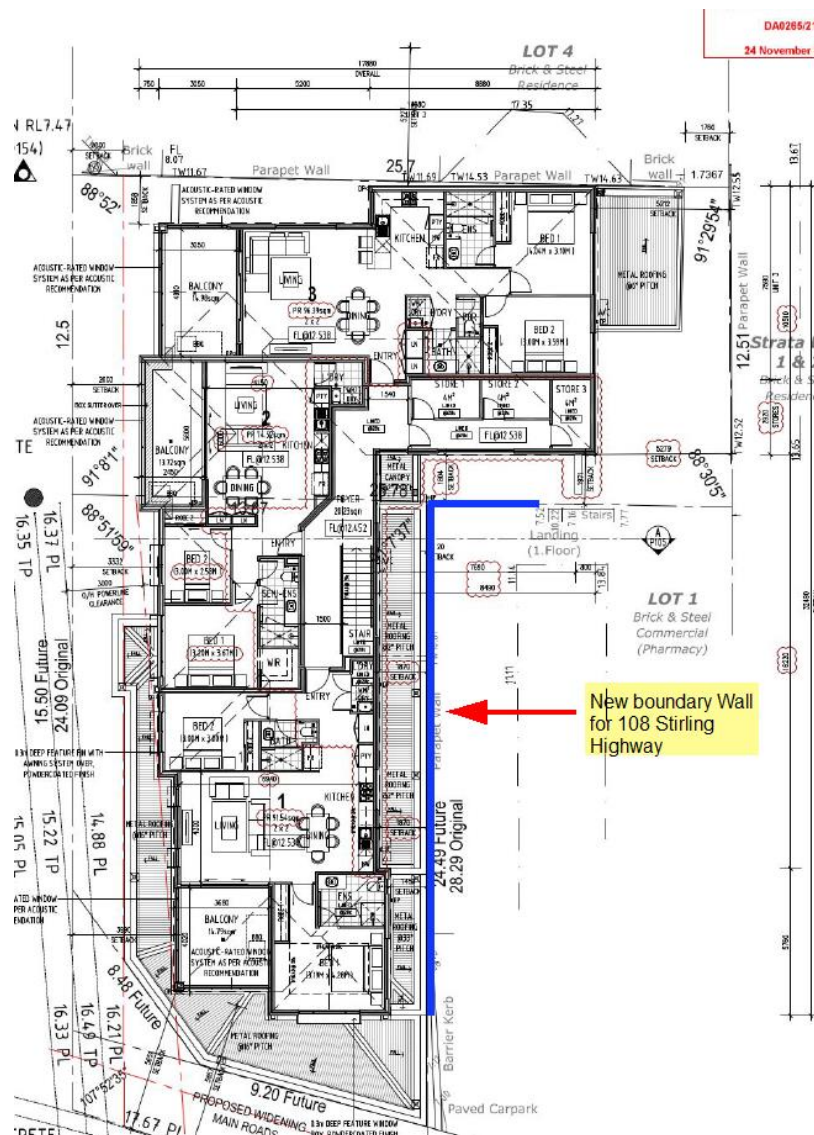


Image 2- Eastern boundary wall for 108 (shown in blue lining on plan) Stirling Highway shown on proposed plans for 110 Stirling Highway upper floor plans

Notwithstanding the potential redevelopment of both sites, overall, these lot boundary setback variations impacting neighbouring properties are considered acceptable as they meet the relevant objectives of the R-Codes Volume 2 in the following ways:

- The ground floor setbacks remain as what already exists onsite today as the built form at ground level is remaining, with only a new setback to the southern boundary abutting the car parking area of 107 Stirling Highway. All ground floor boundary walls predominantly abut either vacant land or hardstand carparking areas of the respective adjoining sites, creating minimal impact by way of building bulk and or shadow.





- The upper floor boundary wall additions to these elevations again abut existing vacant sites or existing and proposed hardstand car parking areas or non-habitable rooms to the east of proposed developments. Overall, they are not considered to cause any significant amenity building bulk or loss of solar access impacts.
- Given the orientation of these two boundary walls (north and east), minimal impact by way of loss of light and or casted shadow is also going to result. Any shadow impacts created by the southern proposed boundary also would fall directly on hardstand car parking area of 107 Stirling Highway.
- The setbacks proposed will also have minimal adverse impact on ventilation for the adjoining properties and the proposed outdoor living areas for 110 Stirling Highway, but instead assist with screening for noise impacts from Stirling Highway and the railways line whilst sheltering this space from the prevailing southern winds whilst allowing ventilation to access this space from the unroofed nature of the design.

#### Plot Ratio

Element	Acceptable outcome	Proposed	Extent of departure from acceptable outcome
R60	0.8 (367m <sup>2</sup> )	0.95 (425m <sup>2</sup> )	0.15 (62m <sup>2</sup> )

The overall bulk and scale of development is generally consistent with the built form of the immediate locality and overall is considered to be appropriate for the existing or planned character of the area. The slight increase in floor area for the dwelling is not considered to result in undue amenity impacts on neighbouring properties and as such is supported.

#### Density

The subject site has a density coding of R25. Clause 4.2.5 of LPS4 states:

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

'Mixed use development' is defined in LPS4 as:

*"means, when used in relation to a Planning Application, a combination of one or more of the residential use classes specified in Table 1 - Zoning and any other land use or uses, and where the residential use class and any other one use class each comprise a minimum of 25 per cent of the gross lettable area of the development."*



It is noted that the development comprises a multiple dwelling, and a 'Shop' use on the ground floor. The 'Shop' comprises over 25% of the gross lettable area of the development.

The development may therefore be assessed against the R60 density provisions of the R-Codes Volume 2 as it is considered a 'Mixed use development' and, as discussed in the body of the report, it is not considered detrimental to the amenity of the area.

### Landscaping

Element	Acceptable outcome	Proposed	Extent of departure from acceptable outcome
Tree canopy and deep soil areas	1 medium tree and small trees to suit	2 small trees	1 medium tree
Deep soil area	10% of site (46.2m <sup>2</sup> )	4% of site (18.5m <sup>2</sup> )	6% (27.7m <sup>2</sup> )

The landscaping provided is not considered to meet the relevant objectives of the R-Codes Volume 2 in the following ways

- Whilst the site is somewhat constrained due to the Western Power powerlines along Leslie Road, and the MRWA road reserve requiring lower-level vegetation, the site has the ability to incorporate more landscaping and larger trees to the front and south middle section of the front setback area.
- Deep soil area is provided to the middle, south section of site but the depth of the balcony planters is unknown and as such more detail is required at the Building permit stage to ensure compliance with this provision of Volume 2 of the R-Codes.
- Additional smaller areas of soft landscaping are provided at the front of site but this could easily be extended to the front boundary abutting the road reserve.
- The new landscaping areas do not reduce or impact the existing onsite car parking arrangement

Therefore, the amendment of this area of hardstand to reduce its presence and to increase the amount of soft landscaping and deep soil area, will be included in a condition of approval. Again, the site is capable of increasing onsite landscaping without impacting existing numbers and circulations areas for existing car parking.

### Building height

Element	Requirement	Proposed	Extent of Variation
External wall height	7.5m	Up to 8.5m	1m



As per Local Planning Area 3 (North Fremantle) in LPS4, the maximum external wall height permitted for sites in the 'Mixed use' zone is 7.5m. Clause 4.8.1 of LPS4 allows the City to consider variations to this height, per the below:

*Where sites contain or are adjacent to buildings that depict a height greater than*

*that specified in the general or specific requirements in schedule 7, Council may vary the maximum height requirements subject to being satisfied in relation to all of the following—*

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

Noting the above, the Dingo Flour Mill, with an external building height of approximately 16m (four storeys), is located directly to the north of the subject site, thereby triggering the Part 4.8.1 assessment. Other than the Dingo Flour Mill, it is noted that the dominant character of buildings in the area is single storey. However, the external wall height variations are considered to meet the provisions of Part 4.8.1 of LPS4 in the following ways:

- The proposal poses an acceptable impact onto the amenity of adjoining properties and the locality more generally;
- Despite the built form being different from all adjoining neighbouring properties along Stirling Highway, the proposed heights are considered to provide an appropriate transition between the significantly higher Dingo Flour Mill and the immediate adjoining properties;
- Furthermore, proposed building height will have no adverse impacts onto the cultural heritage value and its limestone features of the subject site, nor to the Dingo Flour Mill or any other properties in the locality; and,
- The additional building height will not result in any significant amenity impact on adjoining properties;

#### **Car parking**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Shop	7 bays	6 bays	1 bay
Multiple dwelling	1 bay	1 bay	Complies

While the number of existing car bays on site is not changing, there is some reallocation occurring. As the existing seven car bays are all allocated to the



Shop, to ensure compliance with the Apartment Codes, one bay is being reallocated to the dwelling. This means the Shop is now short a bay.

Clause 4.7.3.1 of LPS4 allows the City to consider parking shortfalls, subject to meeting one or more of the relevant criteria. It is considered that the parking shortfall is supportable due to the following reasons:

- The subject site is located within a short walking distance of North Fremantle Train Station,
- The site is located close by to several bus stops which service routes from Perth and Fremantle; and,
- The Shop proposes one more bicycle rack than required.

### **Managing of Noise and State Planning Policy 5.4 – Road and rail noise**

The subject site is located within 100m of the Fremantle train line, and within 300m of Stirling Highway and Curtin Avenue. For this reason, traffic noise may be a significant issue. Therefore, the provisions of State Planning Policy 5.4 (SPP 5.4) are applicable.

The applicants have provided a Road Traffic Noise Assessment (Assessment) prepared by 'Lloyd George Acoustics', dated 11 March 2022. They have confirmed that the proposal will incorporate all recommendations of the assessment, inclusive of the recommendations of the residential and commercial components.

The City's Environmental Health officers have reviewed the Assessment and are satisfied with the measures proposed in Section 5 of the assessment. A condition of approval is recommended to ensure that compliance with the report is demonstrated.

In addition to the above, as required by the MRWA advice and the provisions of SPP5.4, a condition will be recommended requiring notification on the Certificates of Title advising occupants that the subject site is in proximity to road and rail, which will pose a level of noise

### **Universal design**

Due to the development including only 1 dwelling, and the requirement to accommodate a commercial premises on the property to obtain "mixed use" status, the applicant has not proposed to apply universal design standards. It is noted that some retrofitting of the dwelling may be able to occur in future as required to suit the needs of residents. It is further noted that the development is three storeys, with one flight of stairs required to access the dwelling from the generally universally accessible parking area. The applicant has included accessibility features for the commercial use, including an ACROD bay and flat surface at the entry.



## CONCLUSION

Based on the body of the report above, it is considered that the proposal is acceptable when assessed against the relevant provisions of Volume 2 of the R-Codes and LPS4. Therefore, it is recommended that the application be approved subject to the conditions contained in the officer recommendation below.

## STRATEGIC IMPLICATIONS

### Strategic Community Plan 2015-25

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

## FINANCIAL IMPLICATIONS

Nil

## LEGAL IMPLICATIONS

Nil

## OFFICER'S RECOMMENDATION

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Three Storey Mixed Used Development (Multiple dwelling and a Shop) at No. 108 (Lot 1) Stirling Highway, North Fremantle, subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 10 December 2021 and 14 February 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. No part of the building/development (inclusive of awnings and below ground elements) shall be located within the land required for future Stirling Highway upgrades as detailed in Main Roads Western Australia's land requirement plan 1.7143/1.**



- 4. No earth works shall encroach onto the Stirling Highway road reserve.**
- 5. Prior to the issue of a Building Permit an updated version of Landscaping Plan is to be provided including additional landscaping area, species of vegetation and details of irrigation and modification of hardstand area located at the Stirling Highway frontage of the subject site to the satisfaction of the City of Fremantle.**
- 6. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the Master bedroom and bedroom 2 windows located on the eastern elevation, are to be screened in accordance with Clause 6.4.1 C1.1 of the Residential Design Codes by either:**
  - a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
  - b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**
  - c) a minimum sill height of 1.60 metres above the internal floor level,**

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

- 7. Prior to the issue of Building permit, amended plans be provided showing the Commercial bin storage area being screened from the public realm of Stirling highway to the satisfaction of the City of Fremantle.**
- 8. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the air conditioning units shall be screened from view from any public street/neighbouring property is to be submitted and approved, to the satisfaction of the City of Fremantle. The screening shall be installed prior to occupation.**
- 9. Prior to the issue of a Building Permit for the development hereby approved, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 3. Specifically, the development shall provide**



**air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.**

- 10. Prior to occupation of the development hereby approved, the development must demonstrate compliance with the recommendations of the Road Traffic Noise Assessment prepared by 'Lloyd George Consultants' prepared on 11 March 2022, to the satisfaction of the City of Fremantle.**
- 11. Prior to occupation for the development hereby approved, a notification, pursuant to section 70A of the *Transfer of Land Act 1893*, shall be placed on the certificate of title for the subject lot. The notification shall be at the owner/applicants' expense and lodged with the Registrar of Titles for endorsement. The notification is to state as follows:**  
  
***'This lot is in the vicinity of a transport corridor and is affected, or may in the future be affected, by road and rail transport noise. Road and rail transport noise levels may rise or fall over time depending on the type and volume of traffic.'***
- 12. Prior to the occupation of the development hereby approved, all car parking, and vehicle access and circulation areas shall be marked and signage and/or marking installed to clearly delineate between the residential and commercial components. The bays shall be maintained and made available for car parking and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.**
- 13. Prior to the occupation of the development, the approved landscaping shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.**
- 14. Prior to occupation/use of the development hereby approved, the boundary wall located on the northern, eastern and southern lot boundaries shall be of a clean finish in any of the following materials:**
  - coloured sand render,
  - face brick,
  - painted surface,**and be thereafter maintained to the satisfaction of the City of Fremantle.**



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

#### **ADVICE NOTES**

- i. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.**
- ii. The applicant is advised that any signage may be subject to a separate application for planning approval.**
- iii. The applicant is encouraged to maintain the adjacent verge in accordance with the City's Verge Garden Policy which can be found on the City website at: <https://www.fremantle.wa.gov.au/resident-perks>**
- v. This property is affected by land reserved in the Metropolitan Region Scheme and will be required for road purposes in the future.**
- vi. The project for the upgrading/widening of Stirling Highway is not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability for the information provided.**
- vii. The applicant is required to submit an application form to undertake works within the road reserve prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on Main Roads website > Technical & Commercial > Working on Roads.**
- viii. All noise from the proposed development must comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* (as amended), such as:**
  - mechanical service systems like air-conditioners, exhaust outlets, motors, compressors and pool filters;**
  - vehicles;**
  - amplified acoustic systems; and**
  - patron noise.**





**PC2204-7 STAPLES STREET, NO. 18 (LOT 4), NORTH FREMANTLE - TWO STOREY REAR ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE (ED DA0020/22)**

**Meeting Date:** 6 April 2022  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Amended Development Plans  
**Additional information:** 1. Site Photos  
2. City of Fremantle Heritage Assessment

**SUMMARY**

**Approval is sought for two storey rear additions and alterations at No. 18 (Lot 4) Staples Street, North Fremantle.**

**The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period. The application seeks discretionary assessments against the Residential Design Codes (R-Codes) and these discretionary assessments include the following:**

- **Lot Boundary Setbacks (East and West); and**
- **Visual Privacy (East).**

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

**PROPOSAL**

**Detail**

Approval is sought for two storey rear additions and alterations to an existing single house at No. 18 Staples Street, North Fremantle. The proposed works include:

- Construction of a two-storey extension to the rear of the existing single storey heritage dwelling comprising: new living, dining, kitchen, laundry, bathrooms and bedrooms as well as a first-floor balcony and ground floor alfresco area.

The applicant submitted amended plans on 24 February 2022 including the following:

- Increased setback (from 2.2m to 4m) of the two-storey portion of the rear additions from the roof ridge line of the existing heritage dwelling on the subject site to address preliminary Heritage Officer comments and clause 5.1 of LPP 2.9 (Residential Streetscape).

Amended Development plans are included as Attachment 1.

**Site/application information**

Date received:	20 January 2022
Owner name:	Clunebury Pty Ltd
Submitted by:	Tascone Design
Scheme:	Mixed Use - R25
Heritage listing:	Individually Listed (Category 3) and North Fremantle Heritage Area
Existing land use:	Single House
Use class:	Single House (as existing)
Use permissibility:	A





## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as the proposal sought to vary elements of the R-Codes deemed-to-comply requirements. The advertising period concluded on 9 March 2022, and 1 submission was received. The following issue was raised (summarised):

- Concerns the reduced eastern setback may cause unreasonable overshadowing of bedroom windows and the rear courtyard of the adjoining property.

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

- Due to north-south orientation of the subject site, all shadow from the proposed development (as assessed in accordance with the Residential Design Codes methodology, being shadow falling to the south) is to fall within the subject site and onto the non-sensitive, extensive hardstand church carparking to rear (south) of the subject site only (refer aerial imagery above). Neither of the adjoining (eastern or western) existing residential dwellings or sites are to be overshadowed by the proposed development and overshadowing is fully compliant with the deemed-to-comply requirements of the R-Codes.

These comments are also addressed further in the officer comment section of this report 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 provisions and need to be assessed under the Design principles of the R-Codes:

- Lot Boundary Setbacks; and
- Visual Privacy

The above matters are discussed below.



## Background

The subject site is located on the southern side of Staples Street in North Fremantle. The site has a land area of approximately 295m<sup>2</sup> and is currently a single house. The site is zoned 'Mixed Use' and has a density coding of R25. The site is individually heritage listed (Category 3) and is located within the North Fremantle Heritage Area.

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

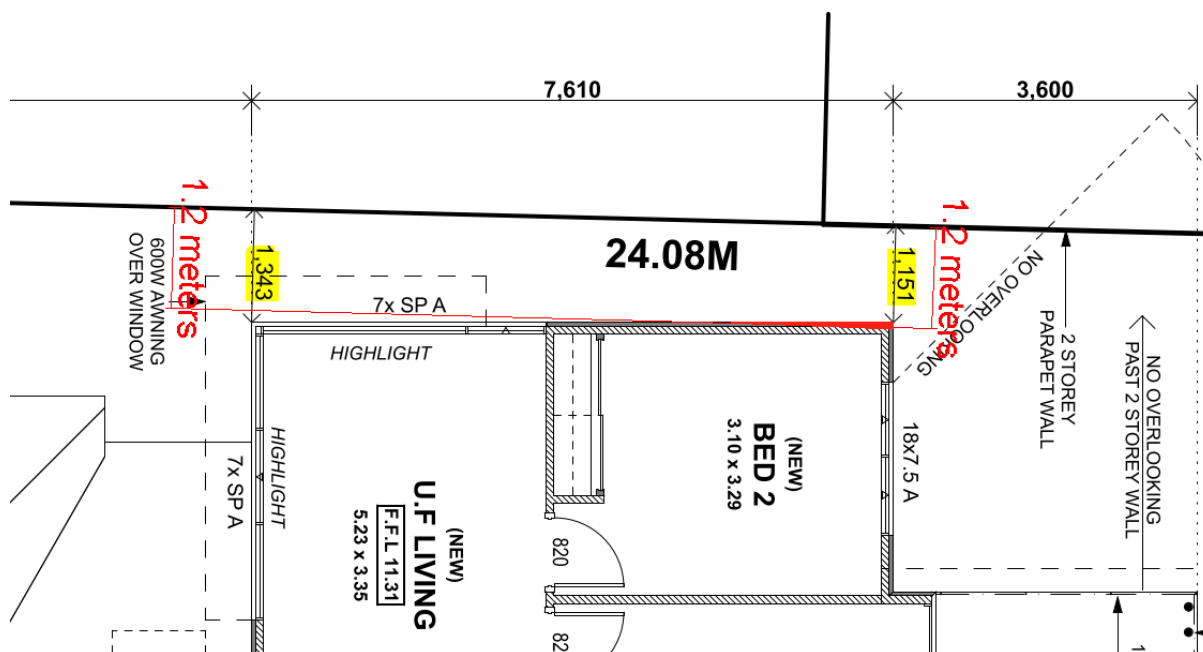
- DA0400/21 – Partial Demolition of Existing Single House and Outbuilding and Alterations and Additions (granted December 2021 by Planning Committee).

## Lot Boundary Wall Setbacks – East and West

Element	Requirement (minimum)	Proposed (minimum)	Extent of Variation
First Floor Bed2-Living Room Wall Setback (East)	1.2	1.151m	0.049m

The proposed First Floor Bed 2-Living Room wall setback (east) is considered to meet the Design Principles of the R-Codes in the following ways:

- Only a very small portion of the eastern Bed2-Living Room wall encroaches within the 1.2m minimum deemed-to-comply setback requirement (as shown in the marked up floor plan below, encroachment filled in red) due to the angle of the eastern lot boundary (shared with 17 Staples Street). The setback variation is considered negligible, being only a 0.049m (49mm) variation which is not expected to have any noticeable impact upon relevant amenity considerations;
- Due to the north-south orientation of the subject site and adjoining residential sites, all shadow from the proposed development (as assessed in accordance with the R- Codes) is to fall within the subject site and onto the non-sensitive, extensive hardstand church carparking to rear (south) of the site only. As such the marginally reduced setback is not to cause any adverse overshadowing of adjoining eastern site;
- The 7.6m width of the wall is not expected to cause any adverse building bulk impacts upon the eastern property (most of which is built up to the shared boundary with the subject site, refer site photos in Additional Information 1); and
- No major openings are proposed within this eastern wall elevation and therefore privacy will not be compromised and the proposed setback will still allow for adequate natural ventilation between the sites.



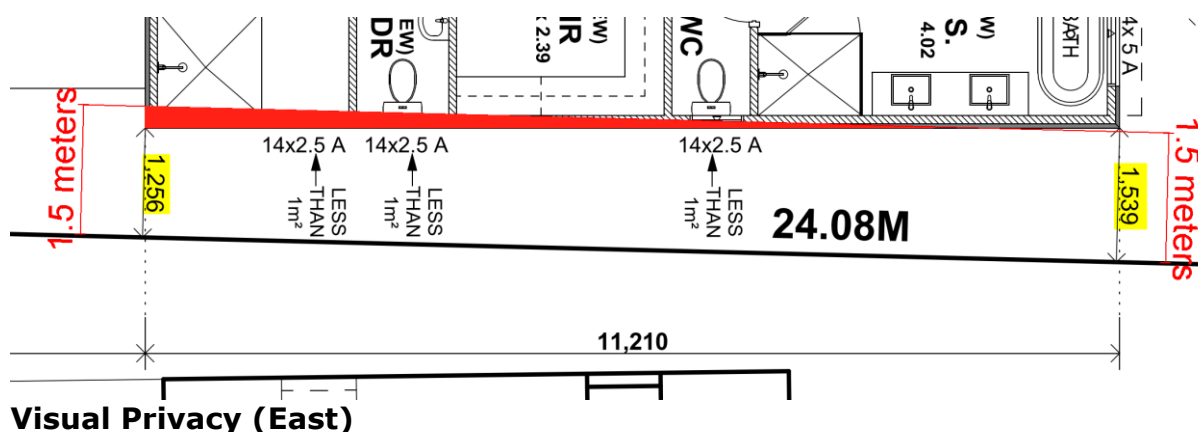
Element	Requirement (minimum)	Proposed (minimum)	Extent of Variation
Ground and First Floor Addition (West)	1.5m	1.256m	0.244m

The proposed Ground and First Floor setback (west) is considered to meet the Design Principles of the R-Codes in the following ways:

- As shown in the marked up floor plan below (setback encroachment filled in red), due to the angle of the shared lot boundary with the adjoining western property (19 Staples Street), the southern end of the wall is setback 1.539m (achieving the required setback) and the northern end is setback at 1.256m meaning the average setback of the wall is 1.4m; just 100mm shy of the required setback and is not expected to have any noticeable impact upon relevant amenity considerations;
- Due to the north-south orientation of the subject site and adjoining residential sites, all shadow from the proposed development (as assessed in accordance with the R- Codes) is to fall within the subject site and onto the non-sensitive, extensive hardstand church carparking to rear (south) of the site only. As such the marginally reduced setback is not to cause any adverse overshadowing of adjoining western property major openings or outdoor living areas;
- The adjoining western property has a large two storey blank brick wall with only 1 upper floor opening that is opposite the proposed wall.

This window sits high enough not to be impacted significantly and therefore it is unlikely that the proposal will cause any adverse building bulk impacts upon this property; and

- No major openings are proposed within the eastern elevation that would compromise privacy and the setback will still allow for natural ventilation between the sites.



Element	Requirement	Proposed	Extent of Variation
First Floor Bed2 (view south-east)	4.5m cone-of-vision setback	2.6m	1.9m
First Floor Balcony (view east)	7.5m cone-of-vision setback	4.3m	3.2m

The overlooking toward the eastern neighbouring property from both the proposed First Floor Bed2 south facing major opening and First Floor Balcony is considered to meet the Design Principles of the R-Codes in the following ways:

- As shown on the site and upper floor plan of the amended development plans as well as in the site photos in Additional Information 1, the existing development toward the rear of the adjoining site (17 Staples Street) comprises a two-storey detached studio building located along the shared boundary with the subject site which has a large two-storey blank wall built up to the shared boundary. As such, both the First Floor Bed2 and 1<sup>st</sup> Floor Balcony cones-of-vision will be obstructed and screened by this two-storey blank wall which will effectively prevent overlooking of the adjoining eastern site and means that no sensitive major openings or outdoor living areas of the eastern neighbour are able to be overlooked from either the first floor balcony or bedroom (refer 'proposed upper floor plan' within the Amended Development Plans for cone-of-vision diagrams).



It should also be noted that while the cone-of-vision from the First Floor Balcony (view south) encroaches over the adjoining southern property, this property is non-residential (being a church) and in any case, the area overlooked is an extensive, non-sensitive hardstand carparking area for the church use (refer aerial imagery above). For these reasons it is considered that screening measures as part of the proposed development are not required.

## **CONCLUSION**

In accordance with the above assessment, the development is considered to satisfy the deemed-to-comply requirements of the Residential Design Codes or design principles where relevant as well as the statutory planning requirements of the LPS4 and relevant Council local planning policies and is therefore considered worthy of approval, subject to appropriate conditions.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Council:**

**APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Two Storey Rear Additions and Alterations to Existing Single House at No. 18 (Lot 4), Staples Street, North Fremantle subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 24 February 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Prior to 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.**





**3. Prior to the issue of a Building Permit, further details shall be submitted to, and approved by the City on the following aspects of the works hereby approved:**

- **Methodology for render removal, limestone conservation and lime mortar mixes for bedding and repointing;**
- **Detail on the new front verandah floor to show how the base of the façade wall under the floor will be ventilated;**
- **Confirmation that limestone surfaces will not be sealed; and**
- **Detail showing wall vents to underfloor spaces of limestone house.**

**To the satisfaction of the City of Fremantle.**

- 4. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Any damage shall be rectified to the satisfaction of City of Fremantle.**
- 5. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 6. 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. **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.**
- ii. **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.**
- iii. **Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.**





**PC2204-8 GIRTON LANE, NO. 3-5 (LOT 8) FREMANTLE - ADDITIONS (TWO STOREY) AND ALTERATIONS TO EXISTING SINGLE HOUSE (TG DA00547/21)**

**Meeting Date:** 6 April 2022  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Development Plans  
**Additional information:** 1. Site Photos

**SUMMARY**

**Approval is sought for two storey additions and alterations to an existing Single House and ancillary dwelling at 3-5 Girton Lane, 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 (external wall)**
- **Ancillary dwelling site area**

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

**PROPOSAL**

**Detail**

Approval is sought for two storey additions and alterations to an existing dwelling at 3-5 Girton Lane in Fremantle. The proposed works include:

- A ground floor laundry addition to the rear of the existing dwelling.
- The addition of a stair atrium between the dwelling and ancillary dwelling, accessed directly from the ancillary dwelling.
- A living and bedroom addition to the upper floor over the existing ancillary dwelling, providing an ensuite and screened balcony.

The applicant submitted updated plans on 8 February 2022 showing the extent of building wall height discretion and providing an overshadowing/on site open space plan.

Development plans are included as attachment 1.

**Site/application information**

Date received:	21 December 2021
Owner name:	M F Purves, A Purves
Submitted by:	J Shaw
Scheme:	Residential R25
Heritage listing:	Memorial Reserve Heritage Area
Existing land use:	Two storey dwelling, ancillary dwelling and garage
Use class:	Single house
Use permissibility:	P





## CONSULTATION

### External referrals

#### *Heritage Service (DPLH)*

The application was referred to Heritage Services as the subject site is located within the Memorial Reserve Heritage Area. Heritage Services have advised that they supported the proposal. The City's heritage officers have also reviewed the proposal in the context of its location in the heritage area and found that the addition will not further negatively impact on the State Heritage listed place than the existing subdivision and dwelling.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal sought to vary deemed-to-comply elements of the R-Codes. The advertising period concluded on 21 January 2022, and two submissions were received. The following issues were raised (summarised):

- The submitters were concerned that the building was too high and would impact upon adjoining residences, overlooking a number of neighbouring properties and affecting their privacy.
- The addition is located too close to the adjoining property at 7 Girton Lane and will impact the amenity of this dwelling.
- The creation of additional accommodation without additional parking will impact adjoining residences along Girton Lane.
- It was requested that all parking during any construction works be undertaken on site to ensure that no one blocked the laneway.
- The height of the building addition would impact the Girton Lane streetscape in terms of bulk and scale, access to light and ventilation, and impact upon the amenity of the adjoining property on the basis of bulk, scale and the loss of views of significance.
- The close proximity of the addition to the eastern site boundary will limit access to sunlight and ventilation and the submitter requested that consideration be given to relocating the addition further to the west.
- The submitter was concerned that the addition comprised a further self-contained unit to the site, resulting in the main dwelling, and two ancillary dwellings due to there being no internal connection between the existing the existing dwelling and addition, with each dwelling and the addition being provided with external access.

In response to the above, the applicant submitted revised plans demonstrating that the development would satisfy the overall height requirements of the R-Codes for building roof height, and demonstrated the extent that the wall height exceeded the deemed-to-comply requirements of the R-Codes. This is discussed further in the officer comment section.



The applicant also provided the following additional comments in support of the application (summarised):

- Access between the main house and addition will be via the south facing ground floor kitchen entrance of the main house.
- The outcome of the addition is intended to be a more integrated building catering to the needs of four adults.
- The existing ancillary building and the second storey addition are intended to be used exclusively as sleeping and study areas and the works will link the separate areas across the site.

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

- In relation to lot boundary setbacks, overshadowing, vehicle parking, visual privacy and open space provision, the addition satisfies the deemed-to-comply requirements of the R-Codes in this regard.
- The proposed addition does not include kitchen facilities and would therefore be limited in its ability to operate as a self contained addition, however it is considered that the addition could be used readily in conjunction with the existing ancillary dwelling on site due to direct access being provided into the living/kitchen area of the dwelling. This has necessitated the assessment of the addition as an extension to the ancillary dwelling.
- A construction management plan condition can be imposed as a part of any approval for the development.
- Any use of the addition for short term accommodation would be subject to separate approval and management as under the City's short stay local law.

The remaining comments are addressed in the officer comment below.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

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

- Building height (external wall)
- Ancillary dwelling area

The above matters are discussed below.



## Background

The subject site is located on the southern side of Girton Lane in Fremantle, a private laneway off Ellen Street. The site has a land area of approximately 471m<sup>2</sup> and is currently occupied by a rammed earth two storey dwelling with a separate garage and ancillary dwelling to the eastern side of the site. The site is zoned Residential and has a density coding of R25. The site is affected by the heritage listing of the adjoining Fremantle Grammar School as the property was previously a part of this site, and is located within the Memorial Reserve Heritage Area.

The subject site slopes from the rear to Girton Lane, with an approximate 2m fall over the site resulting in retaining walls and levelling across the property. The dwelling adjoins the Fremantle Grammar School building to the south and residences to the east and west. A vacant site is located to the rear of the existing courtyard.

A search of the property file has revealed the following history for the site, with the existing dwelling on site being constructed in the late 1990s/early 2000s:

- In 2002 approval was gained for the construction of a garage and cellar with ancillary dwelling above to the site (DA845/01).
- In 2008 a two storey extension was approved to the dwelling, comprising a ground floor library and upper floor walk in robe (DA396/08). The application was varied to reduce the height of the addition and modify a balcony in 2009 (VA0028/09).

The existing dwelling and ancillary dwelling are separated by a paved area which will comprise the proposed stair atrium to access the proposed addition.

## Building Height

Element	Requirement	Proposed	Extent of Variation
Building wall height	7m wall height	7.5m	0.5m

As shown on the proposal elevations, the overall roof height of the building satisfies the relevant deemed-to-comply criteria.

In accordance with Local Planning Area 2 of Local Planning Scheme 4, building height for residential buildings is to satisfy the Residential Design Codes. In accordance with Cl. 4.8.1.2 of the Scheme, an increase in maximum building height of 0.5m can be supported where there is a variation in ground level over a development footprint of over 1 metre, where the over height portion is on the lower side of the building. In this case the over height portion, as shown in yellow below sits on the low side of the building.



- The area of over height wall is generally minor and contained below the area of roof directly above resulting in a limited impact with respect to access to sunlight for adjoining properties.
- The over height portion is located to the northern area of the building, resulting in this building height having a limited impact with respect to midday, midwinter overshadowing impacts, where shade falling to the south is at its greatest extent.
- Any views over the subject property affected by the wall height would already be limited by the proposed compliant roof.



**Ancillary Dwelling Site Area**

Element	Requirement	Proposed	Extent of Variation
Area of ancillary dwelling	70m <sup>2</sup> area	102m <sup>2</sup>	32m <sup>2</sup>

It is noted that the applicant has contended that the addition will not comprise an extension to the ancillary dwelling on site, rather an extension to the main rammed earth dwelling. This is noted, however as the addition is directly accessed from the ancillary dwelling living area, it is considered necessary to consider the overall area of the ancillary dwelling against the relevant design principles as in the future it may operate as one large ancillary dwelling. The existing lot arrangement is shown below, highlighting the dwelling in blue, and the ancillary dwelling in yellow:

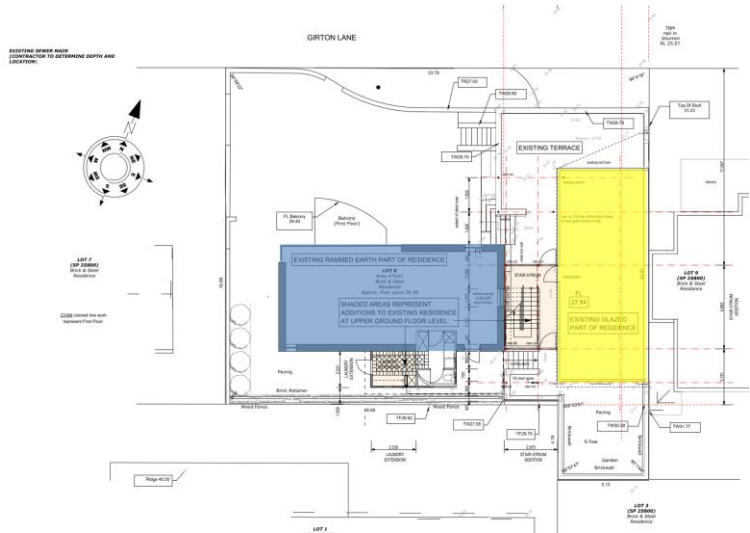


Image 3: existing dwelling and ancillary dwelling highlighted in blue and yellow respectively.

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

- The dwelling allows for inhabitants to live independently of the main dwelling on site while still utilising some services such as laundry facilities.
- The addition is to be built over existing built form and outdoor living area, and the large open street frontage is proposed to be maintained.
- The addition is considered to satisfy the majority of deemed-to-comply requirements of the R-Codes with respect to built form such as setbacks from boundaries, limiting its impact upon adjoining properties with respect to visual privacy, lot boundary setbacks, overshadowing and building bulk.



- In accordance with the deemed-to-comply requirements of the R-Codes, a 350m<sup>2</sup> lot is permitted to accommodate a 70m<sup>2</sup> ancillary dwelling to the site, this being 20% of the overall site area. The proposed ancillary dwelling will comprise approximately 20% of the overall site area (being 471m<sup>2</sup> ) across the property, with the area of ancillary dwelling being considered proportionate to the overall dwelling.

## **CONCLUSION**

In accordance with the above considerations, the areas in which the subject proposal seeks to vary the requirements of the R-Codes are considered worthy of support against the Design Principles and accordingly the development is recommended for approval, subject to conditions.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions (Two Storey) and Alterations to existing Single house at No. 3-5 (Lot 8) Girton Lane, Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 8 February 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the bedroom window**





located on the **south** elevation and the bedroom and living room windows and deck to the eastern elevation, are to be screened in accordance with Clause 5.4.1C1.1 of the Residential Design Codes by either:

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

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

4. Prior to the issue of a Building Permit or Demolition Permit for the development hereby approved, a Construction/Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:

- a) Any Use of City car parking bays for construction related activities;
- b) Security fencing around construction sites;
- c) Gantries;
- d) Access to site by construction vehicles;
- e) Contact details;
- f) Noise - Construction work and deliveries;
- g) Sand drift and dust management;
- h) Waste management;
- i) Traffic management; and
- j) Works affecting pedestrian areas.

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

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



**Advice notes**

- i. The applicant is advised in relation to condition **3**, the application of film to a window can be considered provided the film is translucent or obscured to a minimum of 75% obscure in order to meet the objectives of Clause 5.4.1. C1.1 of the Residential Design Codes and is maintained for the life of the development.
- ii. 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.
- iii. Fire separation for the proposed building works must comply with Part 3.7.2 of the Building Code of Australia.
- iv. In regard to the condition requiring a Construction Management Plan, Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>.  
A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:  
<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>  
The Infrastructure Business Services department can be contacted via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.



**PC2204-9      SOLOMON STREET, NO. 45 (LOT 40) FREMANTLE –  
ADDITIONS (THREE STOREY) AND ALTERATIONS TO  
EXISTING SINGLE HOUSE (TG DA0553/21)**

**Meeting Date:** 6 April 2022  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Amended Development Plans  
**Additional information:** 1. Site Photos

**SUMMARY**

**Approval is sought for the addition of a third storey and additions and alterations to the existing dwelling at 45 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 (external wall)**

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

**PROPOSAL**

**Detail**

Approval is sought for alterations and the addition of an upper floor to an existing Single house at 45 Solomon Street in Fremantle. The proposed works include:

- The addition of rear stairs and an open sided undercover area to the rear of the existing undercroft.
- Internal alterations to the existing dwelling.
- The addition of a rear terrace to the existing dwelling.
- The addition of a third storey above the existing dwelling comprising two bedrooms and two ensuite bathrooms, accessed via a stair and lift.

On 23 February 2022 the applicant provided additional plans demonstrating the extent of shade cast by the development on 21 March, 21 June, 21 September, and 21 December (equinoxes and solstices), providing shade analysis for each day at 9am, 12pm and 3pm.

Further to this information, the applicant submitted amended plans on 11 March 2022 including the following:

- Added privacy screening to the rear of the terrace to meet privacy deemed-to-comply requirements.
- Reduction to the height of the building by 100mm by reducing the height of the first floor frame. This amendment resulted in the roof height of the building now meeting the deemed-to-comply requirement of a maximum of 10m.
- Overshadowing analysis based on the amended plans for 21 March, 21 June, 21 September, and 21 December (equinoxes and solstices), providing shade analysis for each day at 9am, 12pm and 3pm.

Amended development plans are included as attachment 1.

#### Site/application information

Date received:	23 December 2021
Owner name:	C J Monastra, C S Sottile
Submitted by:	Summit Renovations
Scheme:	Residential R25
Heritage listing:	N/A
Existing land use:	Two storey dwelling
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 to vary the deemed-to-comply building height, and visual privacy requirements of the R-Codes. The advertising period concluded on 2 February 2022 and a total of three submissions have been received, one of which was received after the consultation period had ended on 14 February 2022. The following issues were raised (summarised):

- The submitters were concerned that the windows from the upper level would provide direct view into their rear yard.
- The submitters were concerned that due to the height of the additions, morning winter sun access in their rear yard would be affected and the development would result in a sense of enclosure.
- A submitter was concerned in relation to the building height, as the subject building already sits approximately 1.5m higher than their property. The addition is considered by the submitter to create an adverse impact upon their access to northern sunlight to their outdoor living area and windows and overall amenity as a result.
- The submitter was concerned that the rear balcony would overlook their rear yard and should be screened in accordance with the deemed-to-comply requirements of the R-Codes.
- The submitter noted that although the development satisfied the deemed-to-comply requirements of the R-Codes with respect to overshadowing, the submitter was opposed to the increase in shade cast over their property as this would directly affect their outdoor living area in winter.
- The submitters also raised concerns with respect to stormwater runoff from the property and the potential impact of the development on property values.

In response to the above, the applicant submitted updated plans to address the concerns raised by the neighbours by adding privacy screening and reducing the height of the building by 100mm and the following comments (summarised):

- With respect to overlooking towards the rear of the property, the windows to the proposed upper floor bedrooms comply fully with the deemed-to-comply requirements of the R-Codes.
- The proposal complies with the deemed-to-comply requirements of the Residential Design Codes with respect to overshadowing.
- The addition is sited behind the ridgeline of the existing building, thereby maintaining the single storey character of the streetscape, with the addition being subservient to the ground floor.



- The setting in of the upper floor reduces building bulk and the upper floor is generally of limited size and is considered by the applicant to not be unduly visually obtrusive when viewed from the street or neighbouring properties.
- The upper floor is consistent with the established pattern of development through the locality, comprising dwellings which have upper floor additions behind an original dwelling.
- The adjoining property to the south has a current development approval for additions and alterations to the rear of the existing dwelling. Based on the applicant's assessment the impact of the development upon these additions (if they are pursued) will not be significant with respect to shade cast by the development.
- The applicant notes that some overshadowing would be anticipated due to the east west orientation of the lots and the proposed extent of shade cast by the development is generally consistent with the outcome expected under the applicable zoning.

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

- The upper floor bedroom windows have been assessed and found to satisfy the relevant deemed-to-comply setback requirements of the R-Codes (4.5m), there is no additional requirement imposed for windows set at a higher level on a site.
- The introduction of a perpendicular screen to the side of the terrace will result in the development meeting the deemed-to-comply 7.5m cone of vision setback from the southern boundary. The erection of this screen is recommended as a condition of approval to ensure that the screen is installed and maintained to the City's satisfaction.
- The shade cast by the development as assessed against the deemed-to-comply requirements of the R-Codes, at midday on midwinter where shade cast to the south is at its greatest extent due to the sun angle at this time and has been found to comply. A maximum of 23% overshadowing is cast over the neighbouring lot to the south. However as shown in the applicant's submitted overshadowing diagrams, the development will cast varying degrees of shade over the neighbouring property throughout the year.
- In accordance with the design principles of the R-Codes with respect to building height, consideration is given both to access to direct sun to buildings, appurtenant open space and adequate daylight to major openings into habitable rooms and the impact of the shade cast by the development will be considered in this context in the officers' comment section of this report below.
- The development has been assessed in the context of the existing neighbouring site prior to the approved additions being constructed. Consideration has also been given to the impact of this development on the proposed additions.



- In accordance with the recommended condition of approval, stormwater runoff from the site should be retained on the subject property. With respect to the concerns in relation to property values, due to the scope of matters which are taken into account in calculating the value of a property over time, this is not readily able to be considered as a part of the development assessment process.

## **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 (external wall)

The above matters are discussed below.

### **Background**

The subject site is located on the western side of Solomon Street in Fremantle. The site has a land area of approximately 531m<sup>2</sup> and is currently occupied by a two storey Single house comprising a lower level partially set into the ground level of the property and a floor at street level. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed nor located within a heritage area.

The site slopes down approximately two metres from front to back and is accessed via a driveway to the southern side of the site. The proposal is seeking internal and external demolition works to the dwelling and some existing walls to the rear of the dwelling.

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





### Building height

Element	Requirement	Proposed	Extent of Variation
External Wall	7m 7.5m to lower side of property in accordance with Local Planning Scheme 4 cl. 5.8.1.2	8.5m (to low side - south)	1m

In accordance with LPS 4 clause 5.8.1.2 an increase to the maximum external wall height requirement can be provided to a maximum of 0.5m in the event that the over height element is on the lower side of the development footprint. In this case, the lower side of the development footprint exceeds the deemed-to-comply building height by approximately 1.5m at maximum.

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

- The addition will not unduly impact views of significance over the subject site. The opposite side of Solomon Street is set higher than the subject site, and the adjoining properties to the north and south generally seek views to the west rather than across the subject site.
- While the addition does increase the degree to which the adjoining property is overshadowed at midday the 21<sup>st</sup> of June, approximately half of this shade will fall over the neighbouring roof (12m<sup>2</sup>), with the remainder of the shade falling over the existing decking (15m<sup>2</sup>).
- It is noted that the neighbouring property to the south gained approval for additions and alterations to the rear of the property, and the applicant has provided overshadowing analysis taking into account these additions, should they be constructed. This analysis indicates that while morning sun to the rear yard on midwinter would be affected, this is already the case, with the new shade cast by the addition falling over the properties to the rear of the site.
- With respect to the midwinter shade as it affects the neighbours approved additions, the new shade cast by the additions will be predominantly over the neighbours roof, with the rear outdoor living area provided with midday, midwinter sunlight access.
- The applicant has provided analysis of the shade cast over the neighbouring property throughout the year, which notes the degree to which major openings and outdoor living areas on the neighbouring proposed additions will be overshadowed, noting that for the majority of the year little to no shade will be cast over these elements.
- In terms of the existing building, the shade cast by the addition does not affect any new major openings onto habitable rooms at midday on



midwinter, with new shade falling over the neighbouring decking and roof area.

- Upper floor additions are common in the area and will therefore not result in a significant impact on the character of the streetscape.

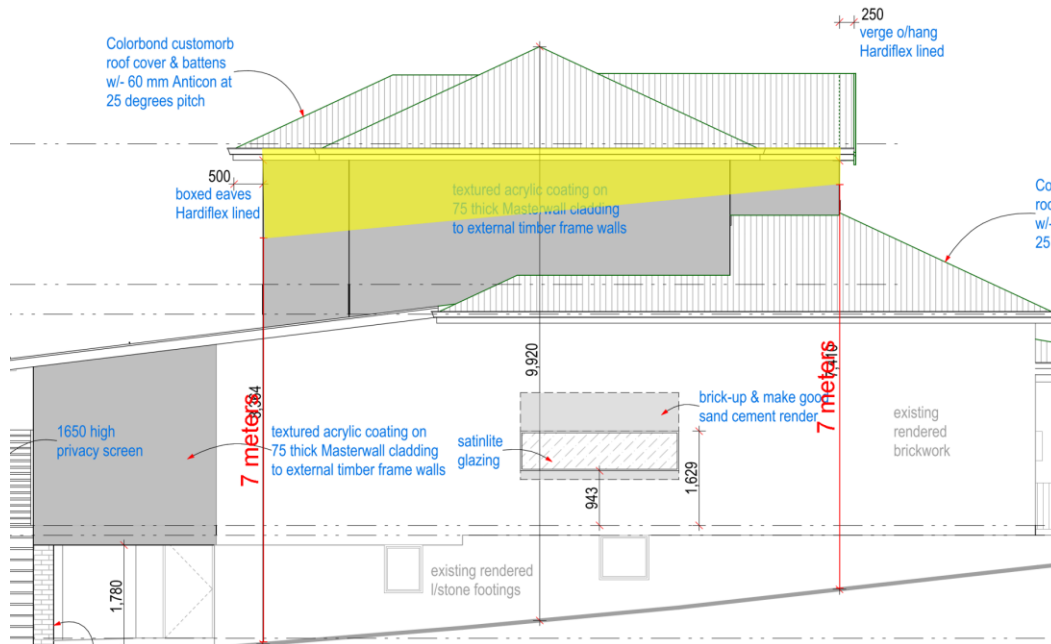


Image 1: diagram showing the over height portion of wall (south side)

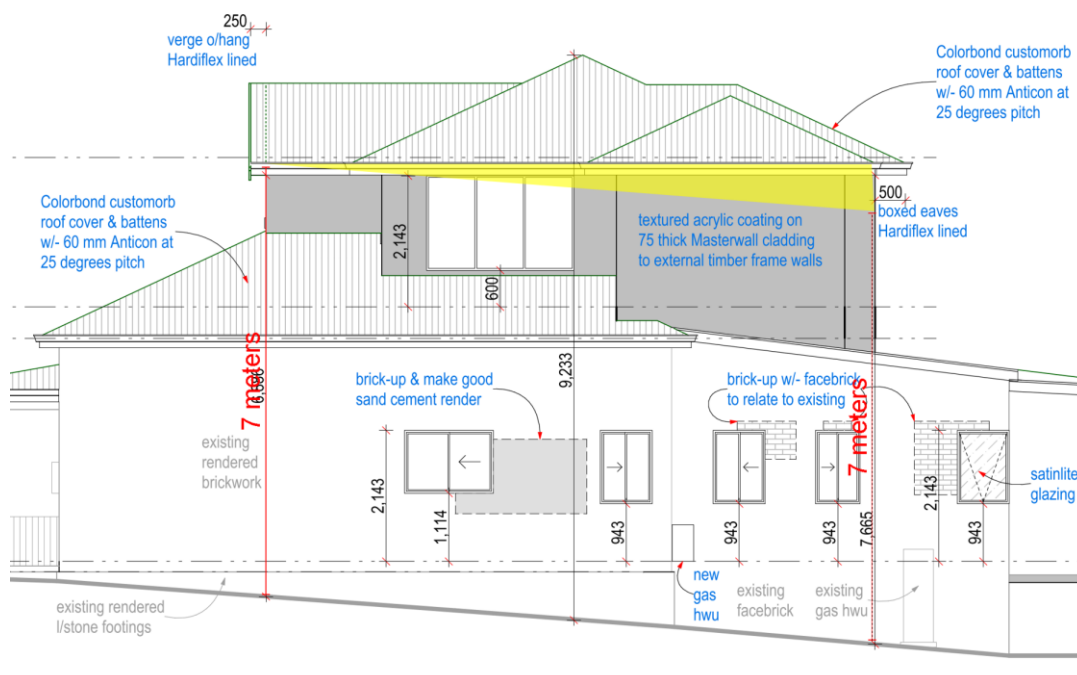


Image 2: diagram showing over height portion of wall (north side)



### Visual Privacy (South)

Element	Requirement	Proposed	Extent of Variation
Computer nook (study)	4.5m setback	1m	3.5m

With respect to the proposed computer nook, the proposal plans introduce a new major opening into this wall which is raised >0.5m above natural ground level. This window replaces a bedroom window in the same location which looks out at the neighbouring boundary wall. Accordingly this window is not considered to overlook any sensitive spaces to the neighbouring lot and can be supported as proposed.

The amended plans include a screen to the terrace to satisfy the deemed-to-comply requirements of the R-Codes.

### CONCLUSION

As discussed above, the proposed development generally satisfies the deemed-to-comply requirements of the Residential Design Codes and is considered to appropriately satisfy the design principles of the R-Codes with respect to the impact of the over height portion of wall to the upper floor.

On this basis, the application is recommended for approval, subject to conditions.

### STRATEGIC IMPLICATIONS

Nil

### FINANCIAL IMPLICATIONS

Nil

### LEGAL IMPLICATIONS

Nil

### OFFICER'S RECOMMENDATION

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions and alterations (Three Storey) to existing Single House at No. 45 (Lot 40) Solomon Street, Fremantle, subject to the following condition(s):**



- 1. This approval relates only to the development as indicated on the approved plans, dated 11 March 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the terrace located on the west elevation, is to be screened in accordance with Clause 5.4.1C1.1 of the Residential Design Codes by either:**
  - a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
  - b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**
  - c) a minimum sill height of 1.60 metres above the internal floor level,**

**Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.**
- 4. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

**Advice notes**

- i) A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**



**PC2204-10 SEAVIEW STREET, NO. 7 (LOT 1) BEACONSFIELD - CARPORT  
ADDITION TO EXISTING GROUPED DWELLING (JCL DA  
0472/21)**

**Meeting Date:** 6 April 2022  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Amended development plans  
**Additional information:** 1. Site Photos

**SUMMARY**

**Approval is sought for a carport to the existing Grouped dwelling at No. 7 Seaview Street, Beaconsfield.**

**The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against Local Planning Policy 2.9 Residential Streetscape Policy. This discretionary assessment includes the following:**

- **Primary street setback**

**The application is recommended for refusal.**

**PROPOSAL**

**Detail**

Approval is sought for a carport to an existing Grouped dwelling at No. 7 Seaview Street, Beaconsfield. The proposed works include:

- Construction of a double carport within the primary street setback area of the existing Grouped dwelling gaining access from existing battle-axe access leg shared with No. 7a Seaview Street.

The applicant submitted amended plans on 25 February 2022 including the following:

- Re-orientation of the carport and associated driveway to use the existing battle-axe access leg rather than the primary street;
- Omission of initially proposed widened crossover which means removal of street tree is no longer proposed; and,
- Additional detail of existing primary street fence and indication of existing sliding gate.

Development plans are included as attachment 1.

### Site/application information

Date received: 5 November 2021  
Owner name: Danielle Claire Silvan  
Submitted by: Russell Building Approvals  
Scheme: Residential - R25  
Heritage listing: Level 3 and South Fremantle Heritage Area  
Existing land use: Grouped dwelling  
Use class: Grouped dwelling  
Use permissibility: D



### CONSULTATION

#### External referrals

Nil required.



## Community

The application was advertised in accordance with Schedule 2, clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, due to streetscape and Primary street setback variations being proposed. The advertising period concluded on 17 December 2021, and two submissions were received, one in opposition and one in support of the proposal. The following issues were raised (summarised):

### Oppose

- The proposed carport does not conform to the set-back requirements with which all other residents in Seaview St have complied.
- The proposed carport does not conform to the existing streetscape.
- The proposal requires the removal of an established eucalyptus tree on the verge in contravention of F.C.C. policy to preserve the existing tree canopy wherever possible.
- The proposal requires an additional crossover be installed which would increase the number of connected concrete crossovers (and increased heat-sink effect) in this section of the street from two to four.
- The proposal does not conform to the subdivision plan as approved by F.C.C. and state planning authority.
- No 7 has shared access and ownership of the existing driveway and crossover as was approved and established.

### Support

- The carport and driveway is needed to allow for the occupiers to access and leave their property once construction commences on the rear lot, as it will be difficult to use the common battle-axe access leg during construction;
- The street tree has no relevance and should be removed. Most street trees have been removed due to the damage roots are causing;
- Every house should have a garage or carport to store cars, especially when they are expensive and need to be maintained.

In response to the above, the applicant submitted revised plans on 25 February 2022 to address the following:

- Re-orientation of the carport and associated driveway to use the existing battle-axe access leg rather than the primary street;
- Omission of proposed widened crossover;
- Omission of proposed street tree removal; and,
- Additional detail of existing primary street fence and indication of existing sliding gate.

The applicant provided additional justification on 25 February 2022, quoted below:

- "...The proposed carport will have the same material and style to the existing residence. This would contribute to the two buildings (residence and proposed carport) to look similar and keep heritage and would not over contrast..." and;



- *"...If changing the design as per Heritage advice to reduce the overall height and the form of roof, like skillion, this would create a contrasted front view from the street..."*

Regarding the submission objecting to the proposal, the following comments are provided:

- The City notes the objection relating to the primary street setback and streetscape impact;
- The amended plans no longer include removal of the existing street tree, and doesn't propose any widened crossover; and,
- The subdivision which created the rear lot included a right of carriageway to the benefit of the subject site. The amended plans demonstrate that vehicle access will be gained from the battle-axe access leg rather than a new crossover as originally proposed. Therefore, the proposal is consistent with applicable requirements relating to the subdivision approval.

Regarding the submission supporting the proposal, the following comments are provided:

- It is noted that construction may pose occasional minor impacts on the ability for vehicles to enter and exit the property via the battle-axe access leg. It is noted that any hindrance will be short term and is not guaranteed to occur, and can be realistically worked around by the occupiers of the dwelling. Further, this is not sufficient justification to allow the City to approve a widened crossover with the removal of a street tree;
- The City's Parks and Landscaping Department has advised that the removal of the street tree will not be supported given it is of very good quality and character; and,
- It is noted that carports and garages provide a degree of secure storage for vehicles.

The remaining comments are addressed in the officer comment below.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

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

The above matters are discussed below.



## Background

The subject site is located on the west of Seaview Street. The site has a land area of approximately 381m<sup>2</sup> and is currently a Grouped dwelling. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed and located within the South Fremantle Heritage Area.

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

- WAPC55-18 - Two lot Survey strata subdivision. The right of carriageway for the battle-axe access leg to the benefit of the subject site was implemented through this subdivision application.
- DA0378/19 - Primary Street Fence Addition to existing Single house. The current primary street fence, including the existing sliding gate facing the battle-axe access leg, was approved through this application.

## Primary Street setback

Element	Requirement	Proposed	Extent of Variation
Carport	7m	1.5m	5.5m

In relation to the primary street setback of the carport, Clause 2.2 states that:

*2.1 Garages, carports and outbuildings, except as provided for below, are to be setback in line with or behind the front wall of the dwelling.*

It is noted that the carport is located in front of the existing dwelling. Clause 2.3 and 2.4 states that the City has discretion to vary the above setback requirement when;

*2.3 Variations to the requirements of clause 2.1 or 2.2 above may be considered, at Council's discretion subject to the proposed development meeting at least one of the following criteria:*

- The proposed building is consistent with the character of buildings in the prevailing streetscape; or*
- The proposed setback of the building does not result in a projecting element into an established streetscape vista by virtue of the road and/or lot layout in the locality or the topography of the land; or*
- The proposed setback of the building will facilitate the retention of a mature, significant tree deemed by the Council to be worthy of retention (Refer also to LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites); or*
- The carport is lightweight in construction, appears simple in design and is visually subservient to the form and proportion of the dwelling. Additionally, the front setback area is designed in such a way so as to maintain visibility of the dwelling from the street and surveillance from the dwelling to the street.*





*2.4 Additional to clause 2.3 above, where the property is on the Heritage List the proposed development's compatibility with and impact on the heritage significance of the property will be considered. Due consideration will be given to the heritage assessment prepared under Local Planning Policy 1.6 Preparing heritage assessments and approval will only be granted where the development is considered compatible with the heritage significance of the property.*

The carport is not considered to meet the provisions of Clauses 2.1, 2.3, or 2.4 above in the following ways:

- There are no examples of other carports in the prevailing streetscape with either the same proposed setback, nor the same roof form;
- Given the above, it is considered that the carport detracts from the current streetscape amenity, thereby introducing a new element projecting into the existing streetscape vista;
- No mature trees on the site will be retained by virtue of the proposed setback discretion;
- The carport is not lightweight in construction, nor is it simple in design and visually subservient to the form and proportion of the dwelling. This is due to the complex and bulky roof form which mimics the roof form of the main dwelling, thereby increasing its prominence. Notwithstanding this, due to its open sided design, it is noted that the design allows for passive surveillance to and from the street to the dwelling to occur; and,
- The City's Heritage Department has advised that it doesn't support the proposed design specifically with respect to its location at the front of the existing dwelling, height, complex form of the roof, and impact on the visibility of the dwelling from the street. It is thereby considered that there will be a medium impact on the aesthetic value of the property and the streetscape from a Heritage perspective. Therefore, the proposal is not considered compatible with the heritage significance of the property, and is thereby not supported.

## **CONCLUSION**

On the basis of the above LPP 2.9 assessment, in addition to the Heritage advice received, it is considered that the proposed carport cannot be supported, and therefore 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, Carport addition to existing Grouped dwelling at No. 7 (Lot 1) Seaview Street, Beaconsfield, as detailed on plans dated 25 February 2022 for the following reason:

- a) The proposal is inconsistent with the City of Fremantle's Planning Policy 2.9 – *Residential Streetscape Policy* with respect to the primary street setback discretion due to the design of the carport being incompatible with the Heritage significance of the site and with the discretionary criteria of Clause 2.3 and 2.4.
- b) The proposal does not meet the Design Principle P1.1 of Part 5.2.1 of the RCodes.
- c) The proposal does not meet the matters to be considered provided in Clause 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, namely criteria (k), (l), (m), and (n) due to the adverse heritage outcomes detailed in the report.



## PC2204-11 INFORMATION REPORT - APRIL 2022

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

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

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

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

**Responsible Officer:** Manager Development Approvals  
**Agenda attachments:** Nil

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

1. Application Reference
DA0352/21
Site Address and Proposal
No 271a South Terrace, South Fremantle- Proposed change of use to small bar and alterations and additions to existing building
Planning Committee Consideration/Decision
<ul style="list-style-type: none"><li>At its meeting held on 1 December 2021, the Council resolved to refuse the application.</li></ul>
Current Status
<ul style="list-style-type: none"><li>On 5 January 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.</li><li>A Mediation session between the parties was held on 4 February 2022.</li><li>The applicant submitted further information for discussion in mediation held on 22 March 2022.</li><li>The applicant is invited to submitted amended plans and the City is invited to reconsider its decision on or before 8 June 2022.</li><li>A report dealing with the Amended Plans will be presented to either the May or June Planning Committee.</li></ul>



<b>2. Application Reference</b>
DA0405/21
<b>Site Address and Proposal</b>
No 2/284 South Terrace, South Fremantle- Proposed change of use Shop (Massage Parlour)
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>At its meeting held on 1 December 2021, the Council resolved to refuse the application.</li> </ul>
<b>Current Status</b>
<ul style="list-style-type: none"> <li>On 3 January 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>A Mediation session between the parties was held on 3 February 2022.</li> <li>The applicant submitted further information for discussion in mediation held on 17 March 2022.</li> <li>The applicant is invited to submit an amended proposal, and the City is invited to reconsider its decision before 7 June 2022.</li> <li>A report dealing with the Amended Plans will be included in May Planning Committee Agenda.</li> </ul>
<b>3. Application Reference</b>
DA0294/21
<b>Site Address and Proposal</b>
No 207 High Street, Fremantle- Internal alterations to existing Grouped Dwelling
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>Nil.</li> </ul>
<b>Current Status</b>
<ul style="list-style-type: none"> <li>On 24 March 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>A Directions Hearing between the parties is scheduled for 14 April 2022.</li> </ul>
<b>4. Application Reference</b>
DA0440/21
<b>Site Address and Proposal</b>
No 90 Bracks Street, North Fremantle- Demolition of existing buildings and structures
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>At its meeting held on 2 March 2022, the Council resolved to approve the application subject to conditions not recommended by officers.</li> </ul>



<b>Current Status</b>
<ul style="list-style-type: none"> <li>On 30 March 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>A Directions Hearing between the parties is scheduled for 14 April 2022.</li> </ul>

<b>1. Application Reference</b>
DAPV001/21
<b>Site Address and Proposal</b>
19-21 McCabe Street, North Fremantle – Proposed variation to DAP004/20 (Eight storey mixed use development comprising 13 Grouped Dwellings, 97 Multiple Dwellings, Restaurant, Shop)
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>At its meeting held on 2 February 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to refuse the development.</li> <li>At its meeting on 15 February 2022, the Joint Development Assessment Panel (JDAP) resolved to defer a decision on the application for a period of eight weeks, to enable further information to be prepared on parking and traffic issues.</li> </ul>

<b>2. Application Reference</b>
DAP005/21
<b>Site Address and Proposal</b>
19-21 Burt Street, Fremantle- Public works (Mixed use development)
<b>Planning Committee Consideration</b>
<ul style="list-style-type: none"> <li>At its meeting held on 1 December 2022, the Planning Committee resolved to provide a comment to the Western Australian Planning Commission (WAPC) that it supported the Officers recommendation to approve the development, with amendments.</li> <li>At its meeting on 25 March 2022, the Joint Development Assessment Panel (JDAP) resolved to approve the development in accordance with the Responsible Authority (WAPC) recommendation, with amendments to conditions of approval.</li> </ul>

<b>3. Application Reference</b>
DAP006/21
<b>Site Address and Proposal</b>



40 Collick Street, Hilton – Additions and alterations to existing building and change of use to child care premises

**Planning Committee Consideration**

- At its meeting held on 2 March 2022, the Planning Committee resolved to provide a comment to the JDAP that it supported the Officers recommendation to approve the development with amendments.
- At its meeting on 21 March 2022, the Joint Development Assessment Panel (JDAP) resolved to approve the development subject to minor amendments to the Responsible Authority recommendation.

**OFFICER'S RECOMMENDATION**

**Council receive the following information reports for April 2022:**

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



## 10.3 Council decision

### **PC2204-12 PROPOSED MRS AMENDMENT NORTH FREMANTLE DEVELOPMENT PRECINCT - PRELIMINARY COMMENTS**

<b>Meeting date:</b>	6 April 2022
<b>Responsible officer:</b>	Manager Strategic Planning and City Design
<b>Decision making authority:</b>	Council
<b>Attachments:</b>	Proposed MRS Amendment – North Fremantle Development Precinct
<b>Additional information:</b>	Nil

#### **SUMMARY**

**The Western Australian Planning Commission (WAPC) is inviting preliminary comment on a proposed Metropolitan Region Scheme (MRS) amendment for the 'North Fremantle Development Precinct'.**

**The subject site is in North Fremantle, approximately 23ha in area and bound by Port Beach Road to the west, Primary Regional Road reserve to the east, Tydeman Road and Freight Rail Reserve to the south, and Walter Place to the north. The land has historically been used for industrial purposes including a fuel terminal and lubricant depot, a former Standard Wool site and Caltex operations.**

**The amendment proposal requests a rezoning of this land from 'Industrial' to 'Urban' and 'Parks and Recreation Reserve.'**

**The purpose of the amendment would be to create urban development land. The rezoning request is based on the site no longer being required for industrial uses and the site's close location to Fremantle and North Fremantle, the Fremantle passenger railway line and Port Beach.**

**The City's officers consider Urban zoning is, in principle, the logical alternative zoning for the land if it is no longer required for industrial purposes. There are however several issues in relation to the site that would need a greater degree of resolution prior to a rezoning and/or redevelopment. These include:**

- Past industrial use of the land and remediation requirements.**
- Proximity of the site to a section of coastline of high regional recreational significance and coastal hazard vulnerability.**
- Current and future functioning of the Fremantle Port.**
- Regional and local transport and access considerations.**
- Future of Fremantle work and impact of future development on the site to the wider area.**

**This report recommends that in its preliminary comments to the WAPC Council requests, prior to progressing the formal MRS amendment process, that:**

- 1. the WAPC are satisfied that the loss of this land to industrial use would not be contrary to the objectives of the Commission's *Economic and Employment Lands Strategy: non-heavy industrial* and**
- 2. the WAPC, City and applicants work together to resolve the appropriate extent of land required for inclusion in the coastal foreshore Parks and Recreation Reserve.**

**Following this work, the remaining land subject to the rezoning proposal may more appropriately be considered for a MRS 'urban deferred' zoning in the first instance, to allow for more planning to be completed prior to a transfer to the Urban zone.**

## BACKGROUND





Figure 1. Subject site of Proposed Metropolitan Region Scheme (MRS) Amendment – North Fremantle Development Precinct (RLS/1012) and current MRS zoning.

The Western Australian Planning Commission (WAPC) is inviting preliminary comment from the City on a proposed Metropolitan Region Scheme (MRS) Amendment – North Fremantle Development Precinct (RLS/1012).

The subject site is approximately 23ha in area in North Fremantle. The site is bound by Port Beach Road to the west, Primary Regional Road reserve to the east, Tydeman Road and Freight Rail Reserve to the south, and Walter Place to the north (refer to figure 1). The land has historically been used for industrial purposes including a fuel terminal and lubricant depot by Viva Energy Australia (formerly Shell Australia), a former Standard Wool site and a former Caltex operation.





Figure 2. Proposed Metropolitan Region Scheme (MRS) Amendment – North Fremantle Development Precinct (RLS/1012).

The proposed MRS amendment is a joint proposal between the landowners VE Property Pty Ltd (VEP) and the North Fremantle JB Pty (NFJV). The amendment proposes to rezone the subject site (approximately 23ha) from 'Industrial' to 'Urban' and 'Parks and Recreation' (refer to figure 2).

Previously, two separate rezoning proposals were submitted by the two different landowners in the area in 2016 and 2019. In response to these, the Department of Planning, Lands and Heritage requested that both parties collaborate to create a single proposal to facilitate an integrated assessment. This proposed North Fremantle development precinct amendment is a result of the applicants responding to the Department's request and working together. Accordingly, the two previous proposals were formally withdrawn with the lodgement of this proposed MRS amendment.

In essence, while there are some residual industrial uses still functioning on the land, the proposal outlines that the subject site is no longer used or required for its past industrial use. The applicants therefore propose the land be rezoned for urban development noting its close location to Fremantle and North Fremantle, the Fremantle passenger railway (approximately 150m), and Port Beach as key reasons for this request.

The applicant's proposal provides the following justification for the amendment:

*The proposed MRS Amendment should be supported for the following reasons:*

- *The subject land is no longer required for industrial purposes*
- *The highest and best use of the land has been demonstrated through this proposal to be Urban*
- *The development of the land for Urban purposes represents a logical progression of established urban development in the locality*
- *The Amendment is consistent with the overarching objectives of the State and local strategic planning framework*
- *The land can be fully serviced with standard urban infrastructure*
- *There are no constraints or other factors that would preclude rezoning to Urban*
- *The rezoning of the land to Urban provides a unique opportunity to develop a land parcel with only four owners, in a coordinated manner and in accordance with State and local planning objectives*



### OFFICER COMMENT

The City's officers consider exploration of alternative uses for the North Fremantle Development precinct is reasonable and 'Urban' development presents a logical option for the following reasons:

- The site is large enough for comprehensive development and well located in proximity to the beach, train line (METRONET and its related emphasis on transit-oriented outcomes) and metropolitan centres.
- The State government has endorsed Westport's recommendation to move container trade to a new harbour in Kwinana leaving the future of the Fremantle Port, at the very least, to be a reduced freight operation.
- In recent years operations on the subject site have been downscaled so that now the site is relatively unused as an industrial area.

However, due to the land's past industrial use and its proximity to the Fremantle Port and a section of coastline of high regional recreational significance and coastal hazard vulnerability, as well as regional and local transport and access considerations (associated with the Port, new development and otherwise), and the Future of Fremantle work currently in train and impact of future development on the site to the wider area, there are several issues that would need to be resolved prior to the subject site being suitable for urban redevelopment.

Issues for rezoning and redevelopment of the subject site include:

#### **1. Confidence on port relocation and future need for industrial land.**

When previous 2016 and 2019 MRS rezoning proposals were put forward for the subject site the Port Authority expressed views that this industrial land was needed for industrial purposes to support Port operations. Since this work, the independent taskforce Westport have assessed the options for the future of Fremantle Port operations and found that even with billions of dollars' worth of road upgrades, the transport network supporting the Fremantle Inner Harbour would reach capacity by the mid-2030s.

Accordingly, in May 2020, state government endorsed Westport's recommended location and design for a future container port at Kwinana. Work is now proceeding to determine the timetable of transitioning freight from Fremantle Port to Kwinana either in one step by 2032 or over a phased period that will see both ports share the freight task for around a further 15 years.



The proposed MRS rezoning report notes, in relation to the Westport investigations:

- *Prior to the transition of port operations to Kwinana it will be business-as-usual for Fremantle Ports and this in no way relies on the subject land being Industrial*
- *If port operations do not relocate to Kwinana and continue at Fremantle, it would not result in the subject land being required for port-related (industrial uses) and nor would it impact on matters of access*

Officers understand that Fremantle Port Authority has also been invited to provide preliminary comment to the WAPC and is likely to respond to the applicants' statements above.

In regard to the industrial use of the land the application notes that the subject site, while currently does have some industrial uses still in operation, is no longer needed for its former level of industrial uses. Over the years this has been evident in the downscaling of industrial sites and clearing of land in the area.

WAPC's *Economic and Employment Lands Strategy: non-heavy industrial* specifically notes in relation to industrial land in the central sub-region: "*Due to these other high end competing uses, such as residential and commercial, the land stock is under extreme pressure and if no intervention is taken to protect the remaining industrial land parcels the land stock will be dramatically reduced*"

Officers therefore recommend that in considering the rezoning of the subject site, in the first instance, the WAPC should satisfy itself that the loss of this land to urban use would not be contrary to the objectives of the Commission's *Economic and Employment Lands Strategy: non-heavy industrial*.

## **2. Future of Fremantle**

Subsequent to its acceptance of the recommendations of the Westport Task Force, last year the State Government established Future of Fremantle (FoF), a Committee of the WAPC, and a Reference Group to: *'to consider land use and economic development opportunities around North Quay and surrounding areas, and to continue developing a new vision for a Victoria Quay Waterfront Precinct.'*





Figure 3. Future of Fremantle Study Boundary

The subject site is within the FoF's area of study (refer to figure 3).

The application for the MRS amendment puts forward the following justification for why the amendment should not be held up by the outcomes of the Future of Fremantle group's work. Officer comments have been provided in reply.



<p>Application comments</p> <p><i>While there are opportunities for the subject land from the Future of Fremantle process, this amendment request relates to a discrete precinct capable and appropriate for planning that is mindful of FoF but not formally tied to it.</i></p> <p><i>This is important and possible because:</i></p>	<p>City of Fremantle Officer comments</p>
<p><i>The Fremantle Port Authority precinct (as the bulk of the FOF Study Area) and subject land are not integrated parcels. Tydeman Road represents a logical boundary between the two projects.</i></p>	<p>The subject site is in close proximity to the port land, albeit a road separates them (Tydeman Road). There will be an interface between the two precincts. This is an opportunity for comprehensive master planning a large inner-city piece of land. Even without the master planning the future development of the sites should logically consider each other in design, use, infrastructure and facilities for the best outcome.</p>
<p><i>The subject land and FoF area are not reliant on each other for design or implementation – with respect to access, land use, staging or the coastal foreshore etc.</i></p>	<p>Access into and around this area is an issue (see point 3 below). Land use needs to be considered on a district/regional level (see point 8 and 9). Future land use and infrastructure decisions relating to the north-western part of North Quay in particular (such as the future alignment and/or physical protection of Port Beach Road south of Tydeman Road could affect the Coastal foreshore and processes adjacent to the proposed Amendment area, and vice versa (see point 5).</p>
<p><i>The proposed amendment in no way prejudices FoF outcomes. The FoF has already embarked on planning for highly significant projects such as the Swan River Crossings project, a new film studio and screen production facility, and the redevelopment of the heritage-listed A Shed on Victoria Quay as a food and beverage destination – all of these projects are</i></p>	<p>It may be too early to determine if the proposed MRS amendment would prejudice the Future of Fremantle outcomes. Early FoF projects listed are focused on river crossings and Victoria Quay and not the main area of North Quay which has the most significant interface with the subject site.</p>



<i>in the FoF study area and have been able to progress concurrent with the study.</i>	
<i>The timing for FoF programming is uncertain – there is no guarantee of when a master plan for public comment will be complete. With this uncertainty it would be unreasonable to delay progress on a land parcel that is ready for more detailed planning to occur and is otherwise broadly consistent with the intent and purpose of the FOF study.</i>	The FoF programming is not completely uncertain or excessively long. There may be scope to include or consider outcomes from the FoF at different times in the amendment process.
<i>comparatively small area that the subject land represents in the context of the FoF area, further illustrating that it would not prejudice FoF outcomes.</i>	The Port land is a very large tract of land for a predominantly built out urban local government. While a smaller area comparative to this, the subject land is still a large development area for the City of Fremantle. The subject site could potentially yield a large residential population and commercial centre and impact the surrounding area.

While officers do not necessarily consider the FoF work needs to be completed before a rezoning of the subject site is progressed, it would be of value to have some outcomes of the FoF work advanced enough to inform the zoning and development configurations, access and roading, and future residential and commercial aspects on the site.

### **3. Transport planning and access into the port**

Planning for the future regional road network in this area has been a long-outstanding critical issue. The applicant provides the following summary in their MRS Amendment report:

*There are two options for extension of Curtin Avenue under consideration.*

*Option 1 entails the extension of Curtin Avenue along the eastern boundary of the proposed rezoning area to connect with Tydeman Road.*

*Option 2 entails the creation of a grade separated flyover across the rail line and connection to Stirling Highway and Stirling Bridge. This option entails the relocation of North Fremantle Train Station approximately 150m further south.*



*It is understood that Main Roads WA's preferred option is Option 2. WAPC has placed a Planning Control over the area to facilitate either option.*

*Both options entail the realignment of Tydeman Road which results in the construction of a new T-intersection. It appears that both options show the possible reconfiguration of the existing signalised T-intersection of Port Beach Road / Tydeman Road, to a roundabout intersection.*

*Detailed future intersection designs for Tydeman Road / Port Beach Road and Curtin Avenue / Walter Place were not available at the time of this assessment.*

*At present there is no timeframe for the implementation of the Curtin Avenue Extension project. The proposed draft land use and movement plan shows the extension of the Curtin Avenue as per Option 1 and in line with the current MRS.*

The Main Roads WA preferred option 2 raises significant concerns from an urban design perspective. It would also create further barriers for the North Fremantle community living east of Stirling Highway to access the North Fremantle centre and the coast. It may also provide limited access to the Port (assuming redevelopment), resulting in the increased use of Port Beach Road or a realignment of this.

The need to maintain a functional regional road network in this area is acknowledged, but local access and resolving (or at least not worsening) community severance issues in North Fremantle also need to be considered. Officers consider a further road network option worthy of consideration is a model of a dispersed 'urban grid' network of boulevard style roads instead of consolidation of through-traffic onto one or two controlled access main roads. A grid network would provide flexibility to service local needs as well as through traffic, and could accommodate changes in land uses over time as Port trade likely transitions out of North Quay. Opportunities to improve local amenity as well as accessibility to the Leighton – Cottesloe foreshore is also preferable.

#### **4. Ground contamination**

The applicant provides two Environmental Assessment Reports (covering the north and south parts of the precinct) in the MRS amendment proposal. The reports note that prior to urban development the land will be remediated to accord with environmental requirements. It concludes, "*there are no environmental constraints to redevelopment of the site for Urban use.*" The reports also acknowledge that contamination of the site's soil and groundwater may be a possible environmental issue that requires management, but that this will be addressed under the requirements of the *Contaminated Sites Act 2003* and does not warrant further consideration under the planning process.





City officers consider however that given the long history of industrial and fuel storage land uses in this precinct some level of contamination is likely and therefore remediation will be required prior to redevelopment for urban purposes. Notwithstanding requirements to manage contamination under other legislation, officers consider this is a key issue that does warrant being addressed through early stages of the planning process to confirm that redevelopment for urban land uses (particularly) residential is viable and appropriate.

### **5. Coastal vulnerability and hazard management**

One potential constraint to development on the subject site is coastal vulnerability risk. The MRS amendment proposal includes a Coastal Foreshore Assessment study and notes:

*"The Study includes a comprehensive assessment of the amendment proposal against SPP2.6, a Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) and an assessment of the existing values, features and attributes of the foreshore area, and concludes that coastal erosion hazards are a manageable risk for the site and are no impediment to the approval and implementation of an urban outcome."*

The application notes in reference to figure 4 below:

*"The delineation of Urban zone in relation to proposed Parks and Recreation Reserve accommodates the ultimate 100-year planning horizon. Beyond the 100-year retreat line a foreshore can be accommodated in the proposed Parks and Recreation Reserve that provides for the replication of current characteristics and values as sought by SPP2.6."*

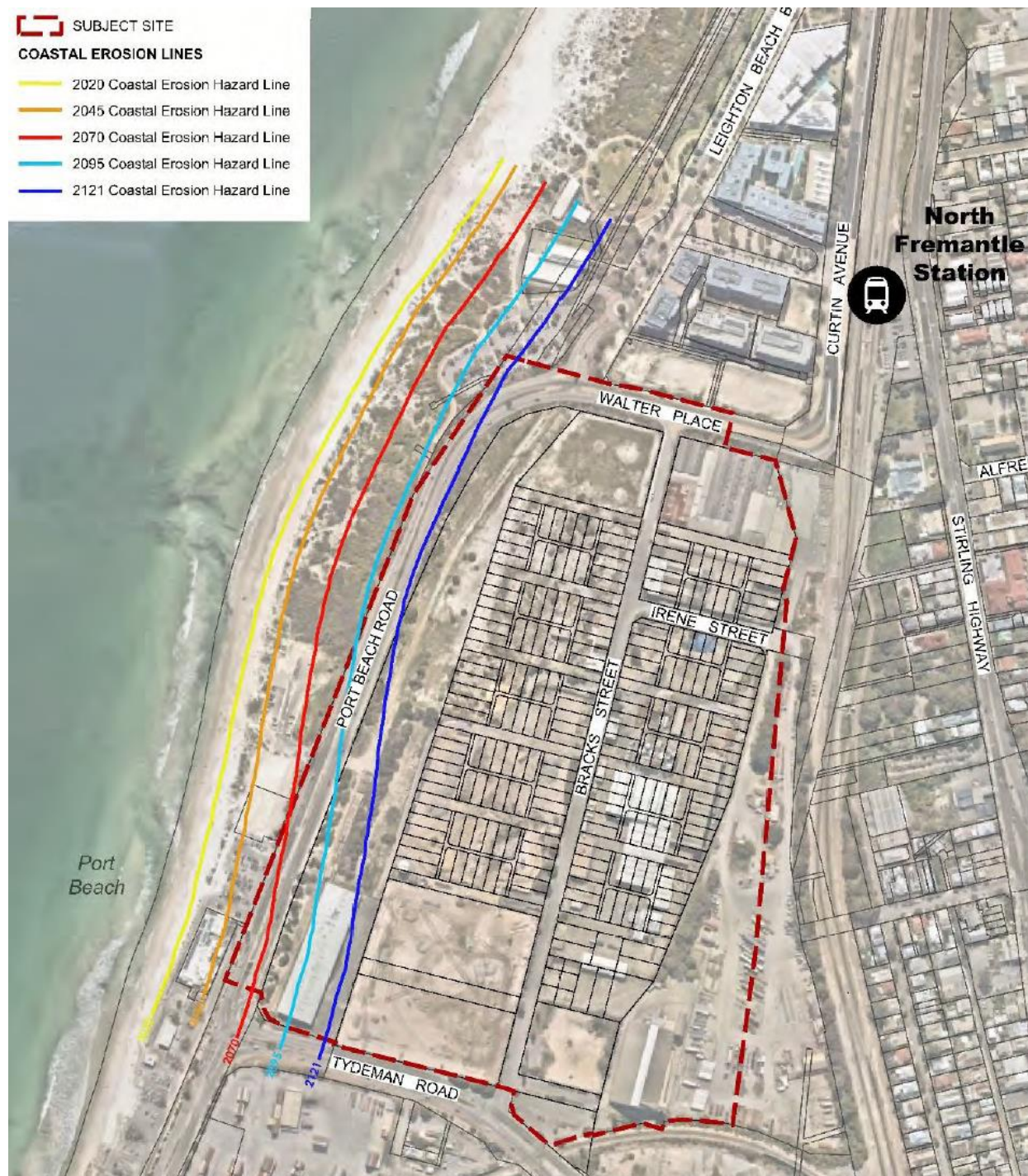


Figure 4. Application's Coastal erosion lines including 100-year coastal hazard line.

Accordingly, the application proposes approximately 4ha of reserve land (as well as 'urban' zoned land) as part of the MRS amendment along the western side (refer to figure 2) that encompasses this 100-year coastal erosion line.



The applicant further provides:

*"The proposed foreshore ensures that even in a worst-case scenario where an unprotected coastline is impacted and eroded by extreme climatic conditions for the next 100 years, there will still be a broad and continuous coastal foreshore that:*

- Is responsive to the site and the specific local context;*
- Includes an allowance for physical processes to occur over a 100-year period, and assuming an unprotected 'natural' coastline;*
- Provides sufficient area landward of the coastal process allowance to continue to accommodate the prescribed values, functions and uses of the foreshore for the next 100 years and beyond; and*
- Provides sufficient area to deliver a high-amenity foreshore that is a significant improvement on the existing Port Beach area.*

*The rigorous, evidence-based analysis carried out by technical experts to inform the coastal reserve width is consistent with the process specified in SPP2.6 and its supporting Guidelines, and confirms that the proposed foreshore reserve is an appropriate and informed planning outcome."*

While State Planning Policy 2.6 – Coastal planning does consider coastal hazard risk and includes guidelines specific to this (*Coastal hazard risk management and adaptation planning guidelines*) it also considers matters such as development and settlement, water resources and management, building height limits, coastal protection works and coastal foreshore reserve.

In regard to Port Beach, it is also pertinent to note that at its Ordinary Meeting of Council on the 11 December 2019, Council adopted a policy position of managed retreat as the preferred strategy for responding to coastal erosion risk at Port and Leighton Beach, noting managed retreat is implemented over an extended timeframe. As part of this Council additionally resolved to:

*Progress discussions with the Western Australian Planning Commission on the preparation of a precinct plan for the area to resolve coastal setbacks, transport and access, recreation needs, landscape and land use with a view to establishing an enduring and sustainable beach, and advancing integrated planning for this.*

Officers have not had the opportunity to interrogate the proponents' Coastal Study in detail or compare it to the City's Port, Leighton and Mosman Beaches Coastal Hazard Risk Management and Adaptation Plans (CHRMAP) recommendations, to reach a definitive view on the adequacy of the proposed Parks and Recreation Reserve area. However, even if the MRS Amendment submission deals adequately with the assessment of coastal hazards and setback requirements needed to mitigate these risks on a 100-year planning horizon and under a managed retreat strategy, officers have concerns that it might not additionally address reserve space needed for environmental and





recreational use. SPP 2.6 explicitly states that planning for the impacts of coastal hazards is only one input into the determination of a coastal foreshore reserve, and adequately protecting the values, functions and uses of reserves is also important. Biodiversity and ecosystem integrity, public access and recreational use are specifically identified as other functions to be protected.

This area is in an unusual situation in that the MRS Amendment land is right beside, and effectively links, the main beach access points and 'nodes' of activity and facilities at Port and Leighton beaches. Port and Leighton beaches are heavily used and although Leighton is identified as a District-level coastal node in the hierarchy of coastal nodes contained in the WAPC *State Coastal Planning Policy Guidelines* (November 2020) which supplement SPP 2.6, it arguably serves more of a regional catchment function. There is a demonstrated need for improved facilities at Port Beach to take the pressure off Leighton Beach and accommodate overall growth in demand for beach use as population increases. With coastal hazard impacts already evident in this area any reserve planning may well need to provide for additional land for dune systems to establish further back, and land behind those dunes for new recreational facilities safe from erosion and/or inundation over the 100-year planning horizon, i.e. public car parks, cafés, change rooms/toilets, BBQs/shade structures and the like. Due to these factors there may be a need in this area for foreshore reserve depth over and above what a 'normal' SPP2.6 assessment might indicate. This work, however, has not currently been completed.

Accordingly, as the proposed MRS amendment proposes allocation of an area of the subject land as foreshore 'Parks and Recreation' reserve, as well as an 'Urban' zone, officers suggest further work to assess whether the currently proposed boundary between the foreshore reserve and urban zoned land is on an appropriate alignment. Specifically, officers recommend the WAPC, City of Fremantle, the proponents and other relevant stakeholders engage in further discussions (prior to formal progression of the MRS Amendment proposal) to review the extent of land required to be included within an expanded Parks and Recreation Reserve in order to meet the long-term recreational demands upon this precinct in addition to addressing the risks and impacts of coastal processes.

#### **6. Scope of upgrades to services needed to support urban land uses**

Servicing sites, especially brownfield sites with multiple landowners, for comprehensive redevelopment has been an issue in Fremantle on other development sites. In its favour, the subject site has only a few landowners. While the proposal notes the site has a level of water reticulation, underground power, telecommunications and wastewater, extensive service upgrades are required to support further development.

## 7. Management of Fremantle Port buffer transition

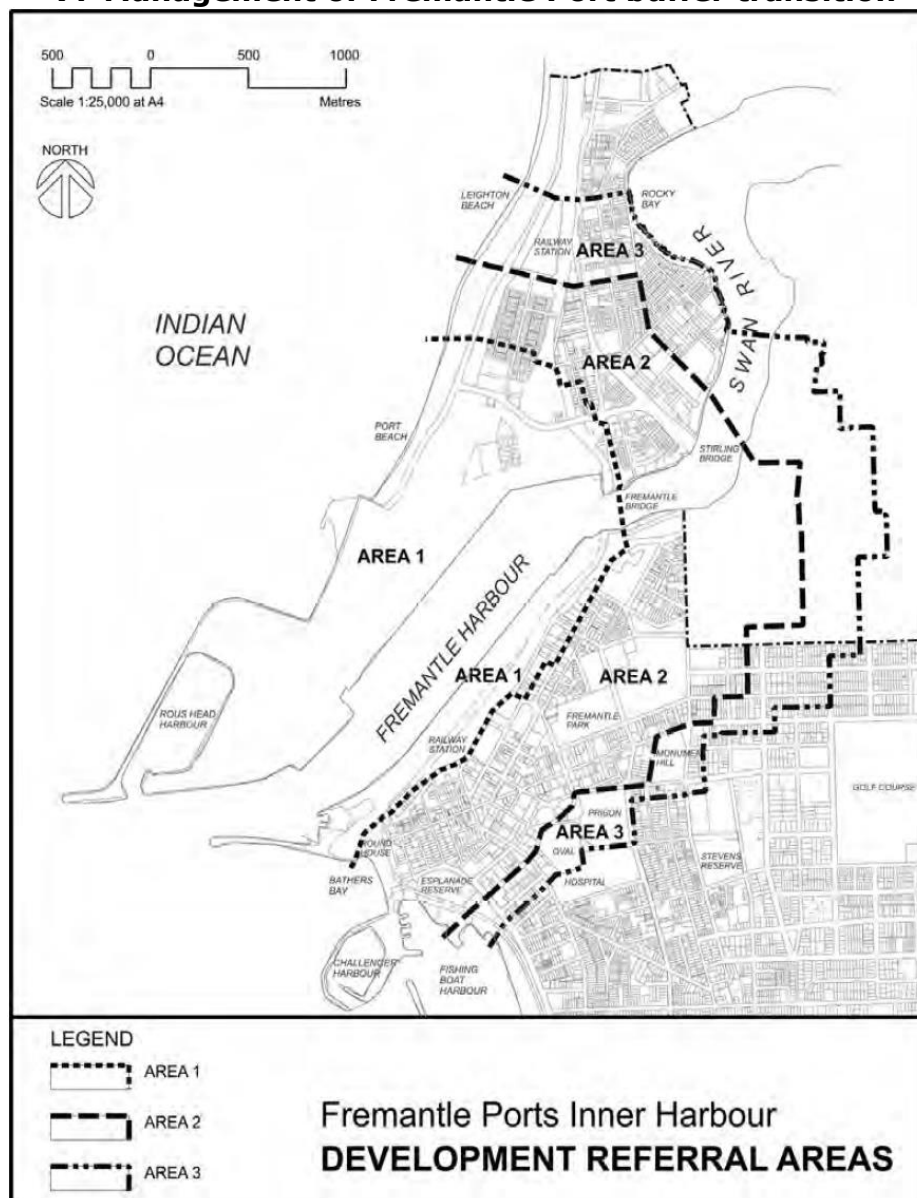


Figure 5. Local planning policy 2.3 Fremantle Port Buffer Area Development Guidelines – Development referral areas

The subject site is within the Fremantle Port buffer areas 1 and 2 (refer to figure 5). Being located in area 1 and 2 there is a requirement to control development in order to minimise the following potential impacts:

- Ingress of toxic gases in the event of an incident within the Port,
- Shattering or flying glass as a consequence of an explosion within the Port,
- Noise transmission emanating from the Port (attenuation in the order of 35dB(A) is required), and



d) Odour

Residential developments proposed in area 1 greater than 50 dwellings shall be supplemented with a formal risk assessment. The assessment shall clearly demonstrate that the risk impact from port operations to the occupants will be maintained as low as reasonably practical. Additional design requirements for the building are also applicable for area 1 and 2.

Assuming the Fremantle Port freight functions mover time, a reduction in the port buffer requirements would be reasonable at some future date as it would otherwise limit full development potential of the site and could even result in a less desirable outcome if planning was based on the port buffers, but no longer needed down the track. While this is not an issue for the proposed MRS amendment to urban and it could be considered at a later stage, it is an issue for the future development of the site and planning needs to ensure no significant land use conflict or hazard occurs or redundant controls do not hinder optimum development outcomes.

### **8. Open space provision**

Any residential development on the subject site would need to be supported by some local/neighbourhood open space in addition to the regional foreshore reserve. The City's recreational planning work to date suggests that no additional active open space would be required in this location at this stage. In the event of the Port being redeveloped for residential, additional recreational facilities would be required but could be accommodated within that area.

This is not necessarily an issue for the MRS amendment stage, however something to consider if/when the site is developed.

### **9. Commercial floorspace/ Land uses**

North Fremantle Activity Centre is nominated as a District Centre in State Planning Policy 4.2 – Activity centres, however it does not function as such. Specifically, it lacks a local supermarket. The closest supermarkets are East Fremantle (1.5km) and Mosman Park (3.5km). North Fremantle's growth as a centre has been restricted to some degree by its location, fragmentation and access limitations.

While it is not necessary to allocate commercial space at the MRS amendment stage, the proponents do include a 'concept plan' with indicative Commercial zoning/land use in the southwest corner of the site. The proponent provides:

*"Commercial and mixed use can be located along the southern extent of the subject land to buffer/transition from the port area and Tydeman Road Land use controls can be applied to ensure that future development does not compete with Queen Victoria Street and instead focus on uses that are presently unprovided for such as a local supermarket."*



Officers note that if additional retail is required to support additional urban development on the subject site, it would be preferable to collocate this with the existing centre, or at the very least establish strong pedestrian/cycle connections between the existing town centre and any new retail facilities. In any event at a future stage of planning any proposals to develop significant additional floorspace on the subject site should be accompanied by a retail impact assessment and demonstrate how it will not undermine the existing retail hierarchy.

A scenario which undermines Fremantle's established activity centres would be of concern. Location of a car-based centre on the beach is also considered undesirable from both a planning and urban design perspective.

## Conclusion

Having regard to the range of issues discussed above, officers consider a more staged approach to a transition of zoning from Industry to Urban would be appropriate. Provision exists to do this through the use of an 'urban deferred' status under the MRS:

*Urban deferred: This zone provides a strong indication that the land is physically and locationally suitable for urban purposes, and that this use is consistent with planning intentions, although certain requirements have to be met before the WAPC will agree to the land being transferred to the urban zone.*

Under an urban deferred zoning, before agreeing to the transfer of land to the urban zone, the WAPC (under *Planning guidelines - Lifting of urban deferment 2019*) requires evidence, such as a draft structure plan, that:

- *the land is capable of being provided with essential services and agreement has been reached between the developers and service providers with regard to the staging and financing of services;*
- *planning is sufficiently advanced to depict an acceptable overall design to guide future development;*
- *the proposed urban development represents a logical progression of development;*
- *regional requirements (such as regional roads, open space and public purposes) have been satisfied or provision made for them; and*
- *any constraints to urban development, including in relation to environmental, hazard and risk issues, can be satisfactorily addressed.*

Where land has an urban deferred status, the requirements for further work to be done to address various planning issues can be expressed as conditions to be satisfied in order for the WAPC to lift the deferred status. In the case of the North





Fremantle industrial precinct these conditional matters might appropriately deal with the following:

- a) Regional road planning requirements have been resolved and provision made for them.
- b) Full identification of the extent of any soil and/or groundwater contamination, and determination of satisfactory contamination management and remediation requirements.
- c) Demonstration by the applicants that the land is capable of being provided with essential services and agreement has been reached between the developers and service providers with regard to the staging and financing of services. Given the relatively large size of this overall land area, this requirement would enable servicing issues to be resolved before land ownership potentially becomes more fragmented. This would then save time at the local structure plan, subdivision and development application stages.

In conclusion, officers recommend providing preliminary comment back to WAPC stating that the City in the first instance requests:

- 1. the WAPC are satisfied that the loss of this land to urban use would not be contrary to the objectives of the Commission's *Economic and Employment Lands Strategy: non-heavy industrial*; and
- 2. the WAPC, City and applicants work together to resolve the appropriate extent of land required for inclusion in the coastal foreshore Parks and Recreation Reserve.

and subject to resolution of these two preliminary matters, the land not required to be included in the foreshore Parks and Recreation Reserve referred to in (2) above be rezoned to 'urban deferred' to allow for more planning to be completed prior to a transfer to the Urban zone.

## **FINANCIAL IMPLICATIONS**

Providing preliminary comments on a proposed MRS amendment to WAPC does not have any financial implications for the City.

## **LEGAL IMPLICATIONS**

None.



## CONSULTATION

Once comments have been received and reviewed by the Department of Planning, Lands and Heritage through this preliminary comment process, a report may be presented by the Department to the WAPC recommending the initiation of an amendment to the Metropolitan Region Scheme. Should an amendment be initiated, the WAPC will again contact the City seeking formal comment on the amendment proposal, and will advertise the amendment for widespread public comment.

## VOTING AND OTHER SPECIAL REQUIREMENTS

Simple majority.

## OFFICER'S RECOMMENDATION

**Council advises the Western Australian Planning Commission (WAPC) that the City of Fremantle's preliminary comments on the Proposed Metropolitan Region Scheme (MRS) Amendment – North Fremantle Development Precinct (RLS/1012), are as follows:**

- 1. The exploration of alternative land uses for the North Fremantle Development Precinct is reasonable given the vacant, and largely cleared, status of the land in this precinct. 'Urban' zoning presents a logical option given its prime location, subject to the WAPC being satisfied that the loss of this land to industrial use (whether related to Fremantle Port or other industrial land needs) would not be contrary to the objectives of the Commission's *Economic and Employment Lands Strategy: non-heavy industrial*. However, due to the land's past industrial use, its proximity to a section of coastline of high regional recreational significance and vulnerability to coastal hazards and the Fremantle Port, regional and local transport and access considerations, and the Future of Fremantle work and impact of future development on the site to the wider area, there are several issues that the City considers need a greater degree of resolution prior to the subject site being suitable for zoning for urban redevelopment. These are as follows:**
  - a) Determination of the extent of land required for an enlarged coastal foreshore Parks and Recreation Reserve, taking into account the need for the portion of the reserve inland of the year 2120 coastal erosion hazard line to provide sufficient space for environmental conservation and public recreational needs, noting that to meet these needs community infrastructure to service Port Beach as a second beach 'node' to relieve pressure**



**on Leighton Beach and accommodate growing population demands for beach use will be required.**

- b) The land being capable of being provided with essential services and agreement has been reached between the developers and service providers with regard to the staging and financing of services.**
  - c) Future of Fremantle planning has sufficiently advanced to a stage that depicts clear objectives to guide future development in the area.**
  - d) Regional road planning requirements have been resolved and provision made for them.**
- 2. Having regard to point 1 a) above, the City requests the WAPC to engage in further discussions with the City of Fremantle, the proponents and other relevant stakeholders to review the extent of land required to be included within an expanded Parks and Recreation Reserve in order to meet the long-term recreational demands upon this precinct in addition to addressing the risks and impacts of coastal processes.**
- 3. Subject to resolving the appropriate extent of land required for inclusion in the coastal foreshore Parks and Recreation Reserve as referred to in point 2 above, the City considers that the remaining land subject to the rezoning proposal could more appropriately be considered for a MRS 'urban deferred' zoning in the first instance, to allow for more planning to be completed prior to a transfer to the Urban zone. The lifting of urban deferred status should be tied to demonstration of the matters referred to in point 1b, 1c and 1d above having been satisfactorily addressed.**



## **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.

## **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.

## **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.

## **14. Confidential business**

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

## **15. Closure**