



# Agenda

## Planning Committee

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Wednesday, 4 September 2019, 6.00pm

**CITY OF FREMANTLE**  
**NOTICE OF A PLANNING COMMITTEE MEETING**

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday, 4 September 2019** in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.

A handwritten signature in black ink, appearing to read 'Paul Garbett', with a long horizontal stroke extending to the right.

Paul Garbett  
**Director Strategic Planning and Projects**

30 August 2019

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**CITY OF FREMANTLE**

**Planning Committee**

**Agenda**

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**1. OFFICIAL OPENING, WELCOME AND ACKNOWLEDGEMENT**

We would like to acknowledge this land that we meet on today is the traditional lands of the Whadjuk people and that we respect their spiritual relationship with their country. We also acknowledge the Whadjuk people as the Traditional Owners of the greater Walyalup area and that their cultural and heritage beliefs are still important to the living Whadjuk people today.

**2. ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE**

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

**3. DISCLOSURES OF INTERESTS**

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

**4. RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

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

**5. PUBLIC QUESTION TIME**

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

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

**6. PETITIONS**

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

**7. DEPUTATIONS**

**7.1 Special deputations**

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

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**

**That the minutes of the Planning Committee meeting dated 7 August 2019 be confirmed as a true and accurate record.**

## **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**

**PC1909 -1      QUEEN VICTORIA STREET NO.229 (LOT 20), NORTH FREMANTLE -  
PARTIAL CHANGE OF USE TO SMALL BAR, ADDITIONS,  
ALTERATIONS AND SIGNAGE TO EXISTING BUILDING (JL  
DA0420/18)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachment:** 1: Amended Development Plans  
2: Site Photos

#### **SUMMARY**

Approval is sought for the partial change of use from Shop to a Small Bar at No. 229 Queen Victoria Street, North Fremantle.

The application is presented to Planning Committee (PC) due to a number of submissions received against the proposal which cannot be addressed through conditions of planning approval.

The proposal has been assessed against the provisions of the Local Planning Scheme No. 4 (LPS4) and the City's Local Planning Policies (Council Policies) and seeks discretionary decisions in relation to the following:

- Land use (Small Bar)
- Car Parking

The original application was presented to the PC at its meeting held on 3 July 2019 with a recommendation for approval. PC resolved to:

- A) Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for Partial Change of Use to Small Bar at No. 229 Queen Victoria Street, Fremantle, based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal to increase the provision of on-site parking at the rear of the site.*
- B) Planning Committee request Council to investigate the introduction of time restrictions in adjoining residential streets in accordance with Council Policy SG33 Residential and Multi-Purpose Parking Permits and other appropriate measures to increase parking facilities in the immediate vicinity.*

In response to the PC resolution part A, the applicant submitted amended plans on 25 July 2019 introducing two additional small car bays to the rear of site on Jewell Parade.



With regard to part B, the City undertook a survey of residents in Pearse Street, Jewell Parade, Jackson Street and Queen Victoria between Tydeman Road and Jackson Street, North Fremantle seeking comments on potential street parking time restrictions. The City received 6 submissions, with only one supporting the introduction of resident only parking restrictions on Pearse Street.

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

## **PROPOSAL**

### **Detail**

Approval is sought for a partial change of use to 'Small Bar', and additions, alterations and signage to the existing buildings located at No.229 Queen Victoria Street, North Fremantle (Former Church). The proposed Small bar is also to provide an eatery component for breakfast, lunches and dinners. Business details provided are as follows:

Staffing levels retail and café/bar combined

- Sunday to Thursday - minimum 5-9 maximum staff
- Friday and Saturday - minimum 7-10 maximum staff

Trading hours

- Retail shop
  - Monday to Friday 9.00am-5.00pm
  - Saturday and Sunday 9.00am-4.00pm.
- Café/ Small bar
  - Sunday to Thursday 7.00am-10.00pm,
  - Friday and Saturday 7.00am-12.00am midnight

Deliveries and collections

- Bins collected 3 times per week
- Cardboard collected weekly
- Grease trap emptied monthly
- Glass collection fortnightly
- Cookers oil collection and cleaning weekly
- Food deliveries, fresh, frozen, dry goods, consumables, twice weekly
- Chemicals deliveries, monthly
- Beverages deliveries 2-3 suppliers alcoholic, weekly
- Non-alcoholic, weekly
- Retail clothing, deliveries fortnightly as required pending trade

The Small bar is proposed to be located within the former surf shop building and the retail clothing business to occupy the southern Church portion, which is approximately 130m<sup>2</sup>. Other components of the overall layout are a commercial kitchen to the rear of the Church building (23m<sup>2</sup>), internal bar / internal and outdoor seating area (107m<sup>2</sup>), and amenity/ toilet. The building has pedestrian access only from Queen Victoria Street. As part of the proposed outdoor seating area on Queen Victoria Street, the removal of the two existing car bays on the property's private forecourt accessed from Queen Victoria Street is proposed.

A 'Small Bar' license differs from Hotel and Tavern licenses by conditions imposed by the Department of Liquor Racing and Gaming to restrict its use. Restrictions include the prohibition of the sale of packaged liquor and a limitation on the number of people who may be on the premises at any one time to a maximum of 120.

On 11 April 2019 amended plans were submitted including additional details for the kitchen, the relocation of the Small bar from the Church building to the Shop (former surfboard shaping building), details of a new bar fitout and a response to the heritage impacts raised after a review of the original proposal.

On 26 July 2019 the applicant submitted amended plans indicating two new small car bays to the rear of site. A total of four on-site car parking bays are proposed.

The amended development plans are included as attachment 1.

### Site/application information

Date received:	18 September 2018
Owner name:	Cobaitl Nominees, William Routledge and Sandra Gatti
Submitted by:	Hospitality and Food Service Consultants
Scheme:	Local Centre
Heritage listing:	Individually Listed (Level 2) and North Fremantle Heritage Area
Existing land use:	Shop
Use class:	Small bar and Shop
Use permissibility:	A and D



## **CONSULTATION**

### **External referrals**

#### *Department of Planning, Lands and Heritage)*

The original application was referred to DPLH for comment as the site abuts an 'other regional' category road. On 23 April 2019, the City received a response from Main Roads WA (MRWA) stating that they raise no objection to the proposed development on regional transport grounds. The recently submitted amended plans were not sent to DPLH as the original advice received would not alter due to the minor car parking alterations at the rear of Jewell Parade.

#### *Fremantle Ports (FP)*

The original application was referred to Fremantle Ports for comment. On 26 October 2018, the City received a response from FP stating that the proposed development was acceptable subject to the built form requirements and conditions associated with the buffer area 1 provisions of LPP2.3. FP advised the City no additional comments were required with the amended plans as the original advice remained unchanged.

### **Community**

The original application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015 (Regulations), as the proposal includes a discretionary land use and car parking shortfall.

During the original community consultation period which concluded on 22 October 2018, 33 submissions were received, 31 of which raised objections to the proposal. In response to the community consultation the applicant submitted a revised proposal which was readvertised for further comment.

The second advertising period concluded on 24 May 2019, and 27 submissions were received, 22 of which objected to the proposal. See 'Attachment 3' for schedule of all submissions received for the application. The following comments were raised (summarised):

#### **In objection**

- Evening trade will be noisy and adversely impact on residents.
- There will be an impact on traffic and parking in the area.
- Major street parking problems already exist in Burns Street, Jewell Parade and Pearse Streets. This will make the problem worse.
- There are already enough entertainment establishments in the immediate vicinity and there is a lack of demand for another.
- These businesses provide insufficient parking for customers and force them to park in the adjacent streets.
- The City of Fremantle needs to fix the problems that have been created in relation to parking and traffic management in North Fremantle.
- Customers of these businesses will not park further away as the applicant has suggested they will.
- There are often vehicles parked across our residential driveways.
- There will be significant noise impacts due to live music, rubbish collection and antisocial behaviour associated with the licensed nature of business.

In support:

- The business will add a quality venue to the locality.
- The venue will attract locals and tourists.
- The venue will create employment and tourism opportunities.
- The venue will offer an alternative to the café strip.

In response to the concerns raised, the applicant submitted revised plans and a series of consultant reports detailing how potential traffic, noise, patron behaviour, and waste impacts can be managed. These reports are discussed in the Officer Comments below where applicable.

In response to the above, Officers can provide the following comments:

- All development must comply with the Environmental Protection (Noise) Regulations 1997 (as amended) and this is a matter which is subject to ongoing compliance. The applicant has submitted an Acoustic Report demonstrating that the proposal can comply with the relevant regulations as discussed further in this report.
- As discussed in the parking assessment below, traffic and parking impacts are considered to be acceptable and/or manageable to minimise the impact on the immediate locality.
- Traffic issues such as crossovers being blocked exist today and can only ever be dealt with on an ongoing basis through policing and monitoring.
- The behaviour of motorists in the area cannot be controlled through a planning application, however the impact of increased visitation to the area is considered below.
- The proposed trading hours are to be in accordance with Section 98 of the Liquor Control Act 1988.
- A management plan must be provided by the applicant as part of liquor licence application. It is considered unlikely that antisocial behaviour will impact the locality in relation to this development. Moreover, whilst public health is an important concern, the management plan indicates that alcohol provision will be appropriately managed, thereby preventing intoxication, and not posing any unreasonable public health impact.

The remaining comments are addressed in the Officer Comment section below

## **OFFICER COMMENT**

### **Statutory and policy assessment**

The proposal has been assessed against the relevant provisions of LPS4 most significantly in relation to land use and car parking. The relevant assessment criteria are discussed as follows.

### **Background**

The subject site is located on the western side of Queen Victoria Street, North Fremantle. The site has a land area of approximately 519m<sup>2</sup> and is currently improved by a former church and single storey commercial building. The site is zoned Local Centre and has a density coding of R25. The site is individually heritage listed as a management level 2 place and the property is located within the North Fremantle Heritage Area. The church building onsite was previously occupied by an antique dealer and the northern adjoining smaller tenancy was occupied by a surf shop.

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

The North Fremantle Local Centre (Queen Victoria Street, between Jackson Street and Tydeman Road) is typically characterised by commercial properties being of retail, dining and/or entertainment purposes. The Local Centre has developed over the years with the addition of numerous hospitality premises similar to the proposed Small bar. Only a few premises on Queen Victoria Street have their own exclusive on-site car parking, with a number of the premises relying on the available street parking for staff and customers.

To provide some context in relation to the car parking assessment detailed in the Officer Comment below, the list below outlines the on-site car parking requirements and provision for a number of the existing hospitality premises in the immediate locality that rely on the availability of on-street public parking bays during similar hours.

- 222 Queen Victoria St (Propeller and Guildhall)  
Development Approval was approved in 2011 for partial change of use to Small bar and Restaurant, additions and alterations to the existing building. There are 7 communal on-site bays and Officers have assessed there to be an on-site car parking shortfall of approximately 48 bays.
- 229A Queen Victoria St (Piggy Food Co.)  
City records show that a restaurant use has existed and operated since at least 1988. Piggy Food Co is understood to have taken over the premises in approximately 2015. After retrospective approval was granted to remove the three on-site bays for an outdoor dining area, Officers have assessed there to be an on-site car parking shortfall of approximately 17 bays.
- 237 Queen Victoria Street (Mojo's)  
This site has long-standing use as a Tavern. Officers have assessed there to be an on-site car parking shortfall of approximately 60 bays.
- 241 and 245 Queen Victoria St (Mrs Brown's/ Flip Side)  
Development Approval was approved in 2007 for change of use to Small bar including use of 25 car parking bays on an adjoining site. On this basis the proposal was considered to comply with LPS4 parking standards.
- 1 Harvest Rd (Harvest Restaurant)  
This site has long-standing use as Café/Restaurant. Records indicate that a parking arrangement was reached with an adjoining property.

The original current application was presented to the PC at its meeting held on 3 July 2019 with a recommendation for approval. PC resolved to:

- A) Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for Partial Change of Use to Small Bar at No. 229 Queen Victoria Street, Fremantle, based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal to increase the provision of on-site parking at the rear of the site.*

- B) *Planning Committee request Council to investigate the introduction of time restrictions in adjoining residential streets in accordance with Council Policy SG33 Residential and Multi-Purpose Parking Permits and other appropriate measures to increase parking facilities in the immediate vicinity.*

In response to the PC resolution part A, the applicant has submitted amended plans introducing two additional small car bays to the rear of site accessible via Jewell Parade.

With regards to PC's resolution part B, it was requested that the administration survey residents in Pearse Street, Jewell Parade, Jackson Street and Queen Victoria Street (between Tydeman Road and Jackson Street) in regard to their interest in imposing time restrictions on the existing car parking bays in these streets. Time restricted parking may assist in providing an equitable share of street parking for residents and visitors to the area especially during the weekend.

A survey was hand delivered to 65 residential properties in the subject streets on 18 July 2019, seeking feedback to the following:

Whether or not residents supported the following potential street parking restrictions:

- a) Friday – Sunday 9:00am - Midnight (All day 2 hour restriction) or
- b) Friday – Sunday 5:00pm - Midnight (Evening only 2 hour restriction) or
- c) Does not support 2 hour parking restrictions Friday – Sunday (all Day or evening only time restrictions)

The consultation period concluded on 9 August 2019 and the City received a total of six submissions. Five of the submissions indicated that these residents did not support 2 hour parking restrictions for the respective streets at any time. One submission indicated that they supported the introduction of all day 2 hour parking restriction between Friday 9.00am to Sunday midnight on Pearse Street.

### Heritage

The subject site is included on the City of Fremantle Municipal Heritage List and on the Municipal Heritage Inventory as management category Level 2. This means that the City 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.

The Former Church at 229 Queen Victoria Street is a simple stone brick and iron church building with symmetrical facade designed as a simple example of the Federation Romanesque style of architecture, dating from the turn of the twentieth century. The place has aesthetic value for its contribution to the streetscape and to the surrounding area.

It is considered that the design approach for the revised plan is in accordance with good practice. The approach has been to set the new works, such as the alterations and additions, within the areas of the building that are not original. As a result, the effect has been to minimise the impact of the new work on the heritage values of the building. In addition, the new works have been designed to touch the existing fabric lightly, or to stand apart from it, and this brings progressively greater opportunities for innovation while minimising any adverse impact on the building. As such the proposal is supported on heritage grounds.

### Use

A Small bar is an 'A' use in the Local Centre zone, which means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice (advertising) in accordance with clause 64 of the Regulations.

It is considered that the proposed use of Small bar is consistent with the objectives of the Local Centre zone for the following reasons:

- The proposed Small bar could make a positive contribution to the local centre, complementing existing uses, adding vitality to the centre and providing an entertainment venue different from any other in the locality, accessible to the local and broader community.
- It is considered that the proposed use would not be significantly detrimental to the amenity of adjacent residential properties. The proposed Small bar will cater for a maximum of 70 seated patrons at any one time. In light of the size of the venue and the stated nature of the proposed business, the potential for significant adverse impact on the amenity of residential properties can be appropriately managed.

Furthermore in considering an 'A' use the Council will have regard to the matters to be considered in the Regulations. In this regard the following matters have been considered:

- (a) *The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area*
- (m) *The compatibility of the development with its setting including the relationship of the development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development*
- (n) *The amenity of the locality including the following:*
  - (i) *Environmental impacts of the development*
  - (ii) *The character of the locality*
  - (iii) *Social impacts of the development*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety*

The proposal is considered to address the above matters, for the following reasons:

- The use is considered to provide an active frontage to Queen Victoria Street and would satisfy the objective of the Local Centre zone to provide convenient uses that can serve the needs of the local community.

- A small bar and retail clothing shop use in this location would provide additional retail and hospitality variety within this area of the North Fremantle Local centre.
- It is acknowledged that the proposal may increase traffic in the locality and the demand for on-street and public parking however the increase is not considered to be significantly greater than the existing situation in North Fremantle. Traffic and parking are discussed further below.
- With regards to generally amenity, social impacts and noise matters, separate legislation must be adhered to for the development ensuring compliance and the additional information provided by the applicant demonstrates that any potential impacts can be appropriately managed.

### Car Parking

Under the provisions of Table 2 – Vehicle Parking of the City's LPS4, there are no specific parking requirements for the use of a 'Small bar'. As such, Clause 4.7.1(c) of LPS4 states that "where parking provisions are not prescribed for a particular use the requirement will be determined by Council".

The parking standard used in the determination of previous applications for a 'Small bar' use is as per the requirements for the lounge/garden area of a 'Hotel/Tavern' use as prescribed by Table 2 of LPS4.

### **Car parking (latest revised plans)**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Small Bar	1:5 seats or 1:5m <sup>2</sup> dining area, whichever is the greater	2 (small car bays)	17 bays
	70 seat (12 bays) or 95m <sup>2</sup> dining area (19 bays)		
	Delivery bay – 1:service/storage area	Nil	1 Bay
	Bicycle parking - Class 1 or 2 : 1 Class 3: 2	Nil 5	1 Rack Nil
Shop	1 per 20m <sup>2</sup> nla 112m <sup>2</sup>	2	4 bays
	6 - required		
	Delivery bay – 1:service/storage area	Nil	-
Total		4 bays Nil 5 Class 3 rack	21 Car bays 1 Loading bay 1 Class 1 rack



Clause 4.7.3.1 – Relaxation of Car Parking Requirements Assessment, states that Council may reduce or waive the standard parking requirements specified in table 2 subject to the applicant satisfactorily justifying a reduction due to one or more of the following reasons:

- (i) *the availability of car parking in the locality including street parking*
- (ii) *the availability of public transport in the locality*
- (iii) *any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces,*
- (iv) *any car parking deficiency or surplus associated with the existing use of the land,*
- (v) *legal arrangements have been made in accordance with clause 4.7.5 for the parking or shared use of parking areas which are in the opinion of the Council satisfactory,*
- (vi) *any credit which should be allowed for a car parking demand deemed to have been provided in association with a use that existed before the change of parking requirement,*
- (vii) *the proposal involves the restoration of a heritage building or retention of a tree or trees worthy of preservation,*

The majority of the objections received during the community consultation period raised concerns regarding the impact of parking within the nearby residential streets and the impact this will have on existing residential properties within the immediate locality.

Since the last PC meeting, City Officers have further investigated the availability of the publicly-available car parking in the immediate area and concluded that two areas previously stated as suitable locations, being the car parking south of the Swan Hotel and the North Fremantle Train Station should be removed from consideration. Since the last meeting officers have confirmed with the PTA that the car parking located to the south of the Swan Hotel has recently been leased to the Swan Hotel for their private use. Additionally, although the North Fremantle Train Station car park was considered as a possible parking area for visitors to Queen Victoria Street in the evening and on weekends, as this car park is generally only available for the use of public transport users it is not considered appropriate to include these bays in the City's assessment.

A total of 64 off-street public car parking bays are available in the North Fremantle Local Centre as detailed in the table below. A site inspection has confirmed the accuracy of these calculations. The following Officers' assessment is based on the availability of 64 public car parking bays located within 200m of the site, rather than the 208 previously reported.

<b>Location of car parking</b>	<b>Distance from site</b>	<b>No. car bays</b>
Corner of Tydeman Road and Queen Victoria Street	75m south	19
North Fremantle Bowling Club Car Park / Gordon Dedman Reserve	200m north east	45
		<b>Total – 64 bays</b>

**Table 1:** Table indicating the number of public car parking bays available in the North Fremantle Local Centre, including their approximate distance from the subject site.

In addition to these off street public car parking facilities, there are a total of approximately 38 on-street (kerb side) car parking bays in Queen Victoria Street (between Jackson Street and Tydeman Road) and Harvest Road available for the North Fremantle Local Centre.

Having regard for the revised assessment, it is still considered that the above public parking facilities, being within a walkable distance from the subject site, in conjunction with the available street parking will provide alternative parking locations for staff and customers of the Small bar and Shop.

As stated in the last report, a two week survey of the availability of on street car parking bays in Queen Victoria Street and the surrounding streets demonstrated that on Friday to Sunday (inclusive) the demand for on street parking bays are at their highest, with between 70 to 88% of the available bays on surrounding streets being occupied on these days (inspection times being 3.30pm and 7pm during the respective days). Outside of these last surveyed times, during the day and evening periods (Monday to Thursday) there was a lower demand for on street parking with the number of occupied bays being approximately 45% to 60%. Concern was raised that the survey was undertaken at the same time that Mojo's was closed for roof restorations and the results may not accurate. Although it was confirmed that Mojo's was open during the survey period, the City has carried out an additional survey over two weekends in August 2019. This recent survey showed similar results to the previous survey being 70 to 80% of the available bays being occupied in the evening times.

It is still considered that even at the busiest time, there is some availability of the existing on street car parking bays in the immediate locality. Although it is acknowledged that the proposed use may increase the demand on these bays during the peak periods of Friday to Sunday, it is not considered to result in a parking and traffic impact that is significantly greater than the current demand for on street parking.

In addition to the above, it is also noted that the removal of the existing crossover and onsite bays for this site in conjunction with the removal of the redundant crossover on the adjoining property (Miss Piggy's) off Queen Victoria Street, may provide the opportunity for three additional on street car parking bays to be provided. As such, a condition of approval is recommended to require the redundant crossover be removed and the verge reinstated at the applicant's expense to allow for the introduction of three additional street bays.

With reference to Clause 4.7.3 of LPS4, which allows Council to relax or waive car parking requirements, given limited patronage capacity (70 seats) of the use, that there are 64 off-street public car parking bays available within 200m of the site, approximately 38 on-street parking bays and that the site is within easy walking distance to train and bus public transport routes, the level of increase is not anticipated to be significantly detrimental to adjoining business or adjacent residential properties of this immediate area.

## **Others Matters**

### Noise Management

The applicant has submitted a Management Plan which specifies that background music will be provided within the venue by way of an in house sound system at a volume that maintains a relaxed and comfortable environment that allows patrons to converse. Essentially, noise levels are proposed to be no greater than the levels permitted in accordance with the Environmental Protection (Noise) Regulations. The Management Plan also addresses: managing noise levels, the management of entrances/exits into/out of the venue, general internal and external patron management, and a procedure to actively respond to any complaints.

The applicant has submitted an Acoustic Assessment Report, prepared by Eco Acoustics that considers the potential noise impacts from the proposed development.

The report concludes that the predicted noise levels from the external mechanical plant, background music and patrons dining inside the venue along with patrons dining in the alfresco area comply with the regulatory levels at all nearby residential premises during the worst case night-time period.

It is considered that the proposal has been appropriately designed to minimise any potential impacts and can be appropriately managed once the venue is in operation.

### 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 is accessible to Taxis to allow for safe transport to and from the site without significantly disrupting through traffic.

The adjoining footpaths and streets are well lit to allow for adequate safety for patrons late at night. The proposed small bar is also adjacent to other Restaurants and Shop uses and is separated from residential uses to ensure limited impacts on amenity and reduced opportunity for conflict between uses.

### Liquor Licensing

Should the subject application be approved, the applicant will be required to make an application to the Department of Racing, Gaming and Liquor WA for appropriate liquor licence approval. If approved, the Liquor Licence will be subject to conditions relating to the hours of operation, the maximum patron numbers, the management of patron behaviour and compliance with relevant policy requirements. The Liquor Licence is considered to be the appropriate tool to manage the operation of the venue in a way which will minimise any potential impact on the immediate locality.

## **CONCLUSION**

The amended proposal is considered to meet the specific applicable requirements of LPS4. Potential impacts from the operation of the venue including noise, parking and patron behaviour are considered to be acceptable and can be appropriately managed on an ongoing basis. The proposal is considered to contribute to the activation of the North Fremantle Local Centre Area. As such, the application is recommended for approval, subject to the conditions included in the officer's recommendation below.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

- Increase the number of people working in North Fremantle
- Increase the number of visitors to North Fremantle

### Alcohol Management (SG50)

- The immediate area includes an appropriate mix of non-residential land uses including existing Restaurants, Retail and Office tenancies
- Potential impacts of the proposed Small bar can be appropriately managed.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

The Planning Committee acting under delegation 1.1:

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Partial change of use to Small bar, additions and alterations and signage to existing building at No. 229 (Lot 20) Queen Victoria Street, North Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 25 July 2019. 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. Storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. Prior to the occupation of the development hereby approved, any redundant crossover and kerbs shall be removed and the verge reinstated at the expense of the applicant and to the satisfaction of the City of Fremantle.**
- 4. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval detailing the storage and management of the waste generated by the development to be implemented and maintained for the life of the development to the satisfaction of the City of Fremantle.**

- 5. Prior to the issue of a building permit a detailed Parking Management Plan shall be submitted to the City for approval and thereafter implemented to the satisfaction of the City of Fremantle. The Plan shall detail measures that the operator will take to inform staff and customers of available car parking and alternative transport options to the satisfaction of the City of Fremantle.**
- 6. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Should the works subsequently be removed, any damage shall be rectified to the satisfaction of City of Fremantle.**
- 7. Prior to occupation of the development hereby approved, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City of Fremantle.**
- 8. 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.**
- 9. 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.**
- 10. The fencing indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site (No.229 Queen Victoria Street, North Fremantle)**
- 11. Prior to the issue of a Building Permit, One, Class 1 bicycle rack shall be provided, to the satisfaction of the City of Fremantle.**
- 12. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

**Advice Note(s):**

- i. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.**
- ii. The proponent must make application during the Building License 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).**
- iii. 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).**
- 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. Design and install all mechanical service systems, including air-conditioners, motors, 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). The applicant is to seek the services of a competent acoustic consultant to assist the applicant to address the potential noise impacts on noise sensitive receivers. A noise management plan for the proposed development is to be lodged with the City's Environmental Health Service.**
- vi. With regards to condition No.8, it is acknowledged that due to the heritage listing of the building, strict compliance with all built form requirements for Area 2 as per LPP2.3, is difficult and these required LPP2.3 works will only relate to the new additions and alterations of the development hereby approved.**
- vii. With regards to condition 11, Bicycle parking facilities are to be provided in accordance with the following standards:**
  - Class 1 – High security level – Fully enclosed individual locker;****For more information refer to 'Austroads Cycling Aspects of Austroads Guides'**

## 10.2 COMMITTEE DELEGATION

### **PC1909 -2      JOSEPHSON STREET, NO. 12 (LOTS 8 AND 0) - PROPOSED 6-STOREY MIXED USE DEVELOPMENT CONTAINING OFFICE AND SMALL BAR/RESTAURANT USES (TG DA0168/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Amended development plans  
2: Site photos  
3: Submission schedule

## **SUMMARY**

Approval is sought for a six storey plus basement mixed use development comprising a ground floor Small bar/Restaurant and five storeys of offices at 12 Josephson 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), and Local Planning Policies. These discretionary assessments include the following:

- Land use (Small Bar/Restaurant)
- Building height
- On site car parking and delivery bay provision
- Vehicle Sightlines

The application is recommended for conditional approval.

## **PROPOSAL**

### **Detail**

Approval is sought for the construction of a six storey mixed use development with a basement at 12 Josephson Street, Fremantle.

The application proposes a mass timber framed office development with an activated ground floor use. The design is based around the delivery of a sustainable development where all materials used in the construction are proposed from natural resources. A major component of the design is the integration of operable glass facades to circulate fresh air and deliver maximum sunlight to all levels ensuring all occupants are close to a natural light source. This design approach is intended to respond to studies that show workplaces that utilise natural materials such as wood, incorporating plant life and allow for natural light result in happier and more productive employees.

Additional sustainability features of the proposed development include:

- Solar photovoltaic and battery storage system.
- Sub-metering of electricity and water for each tenancy.
- Electricity and water demand management software and visualisation.
- Operable facades to ensure emptying of warm air and drawing-in of cool air.

- A new commercial greywater system using filtration and ozone disinfection to recycle shower and hand basin water to the planters in the green façade.
- Storm and grey water collection.
- Distribution and recycling.

Specific elements of the proposed development include:

- A basement level housing a car stacker facility, a pump room and a water tank.
- Ground floor comprising car parking, a bin store and a bar/restaurant and associated facilities.
- Upper floors comprising approximately 1,895m<sup>2</sup> of office floor space with the potential to be divided into separate tenancies with shared amenities such as kitchens, bathrooms, bicycle parking, and lobbies.

The applicant submitted amended plans on 16 July 2019 including the following:

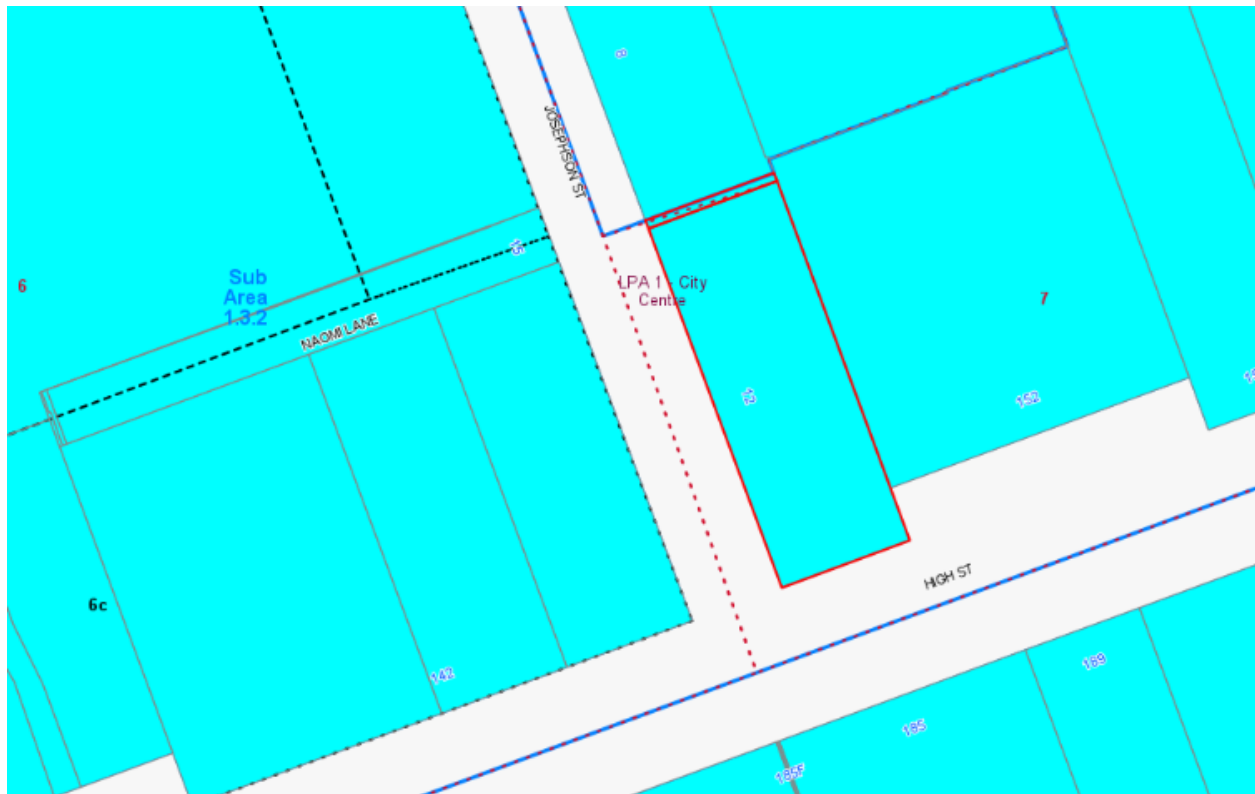
- Correcting site plan lot layout,
- Additional detail demonstrating the applicant's justification in favour of the proposed building height.
- Inclusion of additional openings along Josephson Street and the relocation of a planter adjoining the carpark entrance.
- Relocation of the bin store.
- Reduction of the bar/restaurant tenancy from 155m<sup>2</sup> to 144m<sup>2</sup>
- Inclusion of an improved corner sightline truncation at the corner of High Street and Josephson Street.

Development plans are included as attachment 1.

### **Site/application information**

Date received:	10 May 2019
Owner name:	City of Fremantle
Submitted by:	Yolk Property Group c/o Urbis
Scheme:	City Centre
Heritage listing:	Individually Listed Category Archaeological/Historical Site
Existing land use:	Public Car Park
Use class:	Small Bar/Restaurant/Office
Use permissibility:	A, A, P





## **CONSULTATION**

### **External referrals**

#### *Fremantle Ports (FP)*

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

#### **Design Advisory Committee**

Clause 78B (6)(b) of LPS4 requires Council to have regard to the recommendations of the DAC for applications meeting specific criteria.

The design was presented to the DAC prior to lodging a formal application for preliminary comment. The DAC advised that it supported the concept and vision of the development and the attempt to showcase the sustainable timber construction method which has the potential to create an interesting and elegant building that will positively contribute to Fremantle. The applicant was encouraged to: review the layout and functionality of the ground floor to improve the activation to Josephson Street; investigate necessary Building Code of Australia and other compliance requirements to ensure equipment; and explore opportunities to further showcase the use of timber.

The formal application was presented to the DAC on 10 June 2019 where they advised that:

*The Design Advisory Committee, having considered the proposal for 12 Josephson Street, Fremantle supports the proposed design subject to the following conditions:*

- 1. The interaction with and activation of Josephson Street should be improved by increasing the openings to active uses on the ground floor for a greater percentage of the proposed frontage.*
- 2. The roof top service areas and overrun(s) should be consolidated into one area and integrated into the design of the building.*
- 3. The layout of the service core being reviewed to appropriately screen the staff amenities from view of the open floor plan and maximise natural light for frequently visited amenities including the staff kitchen.*
- 4. Final details of the external materials and finishes including the ground floor service areas and the external screens being submitted to ensure that the high quality standard of the proposed finishes transpires through to the building permit and construction.*

The applicant submitted amended plans in response to the DAC's recommendation. The plans included the following amendments:

- Amend the ground floor layout to consolidate and relocate service areas and corridors to increase the active area immediately adjacent to Josephson Street including the addition of coffee service window.
- Additional detail of the building finishes, materials and colours.
- The layout of the ground floor services was amended.
- An increase in the ground floor floor-to-ceiling height to 4.5m to allow for future building adaptability.

The amended plans haven't specifically addressed the DAC's recommendation to consolidate the roof top service areas and lift overrun. The roof top plant is restricted in area and considered to be suitably located and screened.

The revised plans are considered to adequately address the recommendations of the DAC. To ensure that that quality of materials and finishes carry through to construction, a condition requiring final details of the materials, finishes and colours to be submitted is included in the officer's recommendation.

## **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 discretionary assessment of various matters. The advertising period concluded on 19 June 2019, and 18 submissions were received. The following issues were raised (summarised):

Concern	Officer Comment
Concerns with regard to the amalgamation of Lots 8 & 0 (S023872) and the apparent loss of Easement described in Transfer F89775E.	The easement is automatically transferred to the new deposited plan. A condition of approval is recommended to ensure that the development does not affect this easement.
Insufficient car parking, accessible bays, delivery bays, ground floor bicycle parking and potential congestion impacts due to gated access from Josephson	See 'on site car parking' below. The provision of accessible parking bays is not specifically a planning requirement and may be required as part of the

Street.	submission of a Building Permit. The applicant has been advised of this requirement. Should an accessible bay be required any necessary amendments to any approved plans may require further approval.
Insufficient detail with regard to delivery and waste management.	The applicant submitted a preliminary waste management plan which has been reviewed by the City and supported. It is a recommended condition of approval that a final waste management and delivery management plan be provided for the City's review prior to the development taking place.
Concerns with regard to building height, potential height precedent and a lack of graduation of height to the buildings immediately adjacent to the site.	See 'building height' below.
The western façade should be amended to provide additional shading	Shading to the windows is proposed in accordance with the submitted plans.
Concerns with regard to the visual appearance of the building.	A final schedule of colours and materials is to be submitted to the City for endorsement in accordance with DAC comments.
The proposed building will block ventilation to adjoining properties.	The building is permitted to be built up to subject site boundaries.
Concerns with regard to the impact of proposed works on structural stability of buildings on adjoining lots.	These matters are to be considered as a part of any building permit process.
A front setback was requested.	The City's requirements encourage a nil setback to the street boundary. The plans have been amended to incorporate a corner truncation to assist in opening up the corner.
Shade cast over High Street, adjoining properties and to buildings over High Street.	The applicant provided additional shade analysis demonstrating winter sunlight access.
Objection to venue serving alcohol.	The Small bar use has been assessed in accordance with the LPS4 requirement. Concerns with regard to liquor licensing will also be addressed through the relevant application process to the Department of Racing, Gaming and Liquor.
Objection to the lack of onsite landscaping.	The development accommodates some landscaping however there is no specific requirement to provide in ground landscaping.
Overlooking from the offices into	While there are no specific screening

dwelling in the apartment building across High Street was objected to.	requirements for offices the building is separated from the buildings on the southern side of High Street in excess of acceptable separation distances.
The potential of the proposal to impact adjoining property values negatively.	This is not a valid planning consideration, a great range of factors are considered in the assessment of property values.

A more detailed summary of submissions, including the applicant's response to concerns is included as Attachment 3.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. Where a proposal does not meet the specific development requirements, an assessment is made against the relevant discretionary criteria of these documents. In this particular application the areas outlined below require a discretionary assessment against policy or Scheme provisions:

- Land use (Small Bar/Restaurant)
- Building height
- On site car parking and delivery bay provision
- Vehicle Sightlines

The above matters are discussed below.

### **Background**

The subject site is located on the north western side of High Street, at the corner of Josephson Street. The site has a land area of approximately 595m<sup>2</sup>, comprising the primary lot (Lot 8) and a strip of land adjoining 8 Josephson Street (lot 0) and is currently a public car park. The site is zoned City Centre. The site is individually heritage listed as a Historic/Archaeological site and accordingly a condition requiring the completion of an archaeological survey of the site prior to the commencement of any construction is recommended.

On 10 June 2019 the WAPC approved the subdivision of the parent lot (WAPC157839) to create the subject site. This subdivision results in the front 5.87m section of the existing property becoming part of the High Street road reserve. The existing 0.02m wide easement, adjacent to the northern boundary, befitting Lot 101, Strata Plan 23872 has been transferred to the new deposited plan.

### **Land Use**

It is noted that the LPS4 exemptions include the use of a an existing building in the City Centre zone for Shop, Office, Restaurant, Small bar and/or Consulting Rooms. If the development is approved and constructed the existing uses may be altered to one of these uses without the need to obtain planning approval.

The ground floor tenancy is proposed to be a Bar and/or Restaurant, and therefore noting the land use exemptions of LPS4, an assessment has been carried out against both a Small bar and a Restaurant use.

A Small bar and a Restaurant are both 'A' uses 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 after advertising the proposal.

In considering an 'A' use the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

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

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

- These land uses are consistent with the objectives of the City Centre zone, being the provision of recreation and entertainment services.
- The proposed land uses are consistent with those occupying buildings in the immediate area of the subject site and are therefore consistent with the character of the locality.
- Social impacts of these land uses can be appropriately managed through the liquor licensing approvals process.
- It is noted that in accordance with Schedule A of Local Planning Scheme No. 4, a change of use in an existing building to a restaurant or small bar is exempt from requiring planning approval.
- The proposed ground floor land uses are considered to contribute to the mix of land uses in the locality and are considered likely to contribute to an interesting and diverse public realm, consistent with the requirements of Scheme sub area 1.3.2.
- The Small bar satisfies the general provisions of DBU6 (Late night entertainment venues serving alcohol), as the area is appropriately lit, is well serviced by public streets and is accessible to Taxis to allow for safe transport to and from the site without significantly disrupting through traffic.
- Submissions received in response to the City's consultation have been discussed above.

### **Building Height**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Building Height	17.5m (Permitted Max)  21m (subject to the additional height not being visible from the street and public spaces and the additional height being integrated into the design of the building)	22.9m	5.4m

In order to vary the building height outlined in Schedule 8 of LPS4, the proposal must be assessed in accordance with clause 4.8.1 Variation to height requirements of LPS4, which states:

*Where sites contain or are adjacent to buildings that depict a height greater than that specified in the general or specific requirements in schedule 8, 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.*

For clause 4.8.1 to be triggered, there must be a building either on-site or adjacent that depicts a height greater than that specified in Schedule 8. The existing development located opposite the subject site at 185 High Street is seven storeys in height, exceeding the building height permitted under Schedule 8 (LPA 1 – City Centre). As such the maximum height requirements may be varied if the proposed development satisfies all of the above criterion (a), (b), (c) and (d).

With regard to the impact on the amenity of adjoining properties and the locality, the proposed variation is considered minor (1.9m above the permitted additional height) and is not considered to result in any significant additional impact, including overshadowing or loss of light or ventilation than a compliant height. The bulk and scale of the development is also considered to be suitable for the corner location, compatible with the desired scale and form of new development in the locality and minimised through the use of a variety of high quality materials.

The development is also considered to effectively graduate between the varying heights in the locality. The subject site is considered to form part of the core of the City and is comparable in height to development in the immediate locality, including Gallery Suites (185 High Street), Johnson Court (23 Adelaide Street) and the FOMO Building (Kings Square). Although some of the existing development immediately surrounding the subject site is lower in scale, this single/two storey scale is not considered to be the desirable building form for the future redevelopment of this locality.

It is also noted that the City's DAC supports the proposed design, advising that the simple rectangular form of the building has the potential to create an interesting and elegant development that will positively contribute to Fremantle and assist in stimulating additional high quality development in this area of the City. They also noted that in the immediate future the building may be the singular taller building in the existing street block, however the form and scale of the proposed development reflected the desirable future redevelopment of the locality.

Although the site is individually heritage listed, it is listed as a Historical/Archaeological Site only. The site does not immediately adjoin any heritage listed sites although it is acknowledged that a number of properties fronting Ellen Street are individually listed. The site and street block is also not part of any Heritage Conservation Area. Subject to an Archaeological investigation of the site prior to commencing construction, the proposed development is not considered to adversely impact on the significance of nearby properties.

Having regard for the above, the proposed development is considered to be acceptable in regard to its scale and form and will contribute positively to the existing and desirable built environment.

#### **Public Art/Heritage Works Contribution**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Local Planning Policy 2.19 – Contributions for public art and/or heritage works	Contribution of 1% of the indicative development cost (\$60,000).	The applicant requests that this requirement be waived.	No contribution for public art and/or heritage works.

The applicant has requested that these requirements be waived for the following reasons:

- The inclusion of a public art element may potentially detract from the simplicity of the architectural style of the building.
- In accordance with Section 5(d) of the Policy the development will provide a significant and direct improvement in the appearance and condition of the public realm.

The above reasons are not considered suitable to waive the City's Public Art requirement. As such, it is considered appropriate to impose a condition requiring a contribution of 1% of the cost of the development towards the development of public art and/or heritage works in accordance with the Policy.

### On Site Car Parking

Element	Requirement	Proposed	Extent of Variation
Parking (Small Bar/Restaurant 90m <sup>2</sup> dining area)	18	Nil	18
Delivery bays	1	Nil	1
Bicycle parking Class 1	1 rack	Nil	1
Class 3	2 racks	Nil	2
<i>Note: In accordance with Scheme sub area 1.3.2 (l), car parking requirements do not apply to office land uses above ground floor level.</i>			

The provision of parking for the tenancy is considered to meet the discretionary criteria of the Scheme in the following ways:

- While 16 parking bays are provided on site in car stackers, these bays are provided for the office tenants and will not be available to users of the bar/restaurant.
- In accordance with Scheme sub area 1.3.2 (m), consideration of the availability of car parking in the locality, including street parking and public transport availability cannot be considered in this case.
- It is noted that the reconfiguration of the ground floor has resulted in a smaller area being available for the small bar/restaurant, leading to a lesser parking requirement.
- The premises can be visited by residents in the immediate locality of the site, resulting in no car parking being required as these residents can walk to the site.
- While parking in the immediate locality and public transport are unable to be directly considered in accordance with the Scheme, it is noted that due to the availability of public car parks and on street parking, as well as public transport, that the development will have a limited impact on parking availability in the immediate locality.
- With regard to ground floor bicycle parking, it is considered that there are multiple public bicycle bays in the immediate locality. Bicycle parking is also provided on the upper floors, providing bicycle parking availability for employees.
- Delivery management for the site can be addressed through the submission of a satisfactory delivery management plan. Once specific tenancies are confirmed, the nature and frequency of deliveries can inform this plan.
- The applicant has confirmed that no loading or unloading is to occur on Josephson Street with deliveries anticipated to occur from an existing loading bay on High Street.



## **Vehicle Sightlines**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Local Planning Policy 2.8 – Fences on non-residential land	Sightline truncations to be provided in accordance with Australian Standards.	Solid wall to side of vehicle access point.	No sightline provided for vehicles exiting the site.

The vehicle access arrangement is considered to be appropriate for the following reasons:

- The development includes a vehicle gate, the opening of which would alert pedestrians of vehicle movements out of the development.
- Due to the gate needing to be opened for access and egress, vehicles will not be leaving the site at high speeds.

## **CONCLUSION**

It is considered that the proposed development will make a positive contribution to Fremantle, being an innovative sustainable building design and higher value use of the existing open air car park site. The development represents the first significant investment in new major development in the eastern High Street end of the CBD since the review of the development controls in the CBD under Scheme Amendment No. 49.

The proposed mass timber construction method, which is understood to be the first of its kind for an office development in Western Australia, has the potential to showcase a high standard of sustainable building design in Fremantle.

Relevant aspects of the proposal which vary the statutory planning requirements including building height are considered to appropriately address the relevant discretionary criteria of Council policy and Local Planning Scheme No. 4.

Accordingly the proposal is recommended for approval, subject to conditions.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

- Increase the number of people working in Fremantle
- Increase in commercial and retail development within 800m of Fremantle train station
- Increase the net lettable areas of office space

### Alcohol Management (SG50)

- The immediate area includes an appropriate mix of non-residential land uses including existing Restaurants, Retail and Office tenancies.
- Potential impacts of the proposed Small bar can be appropriately managed.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

Planning committee acting under delegation 1.1:

**APPROVE**, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, proposed 6 storey mixed use development containing Small bar/Restaurant and office use at No. 12 (Lots 8 and 0) Josephson Street, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans dated 16 July 2019. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.**
- 2. All development shall be wholly located within the cadastral boundaries of No. 12 Josephson Street (Lots 8 and 0), including any footing details of the development.**
- 3. Prior to the issue of a Building Permit, plans are to be submitted that demonstrate the protection of the existing easement, located adjacent to the northern boundary, to the satisfaction of the City of Fremantle.**
- 4. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 5. 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.**
- 6. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval detailing the storage and management of the waste generated by the development to be implemented and maintained for the life of the development to the satisfaction of the City of Fremantle**
- 7. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.**
- 8. Prior to the occupation of the development hereby approved, any redundant crossovers and kerbs shall be removed and the verge and footpaths reinstated at the expense of the applicant and to the satisfaction of the City of Fremantle.**

9. Prior to occupation of the development hereby approved, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, 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.
10. Prior to the issue of a building permit for the development hereby approved, a detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.
11. Prior to the occupation of the development hereby 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 on the site to the satisfaction of the City of Fremantle.
12. Prior to the issue of a Building Permit or Demolition Permit a Construction Management Plan shall be submitted to the satisfaction of the City of Fremantle addressing the following matters:
  - a) Use of City car parking bays for construction related activities;
  - b) Protection of infrastructure and street trees within the road reserve;
  - c) Security fencing around construction sites;
  - d) Gantries;
  - e) Access to site by construction vehicles;
  - f) Contact details;
  - g) Site offices;
  - h) Noise - Construction work and deliveries;
  - i) Sand drift and dust management;
  - j) Waste management;
  - k) Dewatering management plan;
  - l) Traffic management; and
  - m) Works affecting pedestrian areas.

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

13. 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.
14. 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.
15. Prior to the commencement of development, an archaeological investigation is to be undertaken by a suitably qualified person at the applicant's expense and a copy of the report of that investigation is submitted and approved by the City of Fremantle.
16. The design and construction of the development is to meet the 4 star green star standard as per Local Planning Policy 2.13 or alternatively to an equivalent standard as agreed upon by the City of Fremantle. Any costs associated with generating, reviewing or modifying the alternative equivalent standard is to be incurred by the owner of the development site. Twelve (12) months after practical completion of the development, the owner shall submit either of the following to the City to the satisfaction of the City of Fremantle:
- a) a copy of documentation from the Green Building Council of Australia certifying that the development achieves a Green Star Rating of at least 4 Stars, or
- a copy of agreed equivalent documentation certifying that the development achieves a Green Star Rating of at least 4 Stars.
17. 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 \$6,000,000 the contribution to be made is \$60,000.
18. Any proposed building plant and equipment, including air conditioning units, piping, ducting and water tanks shall be located so as to minimise any visual and noise impact on surrounding landowners, and screened from view from the street, and where practicable from adjoining buildings. Details shall be submitted to and approved by the City prior to the commencement of development. Development shall be in accordance with these approved details.

19. Bicycle parking facilities shall be provided in accordance with the Australian Standard for Offstreet Carparking – Bicycles (AS2890.3-1993 as amended) prior to the development first being occupied. Details of bicycle parking area(s) shall be provided to the City for approval prior to the commencement of development.
20. A Delivery Management Plan indicating the timing and location of deliveries shall be submitted prior to the issue of a building permit for the development hereby approved, and approved by the City of Fremantle prior to the development first being occupied. Delivery management shall then be undertaken in accordance with the approved plan.

**Advice note(s):**

- i. In relation to condition 6, the applicant is advised to liaise with the City's Waste Management Team with regard to the provision of a waste loading zone/collection area in Josephson Street. The applicant is advised that:
  - The minimum dimensions for a bin enclosure is 0.7m width x 1.6m depth per bin;
  - The location of the bin enclosure shall be within the allotment on the front boundary or on the right of way boundary if available;
  - No window opening or door of a habitable room to be within 3m of the enclosure;
  - Access gates shall not open onto the footpath or right of way and require a minimum of 1m clear access;
  - Car bays are not to be used for access;
  - No ramp or steps to the bin enclosure are permitted.
- ii. The new crossover shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. Prior to commencing construction of the crossover(s), the developer is to contact the Engineering Project Officer on 9432 9999 to arrange an inspection or alternatively via [ibs@fremantle.wa.gov.au](mailto:ibs@fremantle.wa.gov.au).
- iii. 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 Engineering department can be contacted via [ibs@fremantle.wa.gov.au](mailto:ibs@fremantle.wa.gov.au) or 9432 9999.
- iv. With regards to planning condition No. 15 the final archaeological report should include:
  - a brief summary of the subject site, including a study background of the property referencing the evidence upon which the investigation has been requested;

- description of the site investigations carried out, including location and dimensions of any exploratory dig(s) undertaken;
- all detailed recordings of any findings of archaeological artefacts through surveyed measurements, drawings, documented descriptions and/or photographs, all portrayed upon a site plan(s) when appropriate;
- an analysis of the historical archaeological (including built environment) evidence with the archival documentation (e.g. maps, photographs, documented past use); and
- an archaeological conservation plan including recommendations for heritage interpretation, if warranted.

Council will require one (1) unbound hard copy, four (4) bound copies in A4 format and one (1) electronic copy on disc in either Microsoft Word (.doc) or Adobe Acrobat (.pdf) format, including all graphic materials.

Of the bound hard copies of the report submitted, Council will provide:

- one copy to the Heritage Council of Western Australia;
- one copy to the Local History Section of the City's library; and
- one copy to the subject property's owner.

Please refer to the City of Fremantle's Local Planning policy LPP2.7 for additional supporting information.

<http://www.fremantle.wa.gov.au/development/planning-policies>. Please contact the City's Heritage Department on 9432 999 or alternatively [planning@fremantle.wa.gov.au](mailto:planning@fremantle.wa.gov.au) for any further queries on this matter.

- v. Any signage shall be the subject of a separate planning application.
- vi. In relation to condition **17** relating to the public art contribution, the applicant is advised that Council may waive the requirement for the public art/heritage work contribution in accordance with clause 6 of LPP 2.19 where the development incorporates public art in the development to the same value as that specified in Condition 17 that is located in a position clearly visible to the general public on the site of the development. A public art strategy for the site must be submitted to and approved by the Chief Executive Officer, City of Fremantle. Installation of the approved art work must be completed to Council's written satisfaction prior to the issue of any Occupation Certificate. Please contact the City's Public Arts Coordinator on 9432 9999 for further information on this process
- vii. The owner is advised that an obstruction permit will be required from the City for any future obstruction of the High Street or Josephson Street road reserve. An application for obstruction permit can be found via <https://www.fremantle.wa.gov.au/treesandverges>.
- viii. The proponent must make application during the Building License 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).

- ix. 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*.

The kitchen must be of a suitable size to undertake relevant food handling activities without compromising food safety. The proposed restaurant kitchen appears small and food handling activities that can be undertaken may be limited.

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).

- x. The Industrial Waste department at the Water Corporation must be consulted for provision of grease traps (passive grease arrestors). Most food premises where food preparation occurs will require a grease trap to be installed.
- xi. There is potential for noise emissions from the proposed development to impact on the amenity of nearby resident and businesses. These emissions may include, but are not limited to, noise from amplified music and crowds using the bar and restaurant area, air-conditioning units, kitchen ventilation, refrigeration and other plant. To prevent noise levels from exceeding the relevant assigned levels as set out in the Environmental Protection (Noise) Regulations 1997, you are required to seek the services of a competent acoustic consultant to assist the applicant to identify the potential sources of noise with recommendations on how to manage or attenuate these noises, its impact on noise sensitive receivers and to ensure compliance with the relevant legislation.

A copy of this report shall be provided to the City's Environmental Health Service Health Service prior to lodging a Building Permit Application.

- xii. Onsite waste storage and disposal shall comply with the City's Local Laws and not create a nuisance. The proposed location of the bin store, that opens directly into the kitchen/food handling area, shall be reviewed so as not to compromise food safety.

**PC1909 -3      BEAZLEY WAY, NO.1 (LOT 2), WHITE GUM VALLEY - MULTIPLE DWELLING DEVELOPMENT - (JL DAP001/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  
1. Amended plans  
2. Applicants Report  
3. Site Photos  
4. Volume 2 R-Code assessment table

**SUMMARY**

Approval is sought for the construction of four, three and four storey Multiple dwelling buildings in an integrated development at No.1 Beazley Way, White Gum Valley. The proposed development comprises 17 Multiple dwellings, along with associated common property, which includes common garden areas, onsite parking and shared amenities.

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 and the Residential Design Codes Volume 2. These discretionary assessments include the following:

- Land use (Multiple dwelling)
- Dwelling mix,
- Volume 2 - R-Code Acceptable outcome provisions
  - building height,
  - building separation
  - Tree canopy and deep soil areas
  - visual privacy
  - public domain interface
  - car parking
  - Circulation and Common spaces.

The application is recommended for conditional approval.

**PROPOSAL**

**Detail**

Approval is sought for the construction of a Multiple dwelling development at No.1 Beazley Way, White Gum Valley. The proposed development comprises of four individual buildings, generally three storeys in height, including 17 multiple dwellings, along with associated common property, which includes common garden areas, onsite parking and shared amenities.



The development is being proposed by Baugruppen, which is a building group which involve a process that allows home buyers to collectively finance, purchase and construct a multi-unit housing development that is custom-designed to their individual needs. The building group at WGV will come together as 'citizen developers' and co-operate through the period of project planning and delivery. After construction, the units will be converted to individual ownership, as in a conventional development.

The applicants states that the Baugruppen process has the potential to deliver multi-unit housing that is more affordable, more diverse, more sustainable and supports the establishment of community for the wider Fremantle area. Applicants of the development will also have the opportunity to rent dwellings at a subsidised rate, with the opportunity to buy later on, in a model that is substantially different to typical Multiple Dwelling development.

Specifically, the development includes the following:

#### Ground Floor

- 1 x two bed x one bath unit (85m<sup>2</sup>)
- 2 x two storey, three bed x two bath units (Plot Ratio Area: 152m<sup>2</sup> and 162m<sup>2</sup>)
- 1 common room
- Communal open space and private courtyards
- Vehicle access and driveways
- Storage / bin storage
- 19 resident and visitor parking bays
- 8 bicycle bays

#### First Floor

- 4 x two bed x two bath units (Plot Ratio Area: 85m<sup>2</sup>)
- 1 x one bed x 1 bath unit (Plot Ratio Area: 68m<sup>2</sup>)
- 1 x one bed + study x 1 bath unit (Plot Ratio Area: 72m<sup>2</sup>)

#### Second Floor

- 2 x two bed x two bath units (Plot Ratio Area: 85m<sup>2</sup>)
- 4 x one bed x 1 bath unit (Plot Ratio Area: 68m<sup>2</sup>)
- 2 x one bed + study x 1 bath unit (Plot Ratio Area: 72m<sup>2</sup>)

#### Third Floor / Roof

- Communal roof terrace including water closet and open kitchenette
- Solar panels

These revised development plans are included as 'Attachment 1'.

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

Date received:	2 April 2019
Owner name:	Western Australian Land Authority
Submitted by:	Space agency Architects
Scheme:	Development Zone (Development Area 12)
Heritage listing:	Not Listed
Existing land use:	Vacant Land

Use class: Multiple Dwelling  
Use permissibility: N/A



## OFFICER'S RECOMMENDATION

Planning committee acting under delegation 2.1:

**SUPPORT** the Officers Recommendation contained in the Responsible Authority Report as follows:

That the Metro South-West JDAP resolves to:

Approve DAP Application reference DAP/19/01592 and accompanying plans DA01 (rev A), DA02 (Rev C), DA11 (Rev C), DA12 (Rev C), DA13 (Rev C), DA14 (Rev B), DA21 (Rev C), DA22 (Rev A) and DA23 (Rev A), in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Fremantle Planning Scheme No. Local Planning Scheme No.4, and pursuant to clause 24(1) and 26 of the Metropolitan Region Scheme subject to the following conditions:

## Conditions

1. This approval relates only to the development as indicated on the approved plans dated 27 August 2019. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.
2. This approval does not relate to any works within the road reserves. Any such works will be the subject of a separate agreement between the applicant/ owner and the City of Fremantle.
3. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.
4. The works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
5. 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.
6. Prior to the issue of a building permit, the development is to comply with the applicable construction requirements as prescribed in Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas, to the satisfaction of the City of Fremantle. Specifically, the requirements set out under Section 5 – Construction for Bushfire Attack Level BAL19 are to be met accordingly. There is also a requirement to provide a Bushfire Attack Level (BAL) assessment by an appropriately accredited professional.

The BAL will determine the severity of a building's potential exposure to ember attack, radiant heat and direct flame contact, and is also the basis for determining the requirements for construction to improve protection of building elements from attack by bushfire.

7. Prior to the issue of a building permit, a detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.
8. Prior to the occupation of the development approved, the approved landscaping shall be completed and maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Fremantle.
9. Prior to the issue of a building permit for the development hereby approved shall achieve a minimum accredited energy efficiency star rating of 0.5 stars above the minimum required NatHERS star rating and shall be certified by a NatHERS energy assessor to the satisfaction of the City of Fremantle.

10. Prior to issue of a building permit, a minimum of one bay per dwelling and two visitor car bays shall be provided to the satisfaction of the City of Fremantle. Prior to the occupation of the development the approved car parking shall be completed and maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Fremantle.
11. Prior to the issue of a building permit, an outdoor lighting plan must be submitted and approved, by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties and is to be implemented and maintained upon the completion of the development to the satisfaction of the City of Fremantle.
12. Prior to issue of a building permit, the owner/developer is to submit a waste management plan for approval detailing the storage and management of the waste generated by the development. The approved waste management plan is to be implemented and maintained for the life of the development to the satisfaction of the City of Fremantle.
13. Prior to the issue of a Building Permit or Demolition Permit a Construction Management Plan shall be submitted to the satisfaction of the City of Fremantle addressing the following matters:
  - a) Use of City car parking bays for construction related activities;
  - b) Protection of infrastructure and street trees within the road reserve;
  - c) Security fencing around construction sites;
  - d) Gantries;
  - e) Access to site by construction vehicles;
  - f) Contact details;
  - g) Site offices;
  - h) Noise - Construction work and deliveries;
  - i) Sand drift and dust management;
  - j) Waste management;
  - k) Dewatering management plan;
  - l) Traffic management; and
  - m) Works affecting pedestrian areas.

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

14. Prior to the issue of a building permit for the development hereby approved, a detailed drawing shall be submitted, incorporating a pedestrian gate into the street fencing of the courtyards of Units A2.0, B1.0 and D1.0 to the three ground floor Multiple dwelling private courtyards and respective adjoining in accordance with the Acceptable outcomes of Design Element 3.6 (A3.6.1) of the Residential Design Codes - Volume 2.

Prior to occupation, the approved gates shall be installed and maintained to the satisfaction of the City of Fremantle.

15. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed in either paving block or concrete, and thereafter maintained to the satisfaction of the City of Fremantle.
16. Prior to occupation of the development hereby approved, the car parking, and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 4.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the City of Fremantle.
17. All car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.
18. Prior to occupation of the development hereby approved, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City of Fremantle.
19. 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. More information on Planning in Bushfire Prone Areas and where to find an accredited assessor can be found on the Department of Planning's website - <http://www.planning.wa.gov.au>.

All works within the road reserve require separate approval from the City's Infrastructure and Project Delivery Directorate. New crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. For crossover specifications, FAQ's, permits, etc. refer to <https://www.fremantle.wa.gov.au/crossovers>.

- ii. 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 Engineering department can be contacted via [ibs@fremantle.wa.gov.au](mailto:ibs@fremantle.wa.gov.au) or 9432 9999.

- iii. 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.
- iv. Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.
- v. 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).
- vi. 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.

**Form 1 – Responsible Authority Report  
(Regulation 12)**

<b>Property Location:</b>	1 (Lot 2) Beazley Way, White Gum Valley
<b>Development Description:</b>	Three to Four Storey Multiple Dwelling development containing 17 multiple dwellings and communal areas
<b>DAP Name:</b>	Metro South-West Joint Development Assessment Panel
<b>Applicant:</b>	Space Agency Architects
<b>Owner:</b>	Western Australian Land Authority
<b>Value of Development:</b>	\$5.3 Million
<b>LG Reference:</b>	DAP001/19
<b>Responsible Authority:</b>	City of Fremantle
<b>Authorising Officer:</b>	Manager Development Approvals
<b>DAP File No:</b>	DAP/19/01592
<b>Report Due Date:</b>	9 October 2019
<b>Application Received Date:</b>	2 April 2019
<b>Application Process Days:</b>	90 days
<b>Attachment(s):</b>	1: Revised Development plans 2: Applicants Report 3: Site photos 4: Volume 2 - R-Code assessment table

### **Officer Recommendation:**

That the Metro South-West JDAP resolves to:

Approve DAP Application reference DAP/19/01592 and accompanying plans DA01 (rev A), DA02 (Rev C), DA11 (Rev C), DA12 (Rev C), DA13 (Rev C), DA14 (Rev B), DA21 (Rev C), DA22 (Rev A) and DA23 (Rev A), in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Fremantle Planning Scheme No. Local Planning Scheme No.4, and pursuant to clause 24(1) and 26 of the Metropolitan Region Scheme subject to the following conditions:

### **Conditions**

1. This approval relates only to the development as indicated on the approved plans dated 27 August 2019. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.
2. This approval does not relate to any works within the road reserves. Any such works will be the subject of a separate agreement between the applicant/ owner and the City of Fremantle.
3. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.
4. The works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
5. 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.
6. Prior to the issue of a building permit, the development is to comply with the applicable construction requirements as prescribed in Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas, to the satisfaction of the City of Fremantle. Specifically, the requirements set out under Section 5 – Construction for Bushfire Attack Level BAL19 are to be met accordingly.  
There is also a requirement to provide a Bushfire Attack Level (BAL) assessment by an appropriately accredited professional.

The BAL will determine the severity of a building's potential exposure to ember attack, radiant heat and direct flame contact, and is also the basis for determining the requirements for construction to improve protection of building elements from attack by bushfire.

7. Prior to the issue of a building permit, a detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.

8. Prior to the occupation of the development approved, the approved landscaping shall be completed and maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Fremantle.
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10. Prior to issue of a building permit, a minimum of one bay per dwelling and two visitor car bays shall be provided to the satisfaction of the City of Fremantle. Prior to the occupation of the development the approved car parking shall be completed and maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Fremantle.
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  - b) Protection of infrastructure and street trees within the road reserve;
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  - 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.



14. Prior to the issue of a building permit for the development hereby approved, a detailed drawing shall be submitted, incorporating a pedestrian gate into the street fencing of the courtyards of Units A2.0, B1.0 and D1.0 to the three ground floor Multiple dwelling private courtyards and respective adjoining in accordance with the Acceptable outcomes of Design Element 3.6 (A3.6.1) of the Residential Design Codes - Volume 2.

Prior to occupation, the approved gates shall be installed and maintained to the satisfaction of the City of Fremantle.

15. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed in either paving block or concrete, and thereafter maintained to the satisfaction of the City of Fremantle.
16. Prior to occupation of the development hereby approved, the car parking, and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 4.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the City of Fremantle.
17. All car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.
18. Prior to occupation of the development hereby approved, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City of Fremantle.
19. 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. More information on Planning in Bushfire Prone Areas and where to find an accredited assessor can be found on the Department of Planning's website - <http://www.planning.wa.gov.au>.

All works within the road reserve require separate approval from the City's Infrastructure and Project Delivery Directorate. New crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. For crossover specifications, FAQ's, permits, etc. refer to <https://www.fremantle.wa.gov.au/crossovers>.

- ii. 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 Engineering department can be contacted via  
[ibs@fremantle.wa.gov.au](mailto:ibs@fremantle.wa.gov.au) or 9432 9999.

- iii. 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.
- iv. Effective measures shall be taken to stabilize sand and ensure no sand escapes from the property by wind or water in accordance with the City's Prevention and Abatement of Sand Drift Local Law.
- v. 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).
- vi. 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.

#### **Details: outline of development application**

Insert Zoning	MRS:	Urban
	TPS:	Development Zone, Development Area 12
Insert Use Class:		Multiple dwelling
Insert Strategy Policy:		N/A
Insert Development Scheme:		Local Planning Scheme No. 4
Insert Lot Size:		2079m <sup>2</sup>
Insert Existing Land Use:		Vacant Site

Approval is sought for the construction of a Multiple dwelling development at No.1 Beazley Way, White Gum Valley. The proposed development comprises of four individual buildings, generally three storeys in height, including 17 multiple dwellings, along with associated common property, which includes common garden areas, onsite parking and shared amenities.

The development is being proposed by Baugruppen, which is a building group which involve a process that allows home buyers to collectively finance, purchase and construct a multi-unit housing development that is custom-designed to their individual needs. The building group at WGV will come together as 'citizen developers' and co-operate through the period of project planning and delivery. After construction, the units will be converted to individual ownership, as in a conventional development.

The applicants states that the Baugruppen process has the potential to deliver multi-unit housing that is more affordable, more diverse, more sustainable and supports the establishment of community for the wider Fremantle area. Applicants of the development will also have the opportunity to rent dwellings at a subsidised rate, with the opportunity to buy later on, in a model that is substantially different to typical Multiple Dwelling development.

Specifically, the development includes the following:

#### Ground Floor

- 1 x two bed x one bath unit (85m<sup>2</sup>)
- 2 x two storey, three bed x two bath units (Plot Ratio Area: 152m<sup>2</sup> and 162m<sup>2</sup>)
- 1 common room
- Communal open space and private courtyards
- Vehicle access and driveways
- Storage / bin storage
- 19 resident and visitor parking bays
- 8 bicycle bays

#### First Floor

- 4 x two bed x two bath units (Plot Ratio Area: 85m<sup>2</sup>)
- 1 x one bed x 1 bath unit (Plot Ratio Area: 68m<sup>2</sup>)
- 1 x one bed + study x 1 bath unit (Plot Ratio Area: 72m<sup>2</sup>)

#### Second Floor

- 2 x two bed x two bath units (Plot Ratio Area: 85m<sup>2</sup>)
- 4 x one bed x 1 bath unit (Plot Ratio Area: 68m<sup>2</sup>)
- 2 x one bed + study x 1 bath unit (Plot Ratio Area: 72m<sup>2</sup>)

#### Third Floor / Roof

- Communal roof terrace including water closet and open kitchenette
- Solar panels

These revised development plans are included as 'Attachment 1'.

### **Background:**

The site is zoned 'Development Zone' and 'Development Area' (DA 12 – Kim Beazley school) under the provisions of the City's Local Planning Scheme No. 4 (LPS4). A structure plan has been adopted for this Development Area, with the subject site zoned Residential with an applicable density coding of R60 as per the provisions of LPP3.15.

The subject site is located within the White Gum Valley Local Planning Area 6 – (LPA 6) as prescribed in Schedule 12 of LPS4.

The site is located in the street block bounded by Stevens Street to the north, Beazley Way to the south and west and Mouquet Vista to the east. The site is not individually listed on the City's Heritage List; nor is it located within a prescribed Heritage Area.

The subject site is approximately 2,079m<sup>2</sup>, has a predominantly north-south orientation and is currently vacant. In terms of its topography, the subject site is relatively flat.

A review of property file revealed the following information relevant to planning and/or to this application:

- The subject site is located within Development Area 12 – Kim Beazley school. The structure plan for this DA 12 was adopted by Council at its Ordinary Council Meeting (OCM) on 18 December 2013. The Western Australian Planning Commission (WAPC) endorsed the structure plan on the 12 August 2014 with modifications. These modifications were made and the City received notification it was 'officially' endorsed on the 14 October 2014.
- On 1 September 2014, the WAPC granted conditional approval for a 28 lot freehold (green title) subdivision of No. 101-133 (Lot 2089) Stevens Street, White Gum Valley (WAPC149982). This subdivision was generally consistent with the structure plan adopted for Development Area 12 and created the subject site;
- On 2 December 2015, the WAPC endorsed the deposited plan for the subdivision of WAPC149982.

### **Legislation and Policy:**

#### Planning and Development (Local Planning Schemes) Regulations 2015

##### Schedule 2

- CI 3.(5) Local planning policies
- CI 60. Requirement for development approval
- CI 64. Advertising applications
- CI 66. Consultation with other authorities
- CI 67. Matters to be considered by local government

#### Local Planning Scheme No. 4

The following Scheme provisions are considered the most relevant in the consideration of the planning application:

- CI 3.2.1 (h) – Objectives of the Development zone
- Table 1 - Zoning
- Table 2 - Vehicle parking Parking
- CI4.7.3.1 – Variation to parking requirements
- CL4.8.2 – Variation to other requirements
- Schedule 1 – Dictionary of defined words and expressions;
- Schedule A
  - Clause 61 - Supplemental provisions to the deemed provisions
  - Clause 78B – Advisory Committee

#### State Government Policies

- SPP7.0 – Design of the Built Environment
- SPP7.3- Volume 2 - Residential Design Codes
- SPP3.7 – Planning in Bushfire Prone Areas

### Local Policies

The site is subject to the following relevant Local Planning Policies:

- Local Planning policy 1.10 – Construction Sites policy;
- Local Planning Policy 1.3 – Public Notification of Planning Proposals
- Local Planning Policy 1.9 – Design Advisory Committee and Principles Of Design
- Local Planning Policy 2.12 - Planning Applications Impacting On Verge Infrastructure And Verge Trees
- Local Planning Policy 2.13 – Sustainable Buildings Design Requirements
- Local Planning Policy 3.15 – Former Kim Beazley School Site policy

### **Consultation:**

#### Public Consultation

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 the exercise of discretion with regard to:

- Land use,
- Dwelling mix,
- Volume 2 - R-Code Acceptable outcome provisions for:
  - o Building height,
  - o Building separation
  - o Visual privacy
  - o Public domain interface
  - o Car parking
  - o Circulation and Common spaces

The advertising period concluded on 27 May 2019, and one submission was received. The following issues were raised (summarised):

<b>Issue Raised</b>	<b>Officer's comments</b>
Overlooking – a level 1 balcony on the south site will directly overlook habitable spaces and outdoor living areas of 10 Mouquet Vista. This balcony should be screened similarly to others in the development.	The application has been assessed against the R-Codes volume 2 Element 3.5 and is considered to address the elements objectives as the proposed street facing balconies are separated by a public street and approximately 20m from the adjacent residential properties.

#### Consultation with other Agencies or Consultants

Nil required.

Design Advisory Committee

Clause 78B (6)(b) of LPS4 requires Council to have regard to the recommendations of the DAC for applications meeting specific criteria.

The application was presented to the DAC on 8 April 2019. The proposal was generally supported by the DAC who acknowledged the proposed siting and disjointed arrangement of the buildings which has the potential to create an interesting and unique development that will positively contribute to the WGV area. The DAC's recommendation is as follows:

1. The Design Advisory Committee, having considered the proposal for the three storey residential development at 1 Beazley Avenue, White Gum Valley, supports the proposal subject to:
  - a) The apartment design being modified to maximise access to sun, access to daylight and cross ventilation.
  - b) The location of external sun shading and privacy screens being reviewed to be responsive to the environmental conditions and address areas of direct overlooking.
  - c) The composition of the external facades and boundary walls being reviewed to maximise the visual connection between the development and the street.
  - d) The location and design of the internal courtyard and communal roof terrace being reviewed to maximise access to sun, accessibility and functionality.
2. The DAC notes that a Bush Fire Attack Level (BAL) Report has not been submitted with the application. Should the design of the proposal change in response to the recommendations of the BAL, the proposal may need to be reconsidered by the DAC.

In response to the DAC's recommendation the applicant has submitted revised plans to address each of the DAC's concerns:

- a) The apartment design being modified to maximise access to sun, access to daylight and cross ventilation.*

Additional north facing windows have been included into units A1.1, C1.1, A2.2, B1.2, C1.2.

- b) The location of external sun shading and privacy screens being reviewed to be responsive to the environmental conditions and address areas of direct overlooking.*

The shading has been reviewed and it has been optimised to provide protection from the morning and evening sun, maximise solar access during winter and to screen primary living spaces from direct overlooking.

- c) The composition of the external facades and boundary walls being reviewed to maximise the visual connection between the development and the street.*

Amended plans have been submitted to increase the outlook to and surveillance over the surrounding streets by relocating five previously internal windows to external elevations, introducing three new openings to the Stevens Street elevation and three new windows to the internal elevations of the development. The extent of a number of the screening devices has also been reduced.

The visual connection could be further maximized, particularly from key elevations of the development, including the corner of Stevens Street, Mouquet Vista and Beazley Way. Although further window additions could be easily be incorporated to further improve the building's relationship with the public domain, the recent amendments are considered adequate in meeting the Element objectives of the R-Codes.

With regards to the boundary walls/ fences, a review of these additions has also occurred resulting in changes to the heights, lengths and positioning of these walls which either enclose private courtyards and /or retain differences in levels across the site. Furthermore there are no boundary walls / fences on the north, east and south west corners of the development maintaining as much passive and available surveillance between the site and respective streets. All street frontages incorporate primary and/or outdoor spaces that overlook the streets.

- d) The location and design of the internal courtyard and communal roof terrace being reviewed to maximise access to sun, accessibility and functionality.*

The roof terrace is universally accessible via a lift and includes sanitary amenities. It provides a framework for residents to customise the final design and facilities to suit their current and future needs. The terrace is located on the northern building to gain full access to the sun year round whilst including a shade pergola device to assist with the summer periods.

The communal area in the internal courtyard has been located to maximise solar access year round. Buildings A and B to the north have been located to maximise solar access to the central courtyard. This communal area is also located adjacent to the common room on the ground floor of building C, which includes sanitary facilities and the option to add a kitchenette.

2. *The DAC notes that a Bush Fire Attack Level (BAL) Report has not been submitted with the application. Should the design of the proposal change in response to the recommendations of the BAL, the proposal may need to be reconsidered by the DAC.*

A BAL report has been provided which classifies the site as BAL19. As such no major design changes are required, however an appropriate condition is recommended to ensure that the development complies with the applicable Australian Standards for this rating. No new built form changes will result from this BAL rating to the development original reviewed by DAC therefore no further DAC review was required.

### **Planning Assessment:**

The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant State and Council local planning policies. On 24 May 2019, the State

Government introduced new requirements for apartment development, being State Planning Policy 7.3: Residential Design Codes Volume 2 – Apartments (SPP 7.3). These do not provide deemed-to-comply requirements; they specify objectives which are to be addressed through a performance based assessment. Compliance is to be demonstrated by the applicant.

Some of the requirements of SPP 7.3 such as dwelling mix are superseded by the City's existing statutory requirements. In cases where these aspects of the development do not meet these requirements they have been assessed against the relevant discretionary criteria. In this particular application the areas outlined below are considered to require discretionary assessment:

- Land use

Land use	Permissibility	Discretion
Multiple Dwelling	D*	Required

*\*Means that the use is not permitted unless the Council has exercised its discretion by granting planning approval*

- SPP7.3 - Volume 2 - R-Code - Apartment Design Principles

The proposal has been considered against the principles of SPP 7.0 – Design of the Built Environment. These comments are supported by the assessment below which provides more detailed consideration of the specific provisions of SPP 7.3 and an assessment against the relevant 'Element Objectives' of the R-Codes can be seen in Attachment 3.

Further discussion of the relevant Element Objectives of the R-Codes for building height, building separation, communal open space, visual privacy, public domain interface, car parking, circulation and common spaces is provided below.

### Officer Comments

The below principles inform the Element Objectives of the state planning policy which are supported by 'Acceptable Outcomes'. The R-Codes also state that whilst compliance with the Acceptable Outcomes is likely to achieve the Objectives they are not a deemed-to-comply pathway and the proposal will be assessed in context of the entire design solution to ensure the Objectives are achieved. It also notes those other satisfactory designs responses to the Element Objectives may exist which need to be assessed on their individual merits.

Principle	Officer Comment
Context and character Good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.	The proposed development is consistent with the intended and desired character of the White Gum Valley Kim Beazley school precinct in complying with the relevant height, density, and land use requirements of the Scheme and relevant policy.
<b>Landscape quality</b> Good design recognises that together landscape and buildings operate as an integrated and sustainable system, within a broader ecological context.	The development is considered to adequately provide for landscaping on site, and is an acceptable proportion of landscaping between built form over the allotment.



	<p>The landscaping proposal is strategic at this stage and will be further developed by a landscape designer prior to commencement of construction. The strategic intent is to provide opportunity for soft landscaping and raised roof top garden beds. These setting are proposed to allow residents to produce food on site and to create sustainable living practices through the principles of One Planet Living.</p> <p>Due to the proposed onsite tree removal the applicant has also proposed a replacement tree of equivalent maturity and warranted species to be incorporated into the Landscaping plan for the development.</p>
<p><b>Built form and scale</b> 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.</p>	<p>The proposed development has regard to the relevant statutory controls applicable to the development. The development is considered consistent with the intended future character of the precinct without being considered to unduly impact the amenity and utility of adjoining residential dwellings.</p>
<p><b>Functionality and build quality</b> 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.</p>	<p>The proposed design is considered to have regard to the functionality of the individual buildings including pedestrian and vehicle access and circulation. The proposal is considered to appropriately satisfy the relevant accessibility requirements for dwellings, encouraging use of the dwellings by inhabitants for the life of the development.</p>
<p><b>Sustainability</b> Good design optimises the sustainability of the built environment, delivering positive environmental, social and economic outcomes.</p>	<p>The proposed development will meet a minimum 6.5 star NATHERS rating for the overall development and not less than 5.5 stars for individual dwellings. The development has been designed within the One Planet Living principles that guide developments in the WGV precinct generally.</p>
<p><b>Amenity</b> Good design provides successful places that offer a variety of uses and activities while optimising internal and external amenity for occupants, visitors and neighbours, providing environments that are comfortable, productive and healthy.</p>	<p>The proposed development provides for a variety of dwelling types and contributes to the residential density mix of the immediate locality.</p> <p>The internal spaces such as the provided outdoor living areas are considered to appropriately provide for internal amenity.</p>

<p><b>Legibility</b> Good design results in buildings and places that are legible, with clear connections and easily identifiable elements to help people find their way around.</p>	<p>Access arrangements for the development are clearly provided and will be readily legible for inhabitants and employees.</p> <p>The Kim Beazley precinct has its main site entrances at the mid-point of the boundary to Hope Street and either side of Lot 2 on Stevens Street. The proposed buildings will be a significant built form from these approaches. The site is therefore a gateway type proposal (similar to SHAC and Evermore WGV) and the design has acknowledged this role.</p>
<p><b>Safety</b> Good design optimises safety and security, minimising the risk of personal harm and supporting safe behaviour and use.</p>	<p>The development provides relevant security measures such as good passive surveillance and controlled building access to appropriately address this principle.</p>
<p><b>Community</b> 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.</p>	<p>The development provides a diverse range of multiple dwelling sizes which ultimately caters needed alternative housing typologies for the greater White Gum Valley community.</p> <p>The applicant states that the project is inherently diverse. The Baugruppen participants of the site include down-sizers, young singles and couples, older couples, families with young children who consider Fremantle to be their lifetime home. The proposed design provides a framework and canvas to allow the diversity of its residents to be expressed.</p>
<p><b>Aesthetics</b> Good design is the product of a skilled, judicious design process that results in attractive and inviting buildings and places that engage the senses.</p>	<p>The development is considered to provide for an appropriate level of design quality for Multiple dwelling uses. Given the site is unusually engulfed by street interface, the development has been designed to engage appropriately to all elevations providing an attractive and inviting presence to all elevations.</p>

The table in Attachment 4 considers the proposed development against the Acceptable Outcomes in the first instance. Where a requirement of SPP 7.3 has been superseded by the requirements of the City's Scheme or policies, this element has been omitted from the table.

## **Land Use**

The Kim Beazley School Site Structure plan states that residential development within the Structure Plan area shall be assessed, implemented and enforced in accordance with the standards and requirements of the City of Fremantle's Scheme and Residential Design Codes and any adopted Local Planning Policy.

Specifically, the adopted structure plan map and provisions within LPP3.15 relate to a 'Residential R60' development for this site. A multiple dwelling is a 'D' land use within a Residential zone (as the site is identified in the adopted Kim Beazley Structure plan), which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval. Typically 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 land use is considered to satisfy the matters to be considered including the objectives of the Structure Plan for the following reasons:

- The proposal will create a unique and interesting development that generally responds to the context and the climate.
- The development will introduce a range of alternative housing typologies to the existing WGV mix.
- The development is considered to provide a high quality urban and built form outcome.

## **Dwelling Mix**

<b>Element</b>	<b>Requirement</b>	<b>Provided</b>	<b>Extent of variation</b>
SPP 7.3 Element 4.8. – Multiple dwelling diversity Local Planning Scheme No. 4 clause 4.4.5	Min 25% maximum 60sqm floor area	Nil	25%

The proposed Multiple dwellings range in size from 68m<sup>2</sup> to 162m<sup>2</sup>. There are seven two bedroom, eight single bedroom and two, three bedroom apartments within the development. This is considered to meet the intent of the clause to provide a range of dwelling types and the variation to clause 4.4.5 is supported against cl. 4.8.2.1 of LPS4 for the following reasons –

*The Council may vary other requirements of the Scheme subject to being satisfied in relation to all of the following –*

- a) *the variation will not be detrimental to the amenity of adjoining properties or with the locality generally*

The lack of smaller apartment types is not considered to be detrimental to the amenity of adjoining properties. The proposed dwelling sizes do not result in a plot ratio issue for the development. 17 units for the 2079m<sup>2</sup> allotment is not considered excessive nor inappropriate.

Furthermore, the development has developed through a co-operative design process with all dwellings are allocated to future purchasers/ residents, most of which have been involved in the design process and identified the type and size of dwellings they require. Overall the proposed mix of dwellings is considered to create the diversity that LPS4 cl. 4.4.5 aims to achieve.

- b) *conservation of the cultural heritage values of buildings on-site and adjoining; and*

The site is not of any heritage significance. There are no buildings of cultural heritage significance adjoining the site either.

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

The proposed development meets the requirements of relevant local planning policies.

### **Building Height**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
SPP7.3 Volume 2 – 2.2 –R60	12m overall height	12.6m	600mm
	3 Storey	4 Storey	1 Storey

The proposed building height is supported for the following reasons:

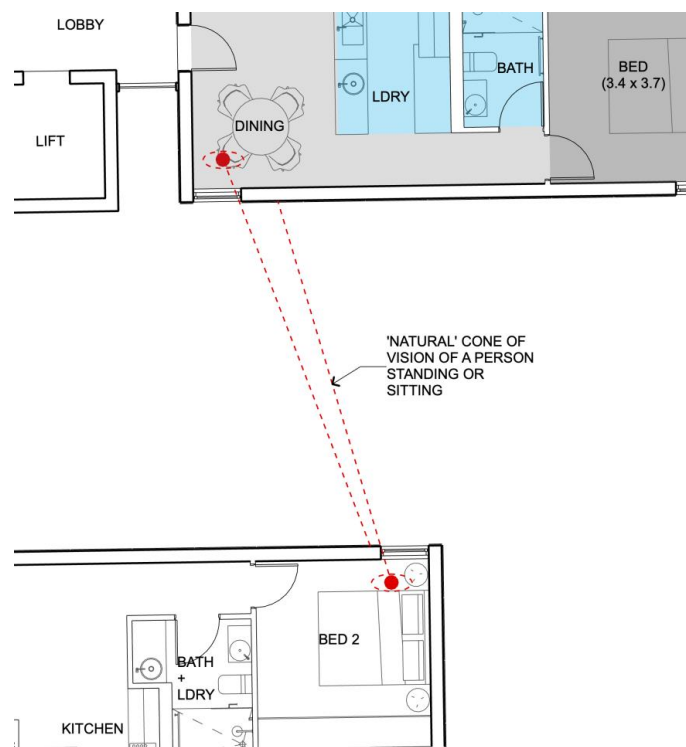
- The majority of the development is well under the 12m maximum provision, being 10.2m.
- The height discretion only relates to the north eastern located building with the remaining three buildings being well under the 12m provisions acceptable and compliant,
- The element projecting above the 12m line, consists of water closet, kitchen enclosure and privacy screening which are centrally located to the building roof area and really minor in size and form.

- The developments height is consistent with the general character scale of the other two existing Multiple dwelling developments (3 Cower Mews and 2 Beazley Way) within the WGV precinct, and overall the development is not considered to result in any negative amenity impacts on any other development within the WGV area, or any units within the Baugruppe itself.

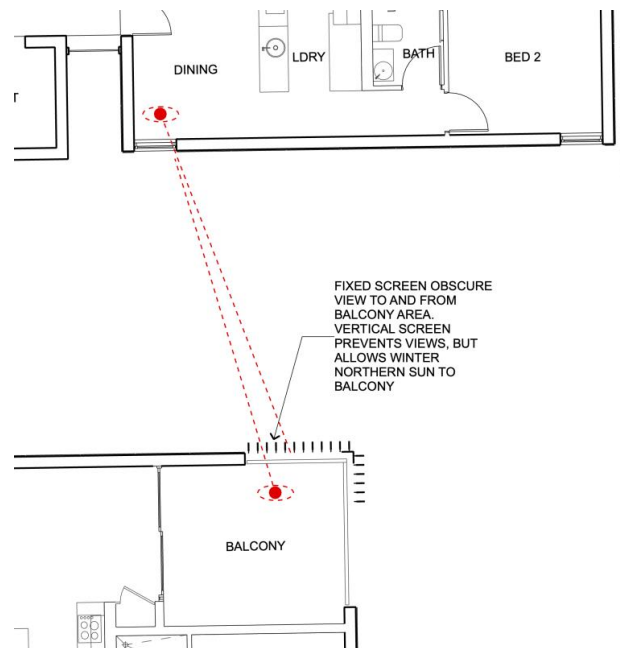
### **Building separation and Visual Privacy**

Table 2.7 of Volume 2 of the R-Codes outlines the 'Acceptable Outcomes' setback distance of which the proposed development doesn't meet. Accordingly consideration against the relevant Planning guidance of DE2.7 is required. To mitigate such issues and potential loss of privacy between internal units the following measures have been incorporated into the design which are considered to meet the planning guidance criteria of DE2.7:

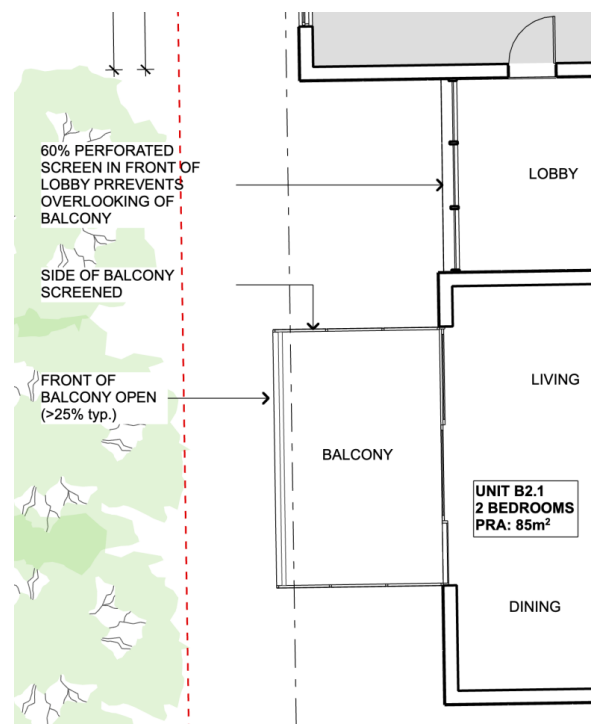
- The proposed internal building separation is considered to be compatible and consistent with the existing Multiple dwelling built form and character within the former Kim Beazley school site.
- The proposed building separation is proportionate to the proposed building height of the development and provides a suitable level of residential amenity (acoustic privacy, natural ventilation, sunlight and day light access) for all internal units.
- Openings have been placed so that 'casual' overlooking is minimized - see diagram 1 below.
- Fixed External Screens have been introduced to prevent overlooking between internal units where necessary - see diagram 2 below.
- In addition, lobbies are screened using perforated metal mesh, preventing direct overlooking of adjacent residential spaces - see diagram 3 below.
- The participants of the Baugruppen (future residents) have contributed to the design and the proposed meets their aspirations and requirements.



**Diagram 1:** Illustration of the off setting of windows to maximise privacy



**Diagram 2:** Illustration of the proposed use of screens to maximise privacy



**Diagram 3:** Illustration of the proposed use of screens to maximise privacy

### Public domain interface

The site is surrounded by three public streets and the design of development is required to present to all of these respective streets. As mentioned above in the DAC comments, the original proposal was not considered to meet the Element objectives for this matter as the development lacked openings and opportunities for passive surveillance over the approach to the development from the surrounding streets.

The development includes three dwellings to the ground floor, all of which have a private courtyard fronting either Stevens Street or Mouquet Vista. None of the courtyards are directly accessible from the respective streets as fencing to these street elevations is proposed with no gate. A gate entrance for each of these three ground floor units and their respective private courtyards is a desirable outcome, as it will improve pedestrian access between the street and these individual dwellings without comprising the safety or privacy of the dwellings. Accordingly, a condition of approval is recommended to be imposed requiring the installation of a pedestrian gate to these private courtyards.

As mentioned above the applicant has submitted amended plans introducing additional window openings, relocating a number of existing internal openings to external elevations and the reconsideration of the size of existing balconies and associated screening devices in an endeavour to improve the interaction between the development and the surrounding public domain.

The proposal also includes two bins storage areas (Beazley Way and Mouquet vista streetscape) which will be visible from the primary street, albeit screened by garden walls. It is noted that ideally bin storage area should be concealed and completely screened from the street view. However, the proposed service area will be adequately screened and landscaping will help preserve the visual amenity of the area.

#### **Car Parking**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
SPP 7.3 Element 3.9 – Car Parking	Apartments (acceptable outcome) – 20 bays	17 bays	3 bays
Local Planning Scheme No. 4 clause 4.7.1 – Car Parking	Apartment visitor – 4 bays	2 bays	2 bays

The applicant provided the following justification in support of the reduced provision of car parking:

- The development includes 17 onsite residential parking bays, as well as two visitor bays. The site has eight public car parking bays on three of the four surrounding streets which can be used by visitors.

Having regard to the above, the relaxation for the onsite car bays is considered supportable in this instance, subject to each dwelling being allocated one of the 17 provided car bays. The relaxation of the five onsite bays is supported for the following reasons:

- One bay per dwelling is considered sufficient as the site is within a suburb which is walkable with good cycle networks and is close to good transport networks on Carrington Street and High Street.
- Two visitor bays are considered sufficient in lieu of the four required. One designated bay at both vehicle entrances to the site will provide safe and easily parking for future visitors of the complex.
- There are eight existing street car bays surround the perimeter of the site which can also be utilised as alternative visitor parking if required and available.

Accordingly, it recommended a condition be imposed requiring one car bay be allocated per dwelling within the complex.

### **Circulation and Common spaces**

The majority of the proposed access corridors of the development exceed the Acceptable Outcome (1.5m) provision; however there is one corridor on all levels within the north eastern located building which is only 1.3m in dimension. This area relates to the lift corridor area of the north eastern building. The circulation area is well lit and provides a high level of passive surveillance from units in this building. Whilst being below the acceptable minimum dimension, the total circulation area is considered to provide both safe and convenient access for all residents and visitors especially with the combined lift option for access and egress to the rooftop communal space of the complex.

### **Conclusion:**

The application seeks planning approval for a three storey Multiple Dwelling development containing 17 dwellings at No. 1 (Lot 2) Beazley Way, White Gum Valley.

The application seeks discretionary assessment against LPS4 and R-Codes -Volume 2 in relation to:

- Land use
- Dwelling mix
- Building height
- Building separation
- Communal open space
- Visual privacy (internal)
- Public domain interface
- Car parking (visitor parking)
- Circulation and Common spaces

The proposal is considered to satisfy the relevant planning criteria in relation to all of the above matters for the reason outlined above in the 'Officers Comment' section.

The proposal of a Baugruppen Model development would add to the range of innovative housing developments the City is seeking to promote throughout Fremantle through its own initiatives and by supporting appropriate proposals by private developers, in order to achieve the Council's strategic objective of providing more diverse and affordable housing. The proposed development would also contribute to the contemporary mix of medium density urban development in White Gum Valley.

Accordingly, the application is recommended for conditional approval.



**PC1909 -4      ALFRED ROAD, NO. 20 (LOT 1), NORTH FREMANTLE - VARIATION  
TO PREVIOUS DEVELOPMENT APPROVAL (TWO STOREY SINGLE  
HOUSE) - (CJ VA0025/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Revised development plans  
2: Original development approval  
3: Site photos

**SUMMARY**

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

The proposal is referred to the Planning Committee (PC) due to the original determination being made by PC, noting that officers originally recommended refusal for the proposal. The revised application does not seek any new discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies.

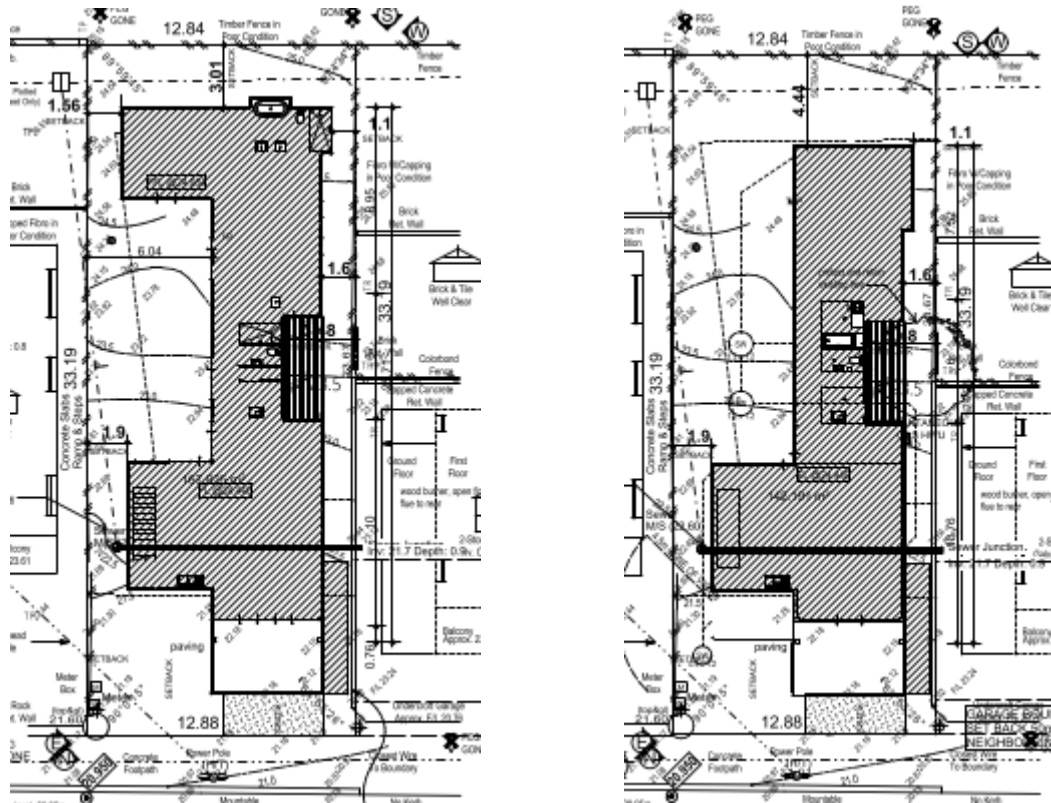
The variation application is recommended for conditional approval.

**PROPOSAL**

**Detail**

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

- Increased rear setback
- Reduction in overall floor area (removal of rooms at the rear of the development)
- Addition of skylight
- Extended balcony
- Internal floor layout change
- Alteration to windows



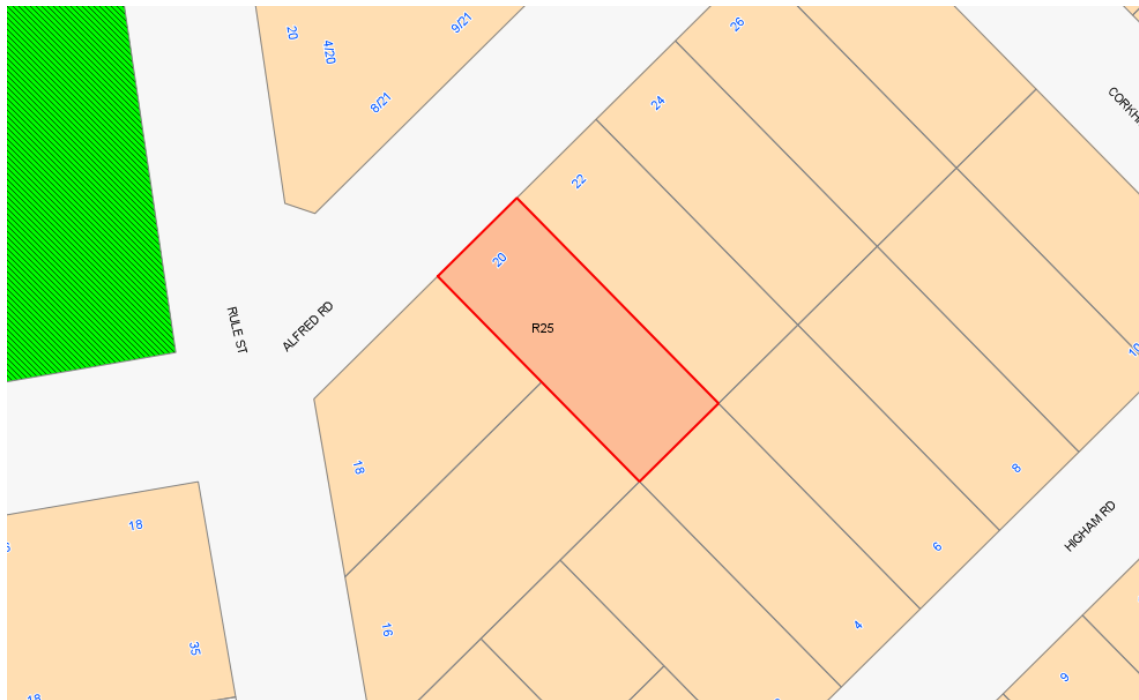
**Figure 1:** Site plan of Approved development (left) and variation application (right)

On plans initially lodged for the variation, a new discretion relating to the primary street setback was proposed for the kitchen. The applicant submitted amended plans on 18 July 2019 that returned the primary street setback to that which was approved on 1 May 2019.

Development plans are included as attachment 1.

#### Site/application information

Date received:	2 July 2019
Owner name:	Mischka Yellin-Menzies & Elliane Christou
Submitted by:	Mischka Yellin-Menzies
Scheme:	Residential R25
Heritage listing:	Level 4/North Fremantle Heritage Area
Existing land use:	Vacant site
Use class:	Single house
Use permissibility:	P



## **CONSULTATION**

### **External referrals**

Nil required.

### **Community**

In accordance with LPP1.3 Public Notification of Planning Proposals, as the revised application does not include any further discretion the application was not required to be advertised. As the original application was advertised and submissions were received, the submitters have been advised of the receipt of the variation application.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

The revised proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. No further discretion has been sought. Any changes to previous discretion are discussed in the Officer Comment section of the report below.

### **Background**

The subject site is located on Alfred Road near the intersection with Rule Street in North Fremantle. The site has a land area of approximately 425m<sup>2</sup> and is currently a vacant site. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed and located within the North Fremantle Heritage Area.

At its meeting on 1 May 2019, the Planning Committee granted conditional approval for the construction of a two storey Single house at 20 Alfred Road. The application was recommended by officers for refusal due to the proposed primary street setback. The application was approved on the basis that the proposed setback was acceptable in the context of the established streetscape and the unusual site constraints.

### **Variation application**

In accordance with clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the regulations), the owner of the land subject to a development approval can apply to vary the approved development. This is on the proviso that the amendment does not substantially alter the development as approved.

Further to the requirement in the regulations, the City's local planning policy LPP 1.1 Amendment and Extension to the Term of Planning Approval allows a variation where the development remains, in substance, the same and is not changed to the extent that a new development is proposed.

The changes proposed by the applicant include changes to the built form, by reducing the extent of building at the rear, increasing lot boundary setbacks and extending the balcony at the front of the development. The changes will be noticeable, but are not considered to be significant enough to substantially alter the development. Furthermore, the proposal remains to be the same land use (i.e. Single house).

As such the proposed variation application is accepted for consideration. An assessment of the proposed variations is discussed below.

### **Primary street setback**

#### *Approved plans*

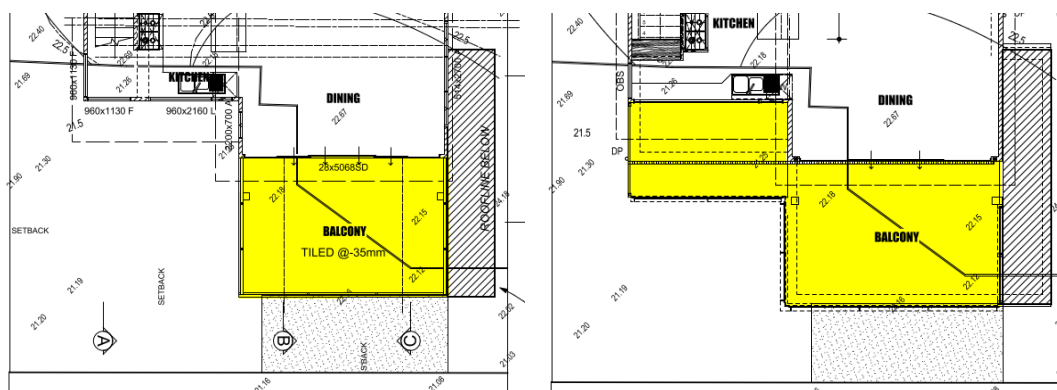
<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Garage/Entry/Store	5m	2m to 5.5m	Nil to 3m
Upper floor	7m	5.5m to 7.1m	Nil to 1.5m

#### *Variation plans*

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Garage/Entry/Store	5m	2m to 5.5m	Nil to 3m
Upper floor	7m	5.5m to 7m	Nil to 1.5m

As per the above tables, the only change proposed to the primary street setback is a minor reduction of the upper floor by 100mm. This minor reduction is still compliant with the 7m minimum requirement specified in Council's Residential Streetscape Policy (LPP 2.9).

It is noted that the variation application proposes to extend the width of the approved balcony facing Alfred Road, however in accordance with the definition of the 'prescribed street setback' as outlined by LPP 2.9 open balconies are not included in calculation of the minimum setback. The following floor plans indicate the change:



**Figure 2:** Extract of upper floor plan of Approved development (left) and proposed variation (right)

### Lot boundary setback (Boundary wall)

#### Approved plans and Variation plans

Element	Requirement	Proposed	Extent of Variation
South west (garage)	1m	50mm	950mm

There is no change proposed to the approved boundary wall.

### Lot boundary setback

#### Approved plans and Variation plans

Element	Requirement	Proposed	Extent of Variation
South west (balcony)	2.3m	1.5m	800mm

There is no change to the approved lot boundary setback design principle assessment. Further changes including alterations at the rear, and the balcony change at the front, meet deemed to comply requirements, noting also that the changes actually increase the setbacks proposed in some instances.

### Building height external wall

#### Approved plans and Variation plans

Element	Requirement	Proposed	Extent of Variation
External wall height	5.5m	6m	Nil

There has been no change to the approved building height.

### Garage width

#### Approved plans and Variation plans

Element	Requirement	Proposed	Extent of Variation
Garage width	50% of frontage	52%	2%

There has been no change to the approved garage width.

### Visual privacy

#### Approved plans

Element	Requirement	Proposed	Extent of Variation
Balcony (south-west)	7.5m	2.4m	5.1m

*Variation plans*

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Balcony (south-west)	7.5m	2.4m	5.1m
Balcony (north-east)	7.5m	1.9m + screened to 1.6m from floor level	Nil (screened)

There have been no alterations to the balcony on the south west side. The extension to the balcony (see diagram in figure 2 above), results in a change to the assessment of visual privacy for the balcony. This elevation has been shown to have screening, which given the balcony will have the potential to overlook the side setback and openings on the adjoining property, is supported.

A condition of approval is recommended to be added to ensure the screening is installed prior to occupation.

## **CONCLUSION**

The proposed variations to the approved development result in a reasonable number of changes, but are not considered to substantially alter the development. There are no new discretions for PC to consider, and the variation application is recommended for approval.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

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

### Green Plan 2020

Encourage the retention of vegetation on private land.

1. Some vegetation will need to be removed to enable the development.
2. The removal of vegetation does not require planning approval.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the Variations to Planning Approval for DA0586/18 (Two storey Single house) granted 1 May 2019 at No. 20 (Lot 1) Alfred Road, North Fremantle, subject to the same terms and conditions, except whereby modified by the following condition(s):**

**A. Condition 1 of the Planning Approval dated 1 May 2019, be deleted and replaced with the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans dated 18 July 2019. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the original decision letter, being 1 May 2019. If the subject development is not substantially commenced within a 4 year period of the original decision letter, the approval shall lapse and be of no further effect.**

**B. The following additional condition be added:**

- 5. Prior to the issue of a building permit, a detailed drawing showing how the balcony located on the north east elevation, is to be screened in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes with fixed vertical 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. Prior to occupation, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.**

**PC1909 -5      PROWSE STREET, NO. 11B (LOT 742) BEACONSFIELD - TWO  
STOREY SINGLE HOUSE- (CJ DA0200/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Development plans  
2: Site photos

**SUMMARY**

Approval is sought for a two storey Single house at No. 11b Prowse 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.

In response to the neighbour submissions and officers' initial assessment, the applicant has made substantial amendments to the plans in order to minimise the impact on the southern neighbour.

The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies including the following:

- External wall height
- Outdoor living area
- Lot boundary setbacks
- Vehicle sightlines
- Visual privacy
- Primary street fence

The application is recommended for conditional approval.

**PROPOSAL**

**Detail**

Approval is sought for the construction of a two storey Single house to an existing vacant site at No. 11b Prowse Street, Beaconsfield. The proposed works include:

- Double garage
- A ground floor bedroom and three upper floor bedrooms
- Kitchen/dining/family on ground floor
- Scullery and laundry on ground floor
- Theatre/activity on upper floor
- Balcony on upper floor and alfresco on ground floor



In response to the public consultation, a number of submissions were received objecting to the application, with key concerns focused on overshadowing and building bulk. In response to these submissions and officer comments relating to the original plans, the applicant submitted amended plans on 13 August 2019 including the following:

- Garage relocated to the northern side of site removing the boundary wall on southern boundary.
- Layout changes and an increase in the lot boundary setback to the south.
- Removal of boundary wall for the family room on the southern elevation.
- Reduction in the overall building height.
- Reduction in the location and size of the eave on the southern elevation.

Development plans are included as attachment 1.

### Site/application information

Date received:	29 May 2019
Owner name:	Colin and Michelle Atkinson
Submitted by:	Activa Homes Group
Scheme:	Residential R20/25
Heritage listing:	Not Listed
Existing land use:	Vacant site
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 design principle assessments against requirements of the R-Codes. The advertising period concluded on 10 July 2019, and three (3) submissions were received. The following issues were raised (summarised):

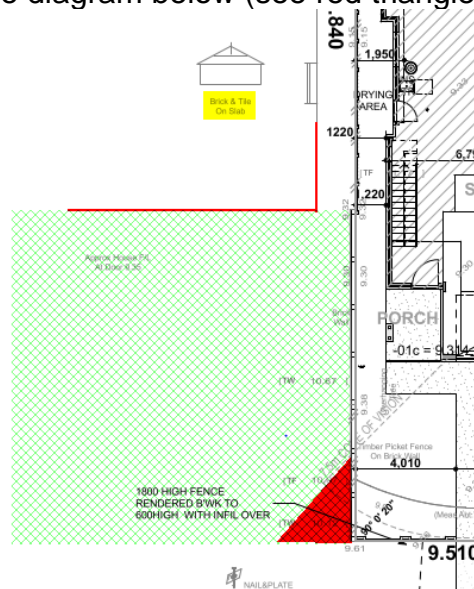
- No objections provided there is no overlooking from rear of building.
- Bedroom windows on northern elevation of adjoining property and the solar hot water system will be completely overshadowed.
- Outdoor living area of adjoining property will be overshadowed by garage boundary wall and there is no alternative location for outdoor living area.
- Have stopped our proposal to install solar panels on the adjoining property as they would be useless with level of shadow proposed.
- Existing clothesline of adjoining property will be overshadowed with no space to relocate.
- Natural sunlight to of adjoining property will be impacted.
- Cost of living will increase with ineffectiveness of hot water system and solar panels.
- Balcony location will impact on privacy in front yard of adjoining property which is only outdoor living space.
- Boundary fence proposed to be taken down which will impact on security.
- The size and bulk of home is not consistent with the existing streetscape.
- Flipping the floor plan would be a significant improvement on amenity of the adjoining southern property.
- Existing solar panels and solar hot water system of adjoining property will be impacted.
- Our new house was built in accordance with 7 star energy efficiency requirements and this proposal will adversely impact on that.
- The proposed height of dwelling is significant.
- The different textures proposed for the side boundary fencing is an odd mix of materials.

In response to the above and officer comments, the applicant submitted revised plans which include the following modifications:

- The design was amended to reduce the level of overshadowing to meet deemed to comply requirement of the R-Codes.
- The setback of the dwelling from the southern elevation has been increased to meet deemed to comply requirements of the R-Codes for lot boundary setbacks.
- The garage has been relocated to the other side of dwelling to remove the boundary wall from the southern boundary.
- The wall height of the dwelling has been reduced and the area of over height wall has been limited to the skillion roof.

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

- The design of the dwelling has been revised to meet deemed to comply requirements of the R-Codes for overshadowing.
- The boundary walls of the proposed garage and family room are no longer proposed along the southern elevation. The garage now abuts the northern boundary; however its location meets the deemed to comply requirements of LPP 2.4 Boundary Walls in Residential Development.
- Visual privacy is discussed below where it does not meet deemed to comply requirements. In accordance with the R-Codes, openings that afford a view over the front setback area of an adjoining property meet the deemed to comply requirements of the R-Codes. Notwithstanding this, it is proposed to include a 1.6m high privacy screen along the southern elevation of the balcony meaning that only an oblique view over a minor portion of the adjoining property's front yard is afforded from the balcony as shown in the diagram below (see red triangle).



**Image 1:** Image of adjoining property's front setback area, with the portion of the area that falls within the cone of vision from the proposed upper floor balcony shown in red.

- A proposal's impact on an adjoining property's energy efficiency rating is not specifically required to be considered under LPS4 or the R-Codes. However an adjoining property's access to light, sunlight and ventilation is considered as part of an assessment of the setback, building height and overshadowing aspects of the proposed development.
- There are no specific requirements relating to the finish and appearance of side boundary fencing other than the finish being of a clean finish.

The remaining comments are addressed in the officer comment below.

The revised plans were not readvertised in accordance with LPP 1.3 as the only new discretions related to the northern neighbour who provided written confirmation that they have no objection to the revisions at the time of the revised submission.

## **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:

- External wall height
- Outdoor living area
- Lot boundary setbacks
- Vehicle sightlines
- Visual privacy
- Primary street fence

The above matters are discussed below.

### **Background**

The subject site is located on the western side of Prowse Street, between Michael Street and O'Hara Street in Beaconsfield. The site has a land area of approximately 398m<sup>2</sup> and is currently a vacant site. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed nor is it located within a Heritage Area.

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

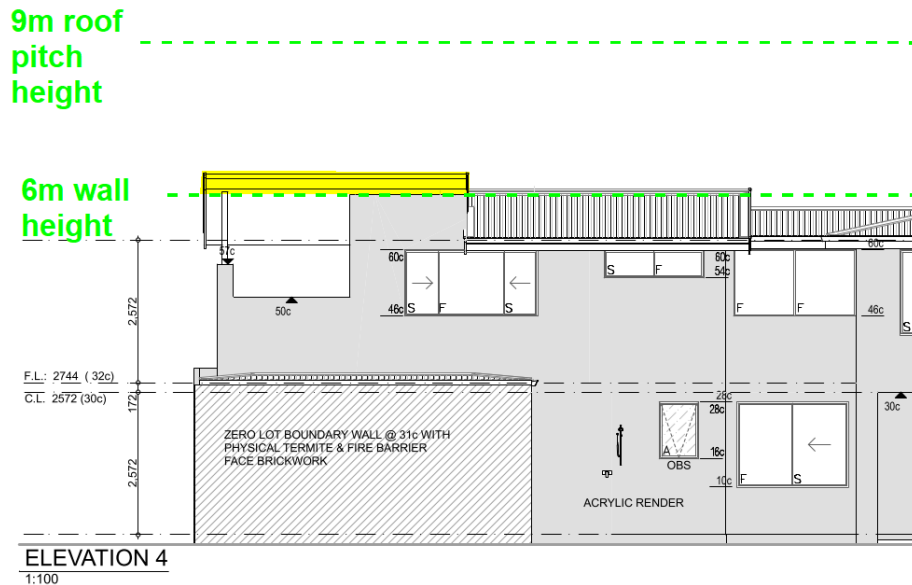
- Subdivision of No. 11 Prowse Street was finalised in 2018, with the site having a restrictive covenant requiring compliance with LPP 2.2 Split Density Codes and Energy Efficiency and Sustainability Schedule.

### **External wall height**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
External wall height (skillion component)	6m	6.6m	600mm

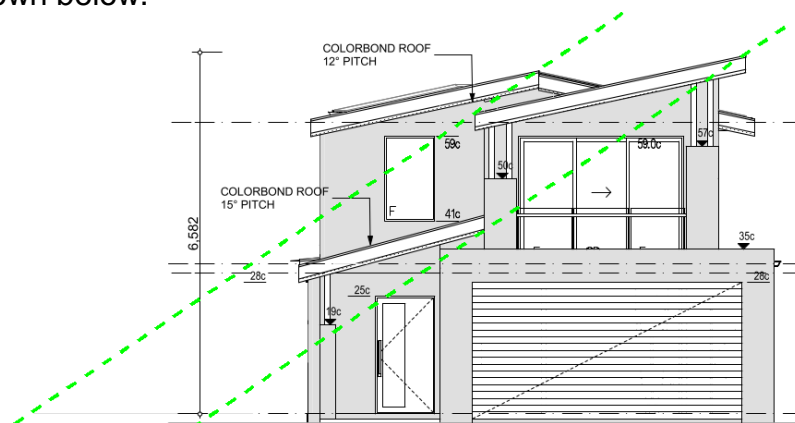
The proposed external wall height is considered to meet the Design principles of the R-Codes in the following ways:

- The proposed Single house meets the deemed to comply requirement for building height with the exception of a skillion roof component located at the front of the property as shown in the diagram below.



**Image 2:** Location of the over height portion of the dwelling highlighted in yellow

- The angle and location of the higher component of the skillion (being on the northern side), means that the additional height does not contribute to additional shadow as shown below.



**Image 3:** Image illustrating that the shade cast by the over height portion of the dwelling falls within the boundaries of the subject site itself (right hand green line).

- The over height wall of the skillion roof is designed to allow for northern sunlight access into the balcony of the proposed dwelling.
- The element of over height wall on the northern side of the property abuts a site that is currently vacant. In relation to the property to the south, it aligns with the front setback area which is currently used as outdoor living, but is setback approximately 8.5m from this shared boundary.
- The over height wall of the skillion roof is not considered to impact on any major openings.
- The over height wall of the skillion roof is not considered to impact on access to views of significance.

### Outdoor living area

Element	Requirement	Proposed	Extent of Variation
Percentage of covered area	Two-thirds uncovered (20m <sup>2</sup> )	One-third uncovered (12m <sup>2</sup> )	8m <sup>2</sup>

The covered area of the outdoor living area is considered to meet the Design principles of the R-Codes in the following ways:

- The space is capable of use with the dining room (i.e. a habitable room).
- It is located on the northern side of site, with the roof cover setback from the boundary to allow some access to northern sunlight.
- It is open on its northern aspect, and setback from the building to allow for ventilation to circulate into the outdoor living area.

### Lot boundary setbacks

Element	Requirement	Proposed	Extent of Variation
North – GF	1.5m	1m to 4m	500mm
North - UF	2.5m to 5.5m	1m to 4m	1.5m

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

- The northern lot is currently vacant meaning that as the site exists today, the proposal will not impact major openings or outdoor living areas.
- The reduced lot boundary setback is on the northern side of the subject site, meaning that access to winter sunlight for the adjoining property will not be impacted.
- The dwelling is setback from the boundary, with only one boundary wall (which meets the deemed to comply requirements of LPP 2.4), meaning that access to ventilation for any future dwellings on the site will not be significantly impacted.

### Vehicle sightlines

Element	Requirement	Proposed	Extent of Variation
Primary street fence	Truncated or reduced to no higher than 0.75m within 1.5m of driveway	Piers up to 1.8m	No truncation, 1.05m height

The height of the fence, and limited visual permeability of the infill component, means that sightlines may be obstructed for vehicles exiting the driveway. A condition of approval is recommended for appropriate sightlines to be provided.

### Visual privacy

Element	Requirement	Proposed	Extent of Variation
Balcony (North)	7.5m	1m	6.5m
Theatre (North)	6m	1m	5m
Beds 2 and 4 (North)	4.5m	1m	3.5m

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

- There is no direct overlooking of active habitable spaces or outdoor living areas as the adjoining site is vacant.
- An application has been received for a single house on the adjoining site, with no major openings on the adjoining upper floor and the outdoor living at the rear which is unlikely to be impacted significantly.

#### **Primary street fence**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Visual permeability	Visual permeability above 1.2m	Gaps less than width of slat (approx. ¼ of size)	For 100mm slats, gap should be 200mm

The visual permeability of the fence is not considered to meet the Design principles of the R-Codes and the discretionary criteria of LPP 2.8 Fences Policy in the following ways:

- The front yard is not considered to be the primary outdoor living area as a more private area is located at the rear of the dwelling, therefore the fencing is not considered to be necessary to provide privacy to the dwellings only outdoor living area.
- The prevailing streetscape does not exhibit other properties featuring solid fences or fences with significantly reduced permeability therefore the proposed fence cannot be considered to be consistent with the characteristics of the prevailing streetscape.
- Prowse Street is not defined as a distributor or arterial road where a solid fence may be required for noise attenuation from traffic.

As such, a condition of approval is recommended to ensure the fence is visually permeable.

#### **LPP 2.2 Split density codes and energy efficiency and sustainability schedule**

As the site was subdivided under the higher of the split density R-Codes, the proposed development is required to meet the Energy Efficiency and Sustainability Schedule as follows:

- Dwelling to demonstrate one (1) star in excess of the current energy efficiency requirement of the Building Codes of Australia (BCA), being a total of seven stars.
- 1.5kw photovoltaic solar panel system.
- 3000L rainwater tank or grey-water reuse system.

The applicant has indicated in their application that they will adhere to all of the above requirements. A condition of approval is recommended to ensure these are met at building permit stage and installed on site.

#### **CONCLUSION**

The applicant has submitted an application for a two storey Single house at No. 11b Prowse Street, Beaconsfield. After reviewing the comments raised during the notification period, the applicant has made substantial changes to the proposal, most significantly

amending the plans to ensure the overshadowing and lot boundary setbacks to the south now meet deemed to comply.

The remaining discretions have been assessed to meet design principles of the R-Codes or are able to be dealt with via conditions of planning approval, and the application is therefore recommended for conditional planning approval.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

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

### Green Plan 2020

Encourage the retention of vegetation on private land.

1. No trees are proposed to be removed as part of this development.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.2:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two storey Single house at No. 11b (Lot 742) Prowse Street, Beaconsfield, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 13 August 2019. 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. Prior to the issue of a building permit, the primary street fence shall be truncated or reduced to 0.75m height within 1.5m of vehicle access points and street corners in order to provide adequate sight lines or otherwise comply with Clause 5.2.5 C5 of the Residential Design Codes and thereafter maintained to the satisfaction of the City of Fremantle.**
- 4. Prior to the issue of a building permit, all fencing within the Primary Street setback area shall be visually permeable above 1.2 metres above natural ground level and thereafter maintained to the satisfaction of the City of Fremantle.**



5. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed in either paving block or concrete, and thereafter maintained to the satisfaction of the City of Fremantle.
6. Prior to the occupation of the development hereby approved, 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.
7. Prior to occupation of the development hereby approved, the boundary wall located on the northern elevation shall be of a clean face brick finish and be thereafter maintained to the satisfaction of the City of Fremantle.
8. That the dwelling achieve a NatHERS accredited energy efficiency star rating of seven (7) stars that is certified by a NatHERS energy assessor to the satisfaction of the City of Fremantle.
9. Prior to occupation of the development hereby approved, a minimum 1.5kw photovoltaic solar panel system shall be installed and maintained thereafter to the satisfaction of the City of Fremantle.
10. Prior to occupation of the development hereby approved, a 3000L rainwater tank plumbed to a toilet and/or laundry, or an approved grey-water reuse system that collects grey water from the laundry and bathroom and re-directs it for garden irrigation/ground water recharge, shall be installed or and maintained thereafter to the satisfaction of the City of Fremantle.
11. The fencing indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
12. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues

**Advice note(s):**

- i. All works within the road reserve require separate approval from the City's Infrastructure and Project Delivery Directorate. New crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. Prior to commencing construction of the crossover(s), the developer is to contact the Engineering Project Officer on 9432 9999 to arrange an inspection or alternatively via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au).
- ii. In regards to condition 4, 'Visually permeable' is defined as:

In reference to a wall, gate, door or fence that the vertical surface has:

Continuous vertical or horizontal gaps of at least 50 mm width occupying not less than one half of its face in aggregate of the entire surface or where narrower than 50mm, occupying at least two thirds of the face in aggregate, as viewed directly from the street.

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

Or a surface offering equal or lesser obstruction to view.

**PC1909 -6 SOUTH STREET, NO. 266 (LOT 1), WHITE GUM VALLEY -  
UNAUTHORISED CHANGE OF USE FROM GROUPED DWELLING  
TO OFFICE (JCL DA0121/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Development Plans  
2: Site Photos

**SUMMARY**

Approval is sought to change the use of an existing dwelling at 266 South Street, White Gum Valley to a temporary Office.

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

- Land use
- Delivery bay
- Bicycle parking

An Office is an 'X' or prohibited use in the Residential zone, however in accordance with Clause 72 of LPS4, Council may consider the approval of such a use for a temporary term where the use is not considered to be offensive, unsightly or otherwise detrimental to the amenity of the area. The office use is proposed to be operated in such a way that the impacts are not considered to be detrimental to the amenity of the area therefore the application is recommended for temporary approval.

**PROPOSAL**

**Detail**

Approval is sought to change the use of an existing Grouped dwelling at 266 South Street, White Gum Valley to an Office. The office use commenced on site without prior approval from the City with the unauthorised use being brought to the City's attention. The applicant has lodged this application for temporary approval in accordance with the provisions of Clause 72 of LPS4.

The use of the dwelling as an Office includes three separate office rooms with a kitchen, bathroom, water closet, laundry, and store, in addition to an unenclosed verandah. The use includes three car parking bays accessible from the common property access leg. It is noted that no external works, alterations, or signage is proposed as part of this application.

The applicant submitted amended plans on 21 May 2019 and 13 August 2019, including an amended site and floor plan. The current plan included the deletion of the car bay located between the building and the common property access leg, in addition to extending the hardstand to accommodate the three car bays at the front of the property. Furthermore, the applicant provided three separate plans demonstrating that each of the cars parked on site are able to reverse out of the subject site, onto the common property access leg, and enter onto South Street in a forward gear.

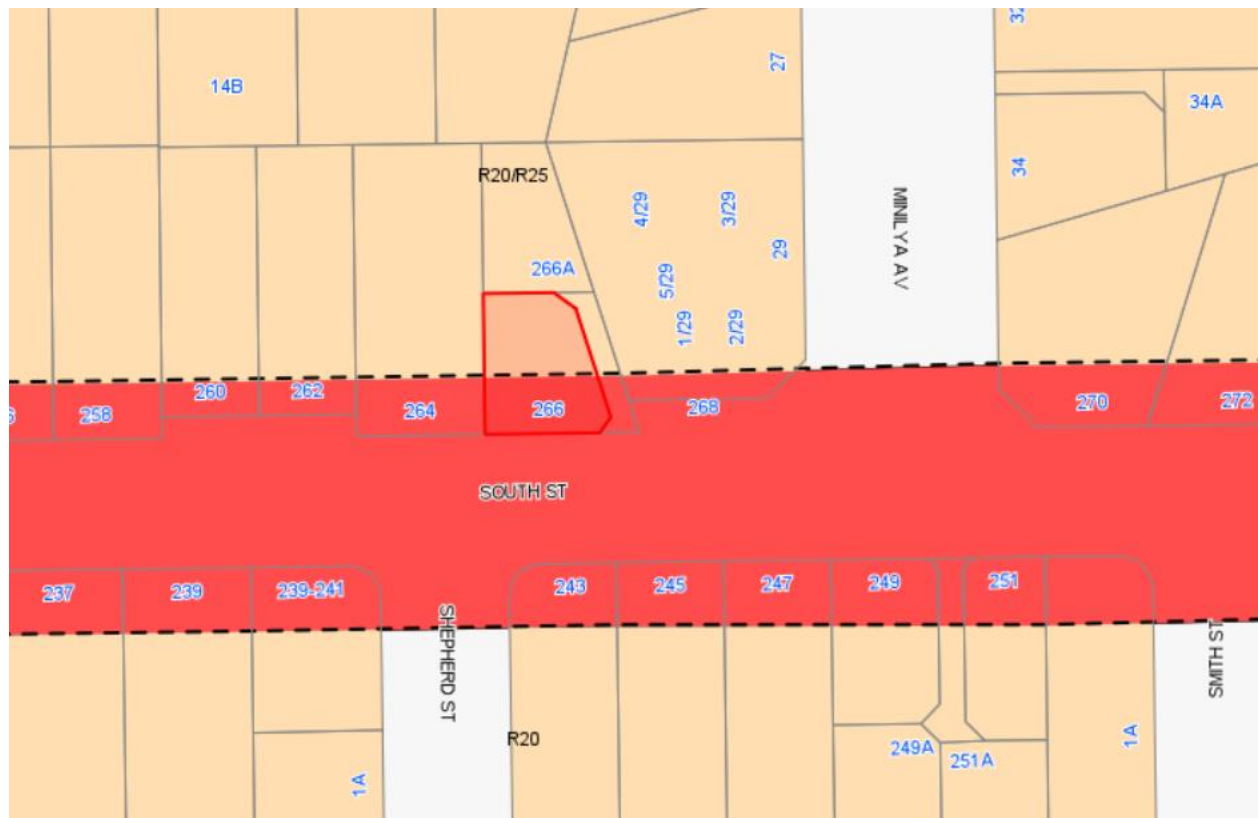
In support of the proposal the applicant has provided the following justification:

- A two-year temporary approval for the Office use is being sought whilst the business waits for the construction of a new tenancy at the Naval Base. The business currently uses the site at the Naval Base for the storage of materials and parking work vehicles.
- The form of the building will be unchanged from its current form, and presents to the public realm as a Grouped dwelling. Furthermore, the existing building is able to be modified back into a Grouped dwelling in future once the Office use has expired. As such, any amenity impacts are argued to be no greater than what would be posed by a dwelling.
- Multiple modes of transport to the subject site are available, including private cars and public transportation along a high frequency bus route.

Development plans are included as attachment 1.

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

Date received:	3 April 2019
Owner name:	Janine Aird and Lukas Broz
Submitted by:	Planning Outcomes WA
Scheme:	Residential (R20/R25)
Heritage listing:	Not Listed or located in a Heritage Area
Existing land use:	Grouped dwelling
Use class:	Office
Use permissibility:	X



## CONSULTATION

### External referrals

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

The application was referred to MRWA for comment as the site is affected by a Primary Regional Road reservation. On 23 April 2019, MRWA advised the City that they did not support the application and requested the following additional information:

- Full set of plans.
- Development Application forms.
- Transport Impact Statement (TIS) prepared in accordance with Transport Impact Assessment Guidelines (August 2016). The TIS should address Trip generation generated by the proposed use, waste collection and how onsite deliveries shall occur. It is noted no delivery bay for loading and unloading of goods has been nominated on plan
- Details of waste collection.
- Fully dimensioned site plan identifying the development, MRS Primary Regional Reservation boundary, width of access and carparks.
- A plan clearly identifying turning circles, demonstrating how vehicles (including delivery vehicles) will enter and exit in a forward direction.
- Provide any existing DA approvals the Council may have relating to this development.

On 23 May 2019, the following information was provided:

- A Full set of plans, DA Form and Site Plan;
- Turning circles have been provided. No deliveries are proposed therefore it is not considered necessary to provide a turning circle for a 12.5m rigid vehicle.
- A Traffic Impact Statement is not considered necessary on the basis that a maximum of 4 cars may be parked on site at any time, there will no deliveries to the site and that waste collection will not alter from the domestic service currently existing.
- There is no previous DA's relevant to this proposal.

On 16 August 2019, MRWA stated that they have no objection to the subject proposal based on the understanding of the following:

- LPS4 does not allow for any additional time extensions to be granted in future;
- The temporary approval is for a maximum of two years, whilst the proponent seeks alternative arrangements; and,
- The City of Fremantle will impose conditional approval.

### **Community**

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal included a prohibited use. The advertising period concluded on 6 May 2019, and three (3) submissions were received. The following issues were raised (summarised):

- No specific issue with running a business from the house, however utes are constantly parked on the side of the driveway and on the verge making it difficult to enter and exit from the dwelling at the rear.
- Work vehicles are constantly parked on the side of the driveway and on the verge which creates a hazard and blocks the view of oncoming traffic of vehicles trying to enter South Street.
- The front of the property should be maintained and not used for the storage of items.
- Noise is created from workers coming and going from the premises, dropping off/picking up tools throughout the day and night near the fence in the yard.
- Vehicle noise. A tall and solid retaining brick wall should be constructed to block the noise.
- A 'no parking on verge' sign should be placed on the verge outside 264 and 266 South Street regardless, given the incidence of recent car accidents.

In response to the above, the applicant submitted additional information confirming the following:

- The operating hours are proposed from 7:00am to 4:00pm on Monday to Friday.
- The office will be closed on weekends, with only occasional cleaning and gardening being carried out by the owners.
- Employees at the premises will only conduct office work and park their vehicles in the designated car bays. No parking will occur on the road verge or in the driveway.
- Since the initial complaint we have moved all work vehicles and materials to an alternative work site and will no longer use the subject site for these activities.
- The site has been tidied up and dividing fences have been repaired.

These 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 do not meet the policy or LPS4 provisions and need to be assessed under the relevant discretionary criteria.

- Land use
- Delivery bay
- Bicycle parking

The above matters are discussed below.

### **Background**

The subject site is located on the northern side of South Street between Taylor Street and Minilya Avenue. The site is the front survey strata lot with a land area of approximately 367m<sup>2</sup> and currently accommodates a Grouped dwelling. The site is zoned Residential and has a density coding of R20/R25. The site is not individually heritage listed, nor is it located within a Heritage Area.

The application originated from a complaint to the City's Compliance team about the general appearance of the dwelling, including the parking of road trailers and storage of building materials. On review of the complaint, it was determined that the dwelling was being used for an unauthorised commercial use. In response to the City's Compliance investigation, the owner has cleaned up the subject site and submitted an application for planning approval of the temporary use of the dwelling as an Office, being the subject of this report.

### **Land Use**

An Office is an 'X' use in the Residential Zone, which means that the use is not permitted. Clause 72 of LPS4 allows the City to consider any use on any land temporarily for a strictly limited period, subject to meeting specific criteria. An assessment against each of the criteria is as follows:

*(2) The Council may approve a temporary use in respect of any use class, but it shall only give such approval in respect of a use which would not ordinarily be permissible in the relevant zone where—*

*(a) no building would be placed on the land unless it could be readily adapted for use for a purpose permitted in the zone, or which might preclude or inhibit the ultimate use of the land for a permitted purpose;*

*(b) the use would be compatible with the use of adjoining properties or the predominant use of land in the immediate locality; and*

*(c) the use would not be prejudicial to the amenity of the locality.*

- The existing building was approved as a Single house (now a Grouped Dwelling due to the subdivision of the property). The application proposes to retain the existing kitchen, bathroom and laundry area and use two bedrooms and a living area as three

individual office spaces. As the proposal does not include any alterations to the building, it can be easily converted back to a dwelling use after the Office use expires.

- The applicant has confirmed that the building will be used for clerical and administrative purposes only and not for the storage of work vehicles and/or building materials. It is proposed to operate the business Monday to Friday 7.00am to 4.00pm only. The proponent has confirmed that the owners may occasionally attend the site to clean/garden, but will not partake in any commercial activities. In this regard the proposed Office use can operate in a way that will be compatible with the immediately surrounding residential dwellings, and will not cause any undue traffic, parking or noise impacts.
- The proposal has the ability to contain all required parking on-site. Moreover, vehicles are not proposed to be parked at the premises overnight or on the weekends.
- The proponent has stated that the subject site has been cleaned and landscaped to an appropriate standard, and as such does not pose any adverse visual amenity impacts to the public realm.

*(3) Before approving a temporary use under the provisions of this subclause the Council shall advertise the proposal and consult with the public in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015.*

The application was advertised in accordance with LPP1.3. Three submissions were received which raised concerns relating to the proposed use. It is noted that the majority of the concerns relate to the manner in which the Office use was being operated prior to an application being lodged. The applicant has confirmed that the activities that were affecting the neighbours enjoyment of their properties, including parking work vehicles in the front setback area and on the verge, using the site to store and dispatch materials etc. have been relocated to an alternative site where these activities are more appropriate.

It is considered that the activities associated with the Office use have been reduced in scale to a level more compatible with the nature of a residential zone and are considered acceptable in this instance for a temporary period of time.

*(4) The Council shall not approve a temporary use for more than two years.*

The applicant has requested that the Office use be approved for a minimum period of two years whilst they wait for a permanent office facility to be built in an alternative location. As the use has already operated for approximately six months, a temporary approval for 18 months would be consistent with the requirements of LPS4.

*(5) The Council shall only approve a temporary use in the Residential Zone if the use proposed will not be offensive, unsightly or otherwise considered to be detrimental to the amenity of the neighbourhood.*

As noted above, the proposed Office use can operate in a way that will be compatible with the immediately surrounding residential dwellings, and not cause any undue traffic, parking or noise impacts.

*(6) Notwithstanding the generality of the foregoing, the Council in approving a temporary use may impose conditions appropriate to the circumstances, including, but without*



*limiting the generality of the foregoing, a condition requiring the proponent to enter into an agreement in regard to the termination of the use.*

It is considered appropriate to impose conditions of approval relating to the following elements:

- The duration of the development approval is to be limited to a maximum of 18 months. This is due to the business being in operation since at least January 2019, and that an unauthorised land use may only be approved for a maximum of two years. The City considers 18 months to be sufficient time to transition the business to its intended future location or a more suitable alternative.
- It is considered appropriate in this instance to restrict the operating hours of the Office to between 7:00am and 4:00pm, Monday to Friday only. The dwelling is not to be used as an Office on Saturdays or Sundays.
- In order to address parking and traffic issues it is recommended that on site parking be limited to a maximum of three vehicles and no vehicles are to be parked on the adjacent verge.
- In order to address the visual appearance of the site and minimise noise impacts it is recommended that no building materials and/or equipment is to be stored on site at any time.

Having regard to the above, the proposed Office use can be managed in a way that will result in minimal impact on the enjoyment of the adjoining residential dwellings. Any approval should only be for a temporary period of time as required by LPS4 which will give the business owners time to find a more suitable location for the operation of the business.

#### **Car parking**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Car parking bays (minimum)	3	3	Nil

It is noted that the proposed Office use requires a minimum of three car parking bays. In this instance it is also considered appropriate to limit the maximum number of bays to three to ensure that the proposed use does not operate in a manner that is incompatible with the adjoining residential dwellings.

#### **Delivery bay**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Delivery bay	1	Nil	1

The applicant has advised that the proposed Office use does not generate the need for deliveries as only administrative and clerical activities will be carried out from the premises. In this instance it is not considered necessary to require the provision of a delivery bay.

#### **Bicycle parking**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Bicycle Parking	Class 1 or 2: 1 bay	Nil	1

Having regard for the scale of the Office use and its temporary nature a Class 1 bicycle facility is not considered to be necessary in this instance. It is noted that the existing dwelling is capable of securely storing a bicycle if required.

## **CONCLUSION**

Although an Office is a prohibited use within the Residential Zone, LPS4 permits Council to consider the use of a dwelling for a prohibited use where it can be demonstrated that the use does not generate any impacts that would be incompatible with the Residential zone and is only for a temporary period of time. Although the unauthorised use originally operated in a way that was not considered to be appropriate or compatible with the Residential zone, the use is now proposed to continue in a way that is considered to be acceptable for a temporary period. As such, the application is recommended for a temporary approval of 18 months in accordance with the provisions of Clause 72 of LPS4.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.2:**

**APPROVE, under the Local Planning Scheme No. 4, the Change of Use from Grouped dwelling to Office at No. 266 (Strata Lot 1) South Street, White Gum Valley, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 13 August 2019. It does not relate to any other development on this lot.**
- 2. Notwithstanding Condition 1, the Office use is to cease operation from the subject site no later than 18 months from the date of this approval, to the satisfaction of the City of Fremantle.**
- 3. The hours of operation of the Office are to be limited to 7.00am to 4.00pm, Monday to Friday only. The dwelling is not to be used as an Office on Saturday or Sunday to satisfaction of City of Fremantle.**
- 4. Notwithstanding Condition 1, a maximum of three car parking bays are to be provided on site at any time, to the satisfaction of the City of Fremantle.**

5. **Notwithstanding Condition 1, no trade vehicles are to be parked on the subject site or on the adjacent verge at any time, to the satisfaction of the City of Fremantle.**
6. **Notwithstanding Condition 1, the external area to the dwelling is not to be use for the storage of any building or trade materials at any time, to the satisfaction of the City of Fremantle.**

**Advice Note:**

- i. **In regard to Condition 2, the applicant is advised that in accordance with Clause 72 (4) of LPS4, no extension to the temporary term of approval can be granted.**

**PC1909 -7      TONKIN ROAD, NO. 16A (LOT 2), HILTON - TWO STOREY  
GROUPED DWELLING - (CJ DA0252/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Development plans  
2: Site photos

**SUMMARY**

**Approval is sought for a two storey Grouped dwelling at No. 16a Tonkin Road, Hilton.**

**The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Hilton Local Planning Policy requirement for building height.**

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

**PROPOSAL**

**Detail**

Approval is sought for a two storey Grouped dwelling to an existing vacant site at No. 16a Tonkin Road, Hilton. The proposed works include:

- Open air car parking for two cars
- Two storey dwelling including 3 bedrooms, 2 bathrooms and kitchen/dining/living areas

The applicant submitted amended plans on 15 August 2019 which amended the location of the car parking to ensure both cars can exit out to the street in forward gear.

Development plans are included as attachment 1.

**Site/application information**

**Date received:** 1 June 2019  
**Owner name:** James Downer and Kate Thrussell  
**Submitted by:** Robert Murray  
**Scheme:** Residential R20/25  
**Heritage listing:** Not Individually Listed / Hilton Heritage Area  
**Existing land use:** Vacant site  
**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 sought design principle assessments against the R-Codes and LPP 3.7. The advertising period concluded on 12 August 2019, and two (2) submissions were received. The following issues were raised (summarised):

- Two storeys is not suitable in Hilton.
- Proposal exceeds the maximum height of 6.5m and this will have a number of impacts on neighbouring homes including overshadowing.
- All windows should be frosted to ensure privacy.

Officers note that visual privacy meets deemed to comply requirements. The comments in relation to building height 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

The above matters are discussed below.

### **Background**

The subject site is located on the eastern side of Tonkin Road, to the rear of No. 16. The site has a land area of approximately 324m<sup>2</sup> and is currently a vacant site. The site is zoned Residential and has a density coding of R20/25. The site is not individually heritage listed however it is located within the Hilton Heritage Area.

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

- Subdivision approval (WAPC16-16) – Restrictive covenant imposed on title to requiring future development meet requirements of LPP 2.2 Split Density Codes and Energy Efficiency and Sustainability Schedule

### **Building height**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Wall height	3.5m	4.6m	1.1m
Roof pitch height	6.5m	7m	0.5m

The site falls within the Hilton Heritage Area and is therefore subject to the requirements of LPP 3.7 “Hilton Garden Suburb Precinct” Heritage Area. The deemed to comply building height requirements of the R-Codes are replaced by this policy.

The proposed building height is considered to meet the following variation criteria of the policy for the following reasons:

- The development site is a rear survey strata lot.
- The development, particularly the two storey component, has minimal presentation to the street.
- The proposal meets the deemed to comply requirements for lot boundary setbacks, open space and overshadowing.

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

- The additional building height is on a rear survey strata lot with very little presentation to the street.
- The upper floor is setback from the lot boundaries to ensure access to sunlight and ventilation is protected.
- There will be a minor element of overshadowing on the southern lot; however the majority of the site remains unaffected.

### **LPP 2.2 Split density codes and energy efficiency and sustainability schedule**

As the site was subdivided under the higher of the split density R-Codes, the proposed dwelling is required to meet the Energy Efficiency and Sustainability Schedule as follows:

- Dwelling to demonstrate one (1) star in excess of the current energy efficiency requirement of the Building Codes of Australia (BCA), being a total of seven stars.
- 1.5kw photovoltaic solar panel system.
- 3000L rainwater tank or grey-water reuse system.

The applicant has indicated in their application that they will adhere to all of the above requirements. A condition of approval is recommended to ensure these are met at building permit stage and installed on site.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

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

### Green Plan 2020

1. No trees or mature vegetation is proposed to be removed from site.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**APPROVE** under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two storey Grouped dwelling at No. 16a (Lot 2) Tonkin Road, Hilton, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 15 August 2019. 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. That the dwelling achieve a NatHERS accredited energy efficiency star rating of seven (7) stars that is certified by a NatHERS energy assessor to the satisfaction of the City of Fremantle.
4. Prior to occupation of the development hereby approved, a minimum 1.5kw photovoltaic solar panel system shall be installed and maintained thereafter to the satisfaction of the City of Fremantle.
5. Prior to occupation of the development hereby approved, a 3000L rainwater tank plumbed to a toilet and/or laundry, or an approved grey-water reuse system that collects grey water from the laundry and bathroom and re-directs it for garden irrigation/ground water recharge, shall be installed or and maintained thereafter to the satisfaction of 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 note:**

- i. In relation to Condition 3, the applicant is advised that a 'NatHERS energy assessor' is defined in accordance with the Building Commission's Industry Bulletin IB 0244/2014.**



**PC1909 -8      MARINE TERRACE, NO. 170 (LOT 38), SOUTH FREMANTLE -  
CARPORT ADDITION TO EXISTING SINGLE HOUSE (TG DA0228/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Development Plans  
2: Site Photos

**SUMMARY**

**Approval is sought for a carport addition at 170 Marine Terrace, South Fremantle.**

**The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against a Local Planning Policy. The discretionary assessment relates to the carport being built up to the lot boundary.**

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

**PROPOSAL**

**Detail**

Approval is sought for a translucent carport to be attached to the existing dwelling at 170 Marine Terrace, South Fremantle. The proposed works include:

- The addition of a translucent carport over an existing car parking space. The carport is to be built up to the side boundary.
- The carport roof is to be set off the side boundary by 0.5m.

Development plans are included as attachment 1.

**Site/application information**

Date received: 26 June 2019  
Owner name: A Lawson  
Submitted by: A Lawson  
Scheme: Residential R30  
Heritage listing: Individually Listed as Historic/Archaeological site and located in South Fremantle Heritage Area  
Existing land use: Single house  
Use class: Single house  
Use permissibility: P



## **CONSULTATION**

### **External referrals**

Nil required.

### **Community**

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved a building up to a property boundary. The advertising period concluded on 18 July 2019, and one submission was received. The following issues were raised (summarised):

- Confirmation is required that all stormwater will be managed on site and not drain onto the dividing fence.
- The carport will block access to early morning sunlight and also trap heat during summer.
- The removal of a vine between the subject site and adjoining property is a concern as this currently protects mutual privacy and provides shade.

In response to the above, the applicant submitted the following response:

- Drainage shall be contained onsite in accordance with stormwater regulations and shall have no adverse effect on the adjacent property. A gutter runs into a downpipe which will drain into a stormwater soak well in my driveway. Details of the proposed soak well shall be provided at the time of building application.
- The shadow cast by the proposed carport is in accordance with the overshadowing regulations. There is no additional shading on the adjoining property. The proposed carport shadow falls wholly within the current shadow cast by existing building.
- The proposed carport is more than 50% open with unrestricted ventilation.
- It is intended to remove the existing vine, which is located on 170 Marine Terrace regardless of carport because there is a potential risk of injury when accessing our vehicles. It also causes damage, pushing up paving and encroaching into the driveway scratching cars. The applicant is happy to consider the installation of

"good neighbour" screening less than 500mm high in accordance with fencing policy.

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

- It is a standard requirement that all stormwater be contained on site to the satisfaction of the City.
- The removal of existing vegetation on private land is not subject to planning approval and is at the discretion of the relevant landowner.
- Additional screening on top of the dividing fencing has not been considered as a part of this application however it is noted that planning approval is not required for screening attached to a side boundary existing fence.

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:

- Boundary wall (south)

The above matter is discussed below.

### **Background**

The subject site is located on the eastern side of Marine Terrace. The site has a land area of approximately 334m<sup>2</sup> and is currently occupied by a two storey Single house. The site is zoned residential and has a density coding of R30. The site is individually heritage listed as a historic/archaeological site and located within the South Fremantle Heritage Area.

The location proposed to be used for the carport is to the southern side of the dwelling and aerial photography of the site indicates that this area is used for vehicle parking.

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

- DA0299/13 – Verandah addition and alterations – approved.
- VA0014/14 – Variation to the above addition and alterations – approved.

### **Boundary wall (south)**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
South (carport)	1m	Nil	1m

The carport being built up to the boundary is considered to meet the Design principles of the R-Codes in the following ways:

- The carport is considered to enhance the use of the side of the dwelling which is currently used for parking, providing additional weather protection to vehicles.
- The structure is open sided, with its roof set back 0.5m from the side boundary resulting in a building with limited bulk. The translucent roof is also considered to contribute to the amelioration of building bulk.
- A carport is not considered to be an active habitable space in accordance with the R-Codes and is therefore considered to be of limited privacy impact. The area is already used for vehicle parking and accordingly the change to the use of the land will be limited.
- The shade cast by the carport is to be located within that cast by the adjoining two storey building at midwinter. The translucent roof and 0.5m roof setback are considered to assist in maintaining access to sunlight for the subject site and adjoining property.
- The carport is well set back from the street resulting in no significant change to the streetscape and walls of this nature are common in the development context.

### **CONCLUSION**

In accordance with the above considerations, aspects of the proposal which vary the statutory planning requirements are considered to appropriately address the relevant discretionary criteria of Council policy and the R-Codes. Accordingly the proposal is recommended for approval, subject to conditions.

### **STRATEGIC IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the carport addition to existing Single house at No. 170 (Lot 38) Marine Terrace, South Fremantle, subject to the following condition(s) :**

- 1. This approval relates only to the development as indicated on the approved plans, dated 27 June 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. The development hereby approved shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**

**Advice note(s):**

- i. Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.**
- 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.**

**PC1909 -9 SILVER STREET, NO. 1 (LOT 2), SOUTH FREMANTLE - TWO STOREY SINGLE HOUSE (TG DA0224/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Amended development plans  
2: Site photos

**SUMMARY**

**Approval is sought for a two storey single house at 1 Silver Street, South Fremantle.**

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

- Primary street setback
- Boundary walls (south , east and west)
- Vehicle sightlines
- Fencing height
- Driveway location
- Overshadowing

**The application is recommended for refusal.**

**PROPOSAL**

**Detail**

Approval is sought for a two storey single house to an existing vacant lot at 1 Silver Street, South Fremantle. The proposed works include:

- A two storey dwelling.
- One open car bay.
- A solid front fence.
- Two storey boundary walls to the eastern and western site boundaries.
- A single storey boundary wall element to the southern boundary.
- Decking to the front and rear alfresco areas.

The applicant submitted amended plans on 6 August 2019 including the following:

- A reduction in overall building height from 6.515m to 6.343m.
- An increase in the rear setback from 2.4m to 2.7m.
- Additional detail with regard to the shade cast by the dwelling.
- A reduction in the height and length of the two storey eastern boundary wall to 6.343m and 6.7m respectively (originally proposed as 6.5m and 6.9m respectively).
- A reduction in the height of the two storey portion of the western boundary wall to 6.093m above the adjoining ground level (originally proposed as 6.3m).

- A reduction the height of the single storey portion of the western boundary wall to 2.836m above adjoining ground level and an increase to 2.76m in length (originally proposed as 2.4m long and 3.1m high above adjoining ground level).

Development plans are included as attachment 1.

### Site/application information

Date received: 21 June 2019  
 Owner name: R A O'Byrne  
 Submitted by: R O'Byrne Design  
 Scheme: Residential R35  
 Heritage listing: South Fremantle Heritage Area  
 Existing land use: Vacant site  
 Use class: Single House  
 Use permissibility: P



## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved discretionary assessment of various matters which had the potential to impact the amenity of surrounding landowners. The advertising period concluded on 11 July 2019, and two submissions were received. The following issues were raised (summarised):

- The building as proposed will be extremely detrimental to our comfort and quality of life.

- With no setbacks from the east, west and south boundaries the building will loom over us, blocking out light and views of the sky and trees to the north and west.
- Both the south-west and south-east corners have abutting walls with no setback and are higher than the existing boundary brick wall. The visual impact of these buildings will be detrimental to our rear courtyard outlook.
- There is no detail of the proposed rear awning as to height, depth and material.
- Concerns that the proposed building will block out winter sun from a north facing living area and may overshadow solar panels on the north facing roof.
- The development exceeds a reasonable size for the existing lot shown by the proposed boundary walls to three boundaries.
- The dwelling will have a negative impact upon the amenity of adjoining dwellings and the streetscape as the proposed design does not have regard to the heritage nature or modest size of the buildings in the vicinity.
- The dwelling will overlook into the rear yard of the property over Silver Street.
- The proposed boundary wall to the west, combined with the height of the building will impact access to natural light for the rear yard of the adjoining property in the morning in winter and summer. Light access to an adjoining kitchen windows and a vegetable garden will also be impacted.
- It was requested that the location of the powder room be reviewed to be accommodated in the main body of the dwelling to reduce the length of the proposed boundary wall. It was also requested that the proposed void be removed from consideration in order to reduce the extent of the proposed boundary wall.
- The submitted plans and survey appear to indicate that the dividing fence is out of alignment with the property boundary. It was requested that you confirm whether the proposed building will result in the removal of this dividing fence.

In response to the above, the applicant submitted revised plans to reduce the overall height of the building, reduce the extent of boundary walls and increase the setback from the rear boundary to reduce the extent of shade cast by the development. The applicant also provided the following comments (summarised):

- It appears to be common practice in South Fremantle for two storey boundary walls on one or two boundaries to be approved on narrow lots. While this lot has a normal width frontage, its depth is only 13.72m. Accordingly the two storey boundary walls are proposed to allow the development of a reasonable sized dwelling and adequate outdoor living area on the subject lot.
- The western boundary wall will not cast greater shadow than the adjoining dense vegetation of 6-8m high. Shade cast by the wall will not affect the adjoining property to the west at midwinter when shade falls directly to the south.
- The applicant provided supporting information in relation to the primary street setback (discussed in the officer's comment section below).

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

- Matters such as the existing location of a dividing fence are a civil matter to be considered between neighbours under the Dividing Fences Act. It is noted that an assessment against the proposed over height rear and side fences is discussed in the Officer comment.
- The applicant has submitted an additional overshadowing plan illustrating the shadow cast by the dwelling in mid-winter. The plan illustrates that shadow will not impact adjoining solar collectors during midday in midwinter.



- With respect overlooking into the property across Silver Street to the north, the development satisfies the relevant deemed-to-comply criteria.

The remaining comments are addressed in the officer comment below.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

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

- Primary street setback
- Boundary walls (south, east and west)
- Vehicle sightlines
- Fencing height
- Driveway location
- Overshadowing

The above matters are discussed below.

### **Background**

The subject site is located on the south side of Silver Street, west of South Terrace, in South Fremantle. The site has a land area of approximately 209m<sup>2</sup> and is currently vacant. The site is zoned Residential and has a density coding of R35. The site is not individually heritage listed and is located within the South Fremantle Heritage Area.

On 21 March 2016 the WAPC approved the subdivision of 189 South Terrace (WAPC1494-15) to create the subject site.

### **Primary street setback**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Ground floor:	7m	4m	3m
Upper floor:	10m	4m	6m

In accordance with LPP2.9, in this instance the prevailing streetscape consists of the dwelling on the corner of South Terrace and Silver Street, which has a secondary street setback to Silver Street of less than 1m, and the three properties to the west of the site which feature single storey dwellings fronting Louisa Street and two storey rear garages/studios with a nil setback to Silver Street.

The proposed ground and upper floor street setback is considered to address the discretionary criteria of LPP 2.9 in the following ways:

- The ground floor of the proposed dwelling is set back behind the corner lot dwelling and the other buildings in the prevailing streetscape.

- Although the corner dwelling is only single storey in height, the upper floor of the proposed dwelling is set behind the adjoining two storey habitable structures which are built up to the Silver Street boundary In the prevailing streetscape.

**Boundary walls (south, east and west)**

Element	Requirement	Proposed	Extent of Variation
Kitchen and bedroom (east) Ground floor: Upper floor:	1m 1.2m	Nil Nil	1m 1.2m
Study, stairs, powder room and void (west) Ground floor: Upper Floor:	1m 1.2m	Nil Nil	1m 1.2m
Powder room (south)	1m	Nil	1m

The western and eastern boundary walls are not considered to meet the Design principles of the R-Codes and Local Planning Policy 2.4 in the following ways:

- The walls are considered to impose undue building bulk onto the rear yards of the adjoining properties (10 Louisa Street and 189 South Terrace) in comparison to a development which had its upper floor set off the side boundaries.
- The eastern boundary wall element adjoins an existing outdoor living area and is considered to unduly impact the amenity of this area.
- Due to the bulk and scale of the boundary walls, it is considered that they will adversely impact the amenity of the adjoining properties.
- The height of the boundary walls is not considered consistent with the prevailing development context and streetscape.

The boundary wall to the southern property boundary could be considered in isolation to satisfy the relevant discretionary criteria of the R-Codes and Local Planning Policy 2.4 for the following reasons:

- This portion of the development makes use of otherwise constrained side setback area.
- This portion of the development is considered to be limited size and bulk and therefore to have minimal amenity impact on the adjoining property.
- This wall element does not impose any privacy impact.
- The shade cast by this portion of the development is contained in the shade cast by the overall development.
- This element of the development will not be readily visible from the street and single storey boundary wall elements are considered to be consistent with the prevailing development context.

While it is considered that some concessions with regard to building up to property boundaries may be able to be accommodated due to the restricted depth of the lot, the proposed boundary wall elements are considered to unduly impact on the amenity of the neighbouring properties and are therefore not supported.

### Vehicle Sightlines

Element	Requirement	Proposed	Extent of Variation
R-Codes 5.2.5 – Sightlines	Walls to be truncated within 1.5m of a vehicle access point.	2m high gate and neighbour's 2.3m high fence pier.	Works included within truncated area.

The vehicle sightlines can be considered to meet the Design principles of the R-Codes in the following ways:

- If the development were considered for approval, it would be required that the vehicle and pedestrian gate be visually permeable to allow for appropriate reversing sightlines.
- The gate would need to be opened for access and egress, alerting pedestrians of impending vehicle movements and reducing vehicle speeds.
- The car bay is located at the property line, resulting in reduced vehicle speeds for egress.
- The pedestrian footpath is located to the northern side of Silver Street, resulting in fewer pedestrians using the roadway in front of the site.

### Front fence

Element	Requirement	Proposed	Extent of Variation
Fencing to northern boundary (front)	Visually permeable: above 1m Maximum height: 1.8m	Solid fencing to 2m high	Visual permeability: 1m Overall height: 0.2m

The front fence is considered to meet the discretionary criteria of the policy in the following ways:

- Per the submitted fencing elevation, plans and streetscape photographs, the proposed fencing is consistent in height with that at adjoining properties.
- The character of this side of Silver Street is such that the solid high fencing proposed is consistent with the streetscape. The development plans demonstrate the height of fencing to adjoining properties and the site photos demonstrate the location of existing solid fences.
- If the application were considered for approval, a condition requiring that the gates be visually permeable would permit mutual surveillance of the front setback and streetscape.
- The major openings to the upper floor permit surveillance of the street.

### Side fencing

Element	Requirement	Proposed	Extent of Variation
LPP 2.8 – Side and rear boundary fences	1.8m maximum height	2m	0.2m

The side fencing is not considered to meet the discretionary criteria of the policy for the following reasons ways:

- The development plans depict side and rear fencing up to 2m in height and no supporting information is provided to justify the impact of these fencing elements. If the application were to be considered for approval, a condition requiring that the fencing be reduced in height to the satisfaction of the City would be recommended.

#### **Driveway Location**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Crossover	Driveways to be set off side boundaries by 0.5m	Driveway built up to side boundary.	0.5m

The driveway could be considered to meet the Design principles of the R-Codes in the following ways:

- A single crossover is provided for the lot.
- Pedestrian safety is considered to be appropriately addressed per the above consideration of vehicle sightlines.
- The access point location maintains the existing trees within the road reserve.

#### **Overshadowing**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
R-Codes 5.4.2 – Solar Access for adjoining sites	Maximum shade cast over 12 Louisa Street 30.87%	31.5%	0.63%

Although the proposed variation is minor, the development is not considered to meet the Design principles of the R-Codes for overshadowing for the following reasons:

- The development will cast shade over major openings into habitable rooms and rear north facing outdoor living areas.
- While the development will permit partial sun access to the windows on the adjoining site at midwinter, the minor variation can be avoided to reduce the impact on overshadowing on the adjoining property as much as possible.

#### **CONCLUSION**

As considered above, if the development were to be modified to satisfy the deemed-to-comply criteria of the R-Codes with respect to the shade cast by the development and the extent of boundary walls were to be reduced, the application may be considered worthy of support. Accordingly the application is recommended for refusal on the basis that the development, as proposed, comprises an overdevelopment of the subject site. It is considered that the objectives of LPP 2.4 and the relevant design principles of the R-Codes have not been appropriately addressed with regard to the proposed boundary walls and the shade cast by the development.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

Planning committee acting under delegation 1.1:

**REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two storey single house at No. 1 (Lot 2) Silver Street, South Fremantle, as detailed on plans dated 6 August 2019 for the following reasons:**

- 1. The proposed boundary walls to the eastern and western property boundaries do not satisfy the design principles of Local Planning Policy 2.4 and State Planning Policy 7.3 (Residential Design Codes Volume 1) as these walls are considered to unduly impact on the amenity of adjoining properties by virtue of the building bulk and their impact upon access to light for adjoining outdoor living areas.**
- 2. The shade cast by the development does not satisfy the design principles of State Planning Policy 7.3 (Residential Design Codes Volume 1) as the development will cast shade over major openings onto habitable rooms and the outdoor living area of the adjoining property to the south.**
- 3. 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) and (m) of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.**

**PC1909 -10 HARBOUR ROAD, NO. 22 (LOT 53), SOUTH FREMANTLE -  
DEMOTION OF EXISTING SINGLE HOUSE, CONSTRUCTION OF  
NEW TWO STOREY SINGLE HOUSE, AND CHANGE OF USE OF A  
SMALL SECONDARY DWELLING TO ANCILLARY DWELLING - (NB  
DA0229/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Amended Development Plans  
2: Site Photos

## **SUMMARY**

Approval is sought for the demotion of the existing Single house, construction of a new two storey Single house, and a change of use of the existing Small Secondary Dwelling to an Ancillary dwelling.

The proposal is referred to the Planning Committee (PC) due to the proposed demolition of a house within a heritage area and the nature of some discretions being sought. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- Lot boundary setback (west)
- Primary Street setback (Ground floor).

The application is recommended for conditional approval.

## **PROPOSAL**

### **Detail**

Approval is sought for demolition of an existing single storey Single house and construction of a two storey Single house. The works include:

- Ground floor living room, dining room, kitchen and study.
- Upper floor bedrooms and bathrooms
- Rooftop terrace
- Change of use of the existing Small Secondary Dwelling to an Ancillary dwelling.

The applicant submitted amended plans on 30 July 2019 including the following:

- Modification to the front fence to comply with visual sightlines requirements of the R-Codes and LPP 2.8: Fences Policy.

Development plans are included as attachment 1.

### Site/application information

Date received: 26 June 2019  
 Owner name: Mrs Laura Walker and Mr William Walker  
 Submitted by: Solar Dwellings  
 Scheme: Residential R30  
 Heritage listing: South Fremantle Heritage Area  
 Existing land use: Single house  
 Use class: Single house  
 Use permissibility: P



### CONSULTATION

#### External referrals

Nil required.

#### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought against the City's policies and the R-Codes. The advertising period concluded on 19 July 2019, and no submissions were received.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. Where a proposal does not meet the 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 (west)
- Primary Street setback (Ground floor).

The above matters are discussed below.

### **Background**

The subject site is located on the corner of Harbour Road and Parmelia Street in South Fremantle. The site has a land area of approximately 470m<sup>2</sup> and is currently a single storey Single house with a Small Secondary Dwelling. The site is zoned Residential and has a density coding of R30. The site is not individually heritage listed but is located within the South Fremantle Heritage Area.

The existing Small Secondary Dwelling is proposed to remain, as is the front fence subject to required modifications to make it consistent with the R-Codes and LPP 2.8: Fences Policy.

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

- On 19 December 2013, the City approved a Small Secondary Dwelling at the rear of the subject site.

### **Heritage**

The existing house appears to be a typical brick and tile project home dating from c1960s-70s. It is considered to be of limited cultural heritage significance and does not make a significant contribution to the broader cultural heritage significance and character of the locality. Therefore, it is recommended that the proposed demolition be supported under clause 4.14 of LPS4.

City officers recommend that any new house should contribute to maintaining and enhancing the prevailing character of the streetscape and the local area. The subject site is directly adjacent to a group of three typical, modest weatherboard and iron single storey cottages built in 1897. Any new house on the subject site should be designed with this context in mind and include consideration of the aesthetic qualities embodied in the siting, bulk, form, scale, character, colour, and texture and materials of the buildings that make a positive contribution to the prevailing streetscape.



The applicant has submitted justification that the proposed house will be consistent with the above advice as it:

- Maintains a similar front setback
- Provides a pitched roof form in keeping with the adjoining houses
- Uses two course face brickwork, weatherboard cladding and custom orb corrugated roof sheeting
- Reduces the floor level of the garage to minimise impact on the adjoining single story cottage
- Provides an articulated front elevation to minimise the building bulk and closer replication of the scale of building elements of the existing residences in the street
- Provides windows openings that are vertically orientated
- Maintains existing ground floor levels
- Retains the existing front rendered fence

The City currently has no local planning policies relating to development within heritage areas generally (i.e. excluding areas with specific policies such as the Hilton Heritage Area). However, State Planning Policy 7.0: Design of the Built Environment provides a suite of design principles that are applicable to all development. The two relevant design principles are as follows:

- Context and character: *Good design responds to and enhances the distinctive characteristics of a local area, contributing to a sense of place.*
- Built form and scale: *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.*

City officers consider that the setting back of the bulk of the house behind the line of the adjoining dwellings helps to reflect the existing streetscape forms, and setting back the upper floor the required 10 m from the street will reduce the impact on scale when viewed from the street. The weatherboard cladding and general roof pitch are consistent with the character of houses within the locality, though the immediately adjoining houses tend to favour gable ends facing the street. City officers consider that the design meets the minimal requirements to make the application supportable, while also acknowledging that more could be done to examine and respond to local context. Such contextual response would need to be supported through a more detailed study of the locality and specific examples of how the proposed design reflects the South Fremantle Heritage Area, particularly the three adjoining heritage properties, than has thus far been provided.

### **Land Use**

The land use of a Small Secondary Dwelling was gazetted into the City's scheme prior to the adoption by the R-Codes of Ancillary dwellings. The clause permitting Small Secondary Dwellings has expired from the scheme, rendering all existing Small Secondary Dwellings to be considered as existing non-conforming uses. For ease of future development, City officers consider that this application should also include changing the use of the Small Secondary Dwelling to an Ancillary dwelling. The existing Small Secondary Dwelling meets all the Deemed-to-comply criteria for an Ancillary dwelling. This classification change is purely technical in nature and simply seeks to update the existing use to be in line with current legislation.

### Building height

The application proposes a rooftop terrace facing Parmelia Street. Sub Area 4.3.3 of LPS4 limits building height within this zone to a maximum of two storeys. Under the definition of a 'storey' within LPS4, the roof terrace is not considered a third storey provided it does not include a solid roof. An advice note is included to inform the owner/applicant that the roof terrace is not to contain a solid roof.

### Primary Street setback

The front setback and the setback of other houses within the prevailing streetscape is shown in the table below:

Address	Setback Required	Setback Existing/Proposed	Extent of Variation
<i>Subject Site</i>	7 m	2.55 m	4.45 m
20 Harbour Road		2.58 m	4.42 m
18 Harbour Road		2.58 m	4.42 m
16 Harbour Road		2.58 m	4.42 m

A portion of the study is set back 2.55 m, with the bulk of the house set back further at 4.526 m. The front setback is therefore considered to be consistent with the prevailing streetscape as per clause 1.2(i) of LPP 2.9: Residential Streetscape as shown in the table above. The articulated design of the front wall sets back the predominant bulk of the house behind the building line of the adjoining dwellings.

### Lot boundary setback

Element	Setback Required	Proposed	Extent of Variation
West elevation	1 m	Nil	1 m

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

- The nil setback is for a single storey portion of wall with a length of only 6.2 m.
- The nil setback abuts a blank wall of the adjoining dwelling and results in minimal impact to sunlight or ventilation to major openings or outdoor living areas.
- Building to the boundary makes more effective use of space for the dwelling without negatively impacting the amenity of adjoining lots.

### STRATEGIC IMPLICATIONS

Nil

### FINANCIAL IMPLICATIONS

Nil

### LEGAL IMPLICATIONS

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**APPROVE**, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demotion of existing Single house, construction of new two storey Single house, and change of use of a Small Secondary Dwelling to Ancillary Dwelling at No. 22 (Lot 53) Harbour Road, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 30 July 2019. 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. Prior to the issue of a building permit, all fencing within the Primary Street setback area, including the fencing on the western boundary, shall be visually permeable above 1.0 metre above natural ground level and thereafter maintained to the satisfaction of the City of Fremantle.**
- 4. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. Prior to the occupation of the development hereby approved, 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.**
- 6. Prior to occupation of the development hereby approved, the boundary wall located on the western boundary shall be of a clean finish in any of the following materials:**
  - coloured sand render,**
  - face brick,**
  - painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**

## **ADVICE NOTES:**

- i. The applicant/owner be advised that, under the building height requirements of sub area 4.3.3 of the City's Local Planning Scheme No. 4, the rooftop terrace is not to have a water impermeable solid roof.**
- ii. Any works within the adjacent thoroughfare, i.e. road, kerbs, footpath, verge, crossover or right of way, requires a separate approval from the City**

**of Fremantle's Infrastructure Business Services department who can be contacted via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.**

- iii. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Harbour Road and/or Parmelia Street road reserve. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au).**
- iv. Any signage and/or line marking required to be relocated or installed as a result of the new and deleted crossovers will be at the applicant's cost and to the specifications of the City of Fremantle.**

**PC1909 -11 CLONTARF ROAD, NO. 3 (LOT 62), BEACONSFIELD - DEMOLITION  
OF SINGLE HOUSE - (CJ DA0253/19)**

**Meeting Date:** 4 September 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Development plans  
2: Site photos  
3: Heritage assessment

**SUMMARY**

Approval is sought for demolition of an existing single house at No.3 Clontarf Road, Beaconsfield.

The proposal is referred to the Planning Committee (PC) as the application involves the demolition of a building on the City's Heritage List. The application seeks discretionary assessments against the demolition clause of Local Planning Scheme No. 4 (LPS4).

The dwelling on site is considered to be of limited or no heritage significance and the application is recommended for approval.

**PROPOSAL**

**Detail**

Approval is sought for demolition of a Single house at No. 3 Clontarf Road, Beaconsfield. The application is the result of an approved subdivision which requires the demolition of the house to be able to proceed.

Development plans are included as attachment 1.

**Site/application information**

Date received: 12 July 2019  
Owner name: Matthew Tinley  
Submitted by: Cheryl Orr  
Scheme: Residential R25  
Heritage listing: Individually Listed and South Fremantle Heritage Area  
Existing land use: Single house  
Use class: N/A  
Use permissibility: N/A



## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as it proposed the demolition of a building on the City's Heritage List. The advertising period concluded on 12 August 2019, and one (1) submission was received. The following issues were raised (summarised):

- No issue with proposed demolition.
- Request a noise restriction between 1pm and 3pm due to sleeping children.

In response to the above, while not enforced by planning legislation, construction and/or demolition is required to adhere to relevant noise regulations. It is acknowledged that the demolition work may result in day time noise; however the demolition of the house is unlikely to take a substantial amount of time limiting the potential impact on neighbouring properties. An advice note reminding the applicant of their obligations in relation to noise is recommended.

## OFFICER COMMENT

### Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 which requires Council approval for demolition of a heritage listed place. Clause 4.14.1 of LPS4 states that Council will only grant approval for the demolition of a building or structure where it is satisfied that the building: (a) has limited or no cultural heritage significance, and (b) does not make a significant contribution to the broader cultural heritage significance and character of the locality in which it is located. An assessment against this provision is discussed below.

## **Background**

The subject site is located on the southern side of Clontarf Road, Beaconsfield. The site has a land area of approximately 956m<sup>2</sup> and is currently a Single house. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed (no category specified) and is located within the South Fremantle Heritage Area.

On 25 March 2019, the WAPC issued an approval for a two lot freehold subdivision (WAPC157465). A condition of the approved subdivision requires the clearance of the lot. As the subject dwelling is heritage listed, the applicant was required to lodge a planning application.

## **Demolition**

In assessing an application for demolition, Council must be satisfied that the building meets the following:

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

The Single house has no or limited cultural heritage significance in its own right nor is it of significance to the character of the locality for the following reasons:

- The description on the City's registration documentation for No. 3 Clontarf Road does not match the dwelling that is on site now.
- The house that occupies the site is a 1980's example of 'late twentieth century immigrant nostalgic' style of architecture.
- The level of contribution made by this house to the streetscape and local area does not merit its inclusion on the MHI.

In making the above assessment, officers have had regard to a heritage assessment undertaken (included as attachment 3).

## **STRATEGIC IMPLICATIONS**

### Green Plan 2020

Encourage the retention of vegetation on private land.

1. No trees are shown to be removed.

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demolition of Single house at No. 3 (Lot 62) Clontarf Road, Beaconsfield, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 12 July 2019. 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.**

**Advice note:**

- i. 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. For further information, please discuss with the City's Environmental Health Department.**



**PC1909 -12      UPDATE ON METRO SOUTH-WEST JDAP DETERMINATIONS AND  
RELEVANT STATE ADMINISTRATIVE TRIBUNAL APPLICATIONS  
FOR REVIEW**

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

**OFFICER'S RECOMMENDATION**

**That the information is noted.**

**PC1909 -13      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.

**OFFICER'S RECOMMENDATION**

**That the information is noted.**

### **10.3 COUNCIL DECISION**

Nil

### **11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

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

### **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**