



# Minutes

## Planning Committee

Wednesday 4 May 2022, 6pm



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## 1. Official opening, welcome and acknowledgement

The Presiding Member declared the meeting open at 6.05pm.

### 2.1. Attendance

Cr Geoff Graham	Deputy Presiding Member/Beaconsfield Ward
Cr Doug Thompson	North Ward
Cr Andrew Sullivan	South Ward
Cr Jenny Archibald	East Ward
Cr Adin Lang	City Ward
Cr Ben Lawver	Hilton Ward
Mr Glen Dougall	Chief Executive Officer
Mr Paul Garbett	Director Strategic Planning and Projects
Ms Chloe Johnston	Manager Development Approvals
Ms Melody Foster	Executive Assistant
Ms Michelle Gibson	Meeting Support Officer

*There were 4 members of the public in attendance in person and 4 members in electronic attendance.*

### 2.2. Apologies

Ms Hannah Fitzhardinge  
Cr Bryn Jones  
Cr Su Groome

### 2.3. Leave of absence

Nil

## 3. Disclosures of interests

Nil

## 4. Responses to previous questions taken on notice

Nil



## 5. Public question time

**The following member of the public asked a question taken on notice:**

Deborah Friedmann

Can the City advise when old street lighting columns on Stirling Highway in North Fremantle will be replaced?

**The following member of the public spoke against the Officer’s Recommendation for item PC2022-1:**

Deborah Friedmann

**The following members of the public spoke in favour of the Officer’s Recommendation for item PC2022-1:**

Jonathan Chia

Tom Hockley

**The following members of the public spoke against the Officer’s Recommendation for item PC2022-2:**

Gina Blakemore on behalf of Alan Mason & Sarah Davis

Lisa Barnes

Liz Poulton

**The following member of the public spoke against the Officer’s Recommendation for item PC2022-3:**

Jill Courtney

**The following member/s of the public spoke in favour of the Officer’s Recommendation for item PC2022-3:**

Eamon Broderick

## 6. Petitions

Nil



## 7. Deputations

### 7.1 Special deputations

Nil

### 7.2 Presentations

Nil

## **COMMITTEE DECISION** **(Officer's recommendation)**

**Moved: Cr Geoff Graham      Seconded: Cr Jenny Archibald**

**The Planning Committee confirm the minutes of the Planning Committee meeting dated 6 April 2022**

**Carried: 6/0**

**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,  
Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**

## 9. Elected member communication

Nil

## 10. Reports and recommendations



## 10.1 Committee delegation

### **PC2022-1 REFERRED ITEM - STIRLING HIGHWAY, NO. 110 (LOT 2) AND LESLIE ROAD, NO. 5 (LOT 3) NORTH FREMANTLE - TWO STOREY MIXED USED DEVELOPMENT (THREE MULTIPLE DWELLINGS AND A SHOP) (JCL DA0265/21)**

<b>Meeting Date:</b>	4 May 2022
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Attachments:</b>	1. Amended Development Plans
<b>Additional information:</b>	1. Site Photos 2. Updated schedule of submissions 3. Updated R-Codes Volume 2 assessment

#### **SUMMARY**

**Approval is sought for the construction of a two-storey building comprising a ground floor shop and three upper floor multiple dwellings at No. 110 Stirling Highway and No. 5 Leslie Street, North Fremantle.**

**The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes Volume 2 (R-Codes) and State Planning Policies. These discretionary assessments, and performance-based assessments, include the following.**

- **Land use (Multiple dwellings and Shop);**
- **Boundary walls and boundary setbacks (south and east)**
- **Secondary street setback**
- **Car parking;**
- **Bicycle parking;**
- **Landscaping (deep soil area and tree provision);**
- **Overshadowing;**
- **Building height; and**
- **Universal access.**



**At the Planning Committee meeting held on 12 January 2022, the City resolved as follows:**

***Refer the application to the Administration with the advice that Council is not prepared to grant planning approval to the application for the two storey mixed use development (three multiple dwellings and a shop) at No. 110 (Lot 2) Stirling Highway and No. 5 (Lot 3) Leslie Road, North Fremantle based on the current submitted plans and invite the applicant, prior to the next appropriate Planning Committee meeting, Consider amending the plans to reduce the impact on neighbouring properties and for the design to make reference to its Stirling Highway streetscape context and character. Amendments could include, but are not limited to:***

- ***Improve the pedestrian entry to multiple dwellings***
- ***Improve universal access to the building***
- ***Increased lot boundary setbacks***
- ***Increase parking for the shop***

***Additional information regarding the impacts from the industrial use opposite the site, including traffic and amenity impacts should also be explored.***

**Subsequently, the applicant has provided amended plans to address the reasons for referral. The application is recommended for conditional approval.**

## **PROPOSAL**

### **Detail**

Approval is sought for the construction of a two-storey building comprising a ground floor Shop and three Multiple dwellings at No's. 110 Stirling Highway and 5 Leslie Street, North Fremantle.

The proposed works include:

- Construction of a two storey building with a Shop on the ground floor;
- Three Multiple dwellings on the first floor;
- Provision of common amenities and walkways throughout the development;
- Provision of a parking area to the rear of the site for Shop patrons, residents and visitors;
- Partial demolition of a portion of existing limestone wall running through the rear of the site;



- Provision of landscaping throughout the site; and,
- Construction of hardstand to the front of the site in the Main Roads Road Reserve.

The applicant submitted several sets of amended plans and discussed their proposal at length with officers, with the latest received on 28 March 2022. The amended plans are the subject of this report and propose the following amendments:

- Decreased upper floor setback to Stirling Highway (ground floor remains the same, with portion increasing in setback due to amended floor configuration);
- Minor decrease in ground and upper floor secondary street setbacks to Leslie Road;
- Overall reduced external wall and roof heights to Leslie Road and Stirling Highway elevations, with some elements increased in height (e.g. the pedestrian access way);
- Decreased lot boundary setbacks to south, with addition of new boundary walls;
- Removal of upper floor full height solid wall facing south, replacing it with a privacy screen abutting the common passageway, with the main portion of built form behind it;
- Amended building form, with landmark element for pedestrian entry directly from Leslie Road noting access to the apartments was previously through the carpark;
- Reduced building bulk to No. 7 Leslie Road, with alteration of proposed boundary wall to match the length of the one on the adjoining site;
- Amended window configurations;
- Amended Shop and upper floor multiple dwelling configurations, including decrease in the floor area of the shop and mezzanine, and decreased floor areas of Units 1 and 2, with a minor increase in the floor area of Unit 3;
- Addition of two common areas on the upper floor for residents;
- Provision of compliant bicycle racks (3) for Multiple dwellings;
- Increase in, and reconfiguration of, landscaping area (deep soil area); and
- Overall design and material changes.

Further, on the 19<sup>th</sup> of April, the applicant provided a 3D render of the proposal within its immediate urban context, including the recently approved development at No. 108 Stirling Highway, which is discussed in the body of the report.

The applicant has advised that all signage relating to the Shop tenancy will not form part of this application and will be applied for a later date.

Amended development plans are included as attachment 1.





**Site/application information**

Date received: 21 June 2021  
Owner name: JYC Consulting Pty Ltd  
Submitted by: Abel Ling Architect  
Scheme: Mixed Use  
Heritage listing: North Fremantle Heritage Area  
Existing land use: Vacant site  
Use class: Shop, Multiple dwellings  
Use permissibility: A, A



**CONSULTATION**

**External referrals**

*Department of Planning Lands and Heritage – Heritage Services*



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

*"...remain the dominant streetscape feature and retain its landmark quality. The proposed development will not overwhelm or detract from the registered place."*

#### *Fremantle Ports (FP)*

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

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

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

Upon receipt of the current development plans, the application was re-referred to MRWA, due to new wall signage proposed (which has since been deleted from this application), in addition to the amended configuration of the proposal. To date, no final formal comment has been provided by MRWA. It is noted that the overall proposal is in essence the same as the original proposal considered and commented on by MRWA. Therefore, updated MRWA comment is not essential for the determination of this application.

### **Community**

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

- Building height (external wall)
- On-site car parking
- Residential Design Codes Volume 2 assessment
- Boundary walls (south and east)
- Side and rear setbacks (west, south and east)



- Secondary street setback
- Overshadowing
- Landscaping (deep soil area and tree provision)
- Land use (Multiple dwellings and Shop)

The first advertising period concluded on 26 July 2021, and 5 submissions were received. Due to the detail and number of submissions received, a Schedule of Submissions has been prepared and attached to the report. The following issues were raised (summarised):

- Parking;
- Traffic;
- Overshadowing;
- Building bulk and scale;
- Building height;
- Lot boundary setback; and,
- Boundary wall.

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

- Building height;
- Overshadowing;
- Lot boundary setbacks.

Following referral of the item by Planning Committee, and submission of amended plans, the application was re-advertised due to the substantially altered design and discretions remaining. The advertising concluded on 25 April 2022, with two submissions provided, giving the following additional comments to those provided in the original round of notification:

- A construction management plan, prepared in consultation with the operators of the Dingo Flour Mill, should be conditioned to be provided prior to the commencement of works to ensure compatibility between the construction works for the proposal and the daily operations of the Dingo Flour Mill;
- Comments have been provided relating to outstanding traffic and parking issues and how they are to be addressed, including:
  - Installation of signage on subject site advising that truck movements occur;
  - Liaise with the City to reinstate 'no standing' sign and reinstate line marking along Leslie Road;
  - Clarification required from applicant regarding how overflow parking will be managed; and,
  - Comments relating to how patrons will queue to exit onto Stirling Highway, which may cause traffic issues. The comment noted that the patrons will predominantly be local residents, and as such will be familiar with the local road network;
- To mitigate against future land use conflict arising from future residents concerns relating to the operations of the Dingo Flour Mill, a notification pursuant to Section



70a of the *Transfer of Land Act 1893* be placed on the Certificate of Title to note that the subject site is in close proximity to the Dingo Flour Mill, and may be adversely affected by noise, dust and traffic movements. This is considered prudent given future amalgamation of No. 110 Stirling Highway and No. 7 Leslie Road may create uncertainty as it relates to the existing easement over the subject site advising of the above issues. Therefore, conditioning the notification will create certainty and avoid misinterpretation in future;

- Object to the increased overshadowing due to nil setbacks to subject sites southern boundary;
- Object to new noise issues posed by nil setback mentioned above; and,
- If the neighbouring development is unable to occur, the proposal will pose significant amenity impacts to the neighbouring property, therefore, the nil setbacks to the upper floor and overshadowing should be addressed.

Relating to the above submissions, the below comments are provided by the City's Officers:

- The provision of a construction management plan is prudent, given it will allow for a reduction in land use conflict and will assist in preserving the amenity of surrounding properties for the construction period and is a standard condition often applied for developments of this scale;
- The applicant has proposed the placing of signage within the subject site, visible to exiting vehicles, advising of truck movements;
- To date, it appears that arrangements haven't been finalised with the City's Parking Department regarding new line marking along Leslie Road. It is noted that a 'No standing' sign has been reinstated, as confirmed by the City's Parking Department;
- It is noted that No. 110 and No. 5 Leslie Road will need to be amalgamated to accommodate the development. Therefore, the City agrees with the submitter in that the provision of a notification on the Certificate of Title to advise future owners of the amenity impacts of the Dingo Flour Mill is a reasonable measure. Therefore, it is recommended a condition be added to this end; and,
- It is considered that the nil setbacks and overshadowing proposed are supportable, as mentioned in the body of the report.

The remaining comments, including discussion regarding the proposed parking shortfall are addressed in the officer comment and body of report below.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

The amended proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies:



State Planning Policy 7.3 Residential Design Codes Volume 2 (Apartments) set out acceptable outcomes for most design elements. Meeting the acceptable outcomes does not mean automatic approval for the design element, rather they provide direction for applicants to meet the design objectives of the Codes. An assessment sheet updated to reflect the amended plans dated 28 March 2022 has been included as additional information and includes both the applicant and City Officers comments on each element. The following elements are discussed in greater detail throughout the report:

- Land use (Multiple dwellings and Shop);
- Boundary walls and boundary setbacks (south and east)
- Secondary street setback
- Car parking;
- Bicycle parking;
- Landscaping (deep soil area and tree provision);
- Overshadowing;
- Building height; and
- Universal access.

## **Background**

The subject site is located over two lots (No. 110 Stirling Highway and No. 5 Leslie Road) on the southern side of Leslie Road at its intersection with Stirling Highway. The sites have a combined land area of approximately 685m<sup>2</sup> and are currently not occupied by any development. The site is zoned 'Mixed Use' and has a density coding of R25. No. 110 Stirling Highway is not individually heritage listed, however No. 5 Leslie Road is due to an existing limestone feature. Both lots are located within the North Fremantle Heritage Area.

The site has a slight slope to the north-west and is currently vacant, except for a limestone fence traversing the rear portion of No. 5 Leslie Road, which runs through several other properties. The front portion of No. 110 Stirling Highway facing Stirling Highway contains a Main Roads Road reservation.

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

### No. 110 Stirling Highway

- Proposed commercial Office – DA0232/10 – Approved 10 August 2010; and
- Two storey Single house with roof patio – DA0170/16 – Approved 15 July 2016. This approval has not been acted on.



No. 5 Leslie Street

- Commercial offices – DA0352/09 – Refused 23 March 2010; and,
- Two storey house with roof deck and patio – DA0171/16 – Approved 8 August 2016. This approval has not been acted on.

No. 108 Stirling Highway

At the Planning Committee meeting held on 6 April 2022, a development application at the southern neighbouring property (No. 108 Stirling Highway) for a “Change of use to Multiple dwelling and a two storey addition to existing mixed use development” was approved by the City (see DA0521/21).

**Land Use**

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

In this regard the following matters have been considered in the table below.

<b>Provision</b>	<b>Officer comment</b>
(c) any approved State planning policy	See discussion in the body of the report relating to State Planning Policy 5.4 and State Planning Policy 7.3 (the Volume 2 assessment is included as an attachment).
(g) any local planning policy for the Scheme area	See body of report for discussion relating to applicable Local Planning Policies.
(j) in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;	Part of subject site is reserved under the MRS as Primary Regional Roads (PRR), vested in MRWA. MRWA comments relating to the proposal are included in the attachment 3. It is noted that the proposal has no built form within the MRWA PRR reserve, which is compatible with the objective of the reserve for potential future road widening.



<p>(k) the built heritage conservation of any place that is of cultural significance</p>	<p>The subject site is a Level 3 heritage listed place and is located adjacent to the Dingo Flour Mill, which is State Heritage listed. See body of report for further discussion relating to heritage.</p>
<p>(l) the effect of the proposal on the cultural heritage significance of the area in which the development is located</p>	<p>The proposal has no adverse impact on the cultural heritage significance of any property in the locality, specifically the Dingo Flour Mill to the north of the subject site.</p>
<p>(m) the compatibility of the development with its setting, including —</p> <p>(i) the compatibility of the development with the desired future character of its setting; and</p> <p>(ii) the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</p>	<p>The development is considered compatible with its setting for the following reasons:</p> <ul style="list-style-type: none"> <li>• The height of the development is generally consistent with the height allowed under LPS4 for mixed use sites in this portion of North Fremantle;</li> <li>• The proposed land use mix is consistent with that found in the locality, with Shops of a similar scale located at adjoining properties. Moreover, the locality contains a significant number of residential uses. It considered that the proposed land uses are consistent with the objectives of the ‘Mixed use’ zone;</li> <li>• The presence of the Shop use isn’t considered likely to adversely impact the viability of the City’s City, Local, and Neighbourhood Centre zones, given its scale and location;</li> <li>• The configuration of the development provides for a commercial use at the ground floor, and residential uses at the upper floor; and,</li> <li>• The development is considered relatively modest in its bulk and scale. Further, when viewed in the context of its proximity to the Dingo Flour Mill, the development aids in the graduation of height towards compliance. Therefore, it sets a reasonable precedent for future development in the immediate locality.</li> </ul> <p>As discussed, the applicant provided a render which demonstrates how the development will appear in its likely future urban context (see below):</p>





<p>(n) the amenity of the locality including the following —</p> <ul style="list-style-type: none"> <li>(i) environmental impacts of the development;</li> <li>(ii) the character of the locality;</li> <li>(iii) social impacts of the development</li> </ul>	<p>The proposal is considered to have an acceptable amenity impact on the locality in the following ways:</p> <ul style="list-style-type: none"> <li>• The proposal is unlikely to have adverse environmental impacts by way of noise or other pollution, noting it abuts a working industrial use, highway and trainline which are the generators of noise and nuisance;</li> <li>• The character of the locality is predominantly comprised of two storey developments constituting commercial and residential uses. It is noted that the Dingo Flour Mill is present in the locality, which comprises four storeys. Given the scale and proposed land use composition, it is considered that the proposal is compatible with the existing predominant character of the locality; and,</li> <li>• It is considered that the proposal will have a positive social impact, given it provides additional housing and commercial space to the locality. Additionally, the balconies and major openings present on this corner lot will provide additional passive surveillance.</li> </ul>
<p>(p) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved</p>	<p>It is considered that the provision of landscaping and deep soil zones is supportable. A condition will be imposed requiring the provision of a detailed landscaping plan.</p>
<p>(s) the adequacy of —</p> <ul style="list-style-type: none"> <li>(i) the proposed means of access</li> </ul>	<p>It is considered that the location of the vehicle access point is a reasonable distance from Stirling Highway.</p>





<p>to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles</p>	<p>The means of access and egress is considered sufficient, as is the capability of the site to accommodate deliveries and vehicle manoeuvrability and parking.</p>
<p>(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;</p>	<p>It is considered that a modest, amount of traffic will be generated by the proposal for the following reasons:</p> <ul style="list-style-type: none"> <li>• The subject site is in very close proximity to North Fremantle Train Station and bus stops servicing several routes;</li> <li>• Three two-bedroom apartments are proposed; and</li> <li>• One commercial tenancy (Shop) is proposed; and which isn't considered likely to be a particularly highly trafficked use.</li> </ul>
<p>(u) the availability and adequacy for the development of the following — (i) public transport services; (ii) public utility services; (iii) storage, management and collection of waste; (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities); (v) access by older people and people with disability</p>	<p>The subject site is in close proximity to the North Fremantle train station and several bus stops.</p> <p>The subject site is in close proximity to Western Power powerlines, which do not physically interfere with the built form at the subject site but service it appropriately.</p> <p>Bin storage areas are in a readily accessible location and may be presented to Leslie Street for collection. The City's Waste Management Department has reviewed the updated Waste Management Plan provided on 28 March 2022, and is generally satisfied with it and its ability to be implemented. The City's Parking Department has advised that there is no issue posed by Leslie Road being used for waste collection.</p> <p>The subject site provides several bicycle racks throughout to service the needs of residents and patrons. See body of report for further discussion.</p> <p>The Shop component is considered reasonably accessible by the elderly and those with a disability through the provision of a slope to the main entrance, in addition to a wide automatically opening door. Additionally, a universal access bay and associated service bay is provided to the rear of the Shop, which is accessible via a wide automatically openable door.</p>
<p>(v) the potential loss of any community service or benefit resulting from the development other than potential loss</p>	<p>Whilst the current development sites are currently used to accommodate overflow parking, it is not formally approved as such and it is considered that their development will not pose an undue adverse impact onto the community. It is the landowners right to develop their land provided appropriate approvals are obtained.</p>



that may result from economic competition between new and existing businesses	Likewise, it is the responsibility of other landowners and vehicle operators to ensure that required parking areas are provided to service their own requirements.
(w) the history of the site where the development is to be located	<p>The subject sites have had multiple development applications approved at the site, none of which have been acted upon to date.</p> <p>With respect to DA0171/16, the associated Planning Committee report stated the following with respect to the limestone fence, which is relevant to the heritage comments provided relating to this current application:</p> <p><i>“The City’s heritage officers have reviewed the site and stated that the heritage listing is a result of the existing limestone wall. The southern portion of the limestone wall is of a recent construction and has no significance. The portion of limestone wall protruding out from the western boundary is of considerable significance and is recommended to be retained. A condition has been added to this effect. Full comments are included as Attachment 3.”</i></p> <p>It is noted that the proposed removal of the same limestone fence is consistent with that previously approved under the previous development application, which has informed the Heritage assessment provided as part of this development application.</p>
(y) any submissions received on the application	Please see full address of submissions received in the body of the report.
(za) the comments or submissions received from any authority consulted under clause 66	See body of report.

Based on the discussion included in the above Table, it is considered that the proposed land uses are consistent with the objectives of the Mixed use zone as follows:

- The land use mix is compatible with that present and encouraged for the locality, and doesn’t adversely impact the commercial viability of other Centre zones in the City;
- The proposal provides for ground floor commercial and upper floor residential components;
- The development is sympathetic to the current and desired future character of the locality;
- The proposal has an acceptable impact on the amenity of neighbouring properties and the locality more generally; and,
- The impacts on heritage features on the site and in the locality are supported.



## **Density**

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

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

'Mixed use development' is defined in LPS4 as:

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

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

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

## **State Planning Policy 5.4 – Road and rail noise**

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

The applicants have provided a Road Traffic Noise Assessment (Assessment) prepared by 'Acoustics Consultants Australia', dated 22 March 2022. They have confirmed that the proposal will incorporate all recommendations of the assessment, inclusive of the recommendations of the residential and commercial components.

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



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

**Demolition of limestone fencing**

The application proposes the demolition of a portion of the existing limestone fence running along the rear portion of No. 5 Leslie Road which is currently on the City’s Heritage List. It is noted that portions of this fence also traverse other properties. The amended plans propose no changes to the proposed extent of demolition.

Per the City’s Heritage advice, the demolition is supported subject to the imposition of a condition requiring the limestone fence to be repaired in accordance with good conservation practice, using lime based mortar with no cement.

In relation to Clause 4.14.1 of LPS4, in the context of the heritage comments provided, it is considered that the partial demolition of the limestone feature is of little cultural heritage significance and it does not make a significant contribution to the broader cultural heritage significance of the locality.

**Side and rear setbacks**

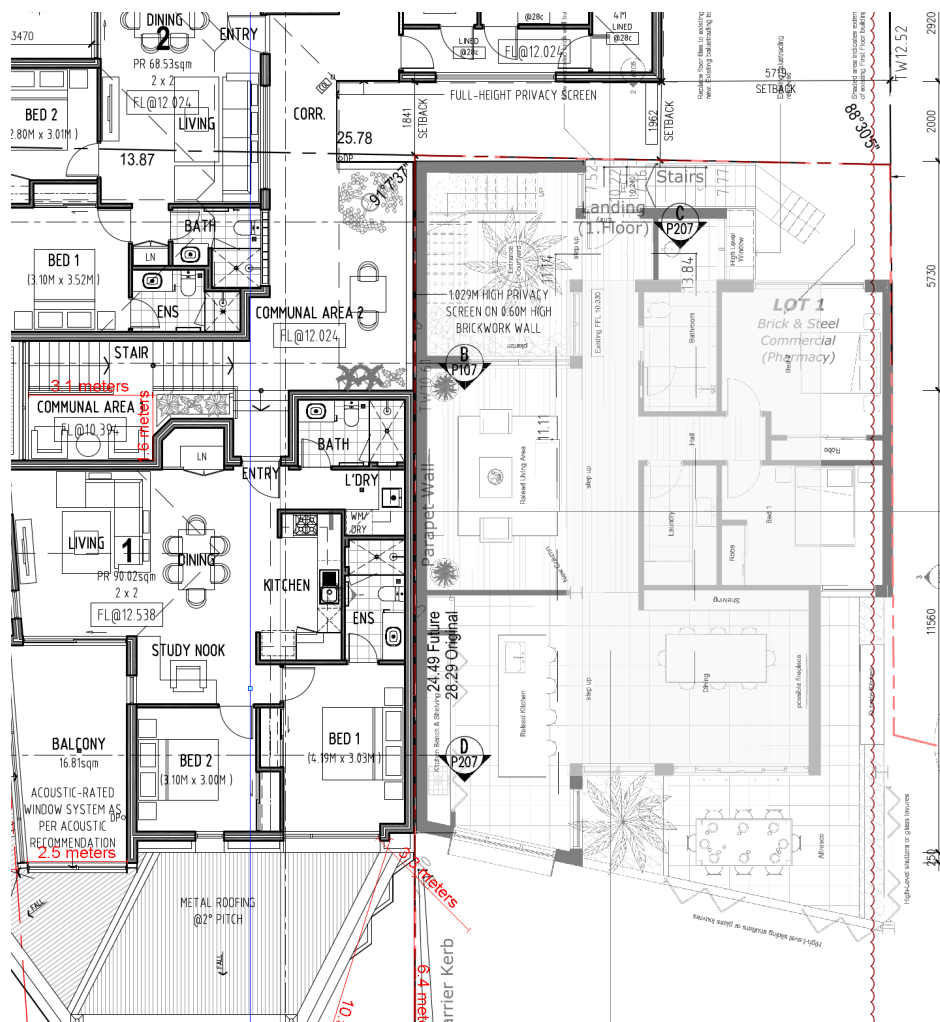
Element	Acceptable outcome	Proposed	Extent of departure from Acceptable Outcome
Ground floor - south	3m	Nil (to No. 108 Stirling Highway)  2.9m (to No. 107 Stirling Highway)	0.1m - 3m
Upper floor - south	3m	Nil	3m
Ground floor - east	3m	Nil - 0.3m	3m-2.7m
Upper floor – east	3m	Nil – 2.6m	3m-0.4m

The development plans have been amended to reduce the upper floor setbacks to nil to the southern lot boundary. The upper floor wall facing the eastern neighbour to the south, has also is reduced in length by 0.6m.

The ground and upper floor southern lot boundary setback variations impacting No. 108 Stirling Highway are considered to meet the relevant objectives of the R-Codes Volume 2 in the following ways:



- The ground floor setback provided predominantly abuts an existing boundary wall, with the portion exceeding the height of the neighbour’s boundary wall predominantly facing a portion of flat and inaccessible roof;
- Building separation is not provided on the ground floor, however given the existing neighbours boundary wall has a nil setback with no openings, it is considered that there is no adverse impact posed by the proposed setback. The upper floor provides a reasonable level of separation between buildings in proportion to its building height (see Diagram 3 in the body of the report for a cross section demonstrating this separation). It is further noted that a three storey development with a boundary wall has been approved to the southern elevation, meaning the nil setback is likely to correspond with a future boundary wall (see Diagram 1 below);



**Diagram 1:** comparison of first floors of subject site (left) and approved development at No. 108 Stirling Highway (right).

- The setback proposed will have no adverse impact on ventilation for the southern neighbour’s property, particularly to the existing outdoor living area;
- Limited solar access impacts are posed by the proposed variation, as discussed in further detail in the body of the report;





section of Leslie Road. The remaining portion of wall is setback to provide an acceptable degree of building separation;

- The setback proposed will have no adverse impact on ventilation for the eastern neighbour’s property given it abuts a boundary wall and dividing fence, and is open framed on the ground floor;
- The variation doesn’t pose any adverse impacts to solar access for the eastern neighbour;
- The variation doesn’t pose any adverse impact on the ability of the site to contain landscaping, as it would not be an optimal location for the provision of landscaping; and,
- No visual privacy variations are posed by the reduced lot boundary setbacks, given all openings are either hi-light windows, or are appropriately screened.

**Secondary Street setback**

Element	Acceptable outcome	Proposed	Extent of departure from Acceptable Outcome
Secondary street setback (Leslie Road)	2m	1.4m-1.7m	0.6m-0.3m

The secondary street setback to Leslie Road has been decreased in the amended plans by up to 0.3m, meaning the building is closer to the street.

It is considered that the proposal meets the relevant element objectives applicable to street setbacks in the following ways:

- Given the minor extent of the discretion, the existing built form along Leslie Road, and the presence of landscaping and building articulation, it is considered that the setback compliments the existing landscape character of Leslie Road;
- The setback proposed provides a clear transition between the public and private realm;
- The setback contributes to the preservation of visual privacy for No. 7 Leslie Road, given the balcony for Unit 3 is closer to the street, thereby not overlooking any sensitive parts of the affected front courtyard; and,
- Given the above, it is considered that the reduced setback contributes to passive surveillance of Leslie Road.

**Car parking**

Element	Requirement	Proposed	Extent of Variation
Shop	1:20m <sup>2</sup> net lettable area (minimum 2 bays).  204m <sup>2</sup> net lettable area proposed.  10.2 (11) bays required.	8 bays	3 bays





It is noted that due to the reduced Shop floor area and reconfiguration in the amended plans, the net lettable area has reduced. Therefore, the overall shortfall in car parking is decreased by one bay, with the same number of car bays being proposed compared with the previously presented plans.

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

- The subject site is located within a short walking distance of North Fremantle Train Station,
- The site is located close by to several bus stops which service routes from Perth and Fremantle;
- The mezzanine level is not considered to realistically require any additional parking demand; and,
- The Shop proposes one more bicycle rack than required.

The Multiple dwellings have provided sufficient car parking against the requirements of the R-Codes Volume 2, however it is noted that no visitors car parking is provided. In this instance, given the small quantum of development, it is not necessary to provide a dedicated visitor bay and given many visitors may attend after the closure of the shop shared use of those bays is not unreasonable.

**Bicycle parking**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
Shop	Class 1: 1 per 300 m <sup>2</sup> gla Class 3: 1 per 500 m <sup>2</sup> gla (over 1000 m <sup>2</sup> gla)	2 Class 3 racks	1 Class 1 bay

The number of Class 3 bike racks remains the same as previously proposed, with their location being moved to the Stirling Highway frontage.

LPS4 states that Class 1 bays can be waived provided that the application proposes a minor change of use. As the development is entirely new, it is not considered to be a minor change of use, however there is a store area at the entry of the Shop which could be used for secure bike storage and is therefore considered to be the equivalent of a Class 3 bay.





Further to the above, it is noted that a motorcycle bay is provided at the rear parking area, which reduces any adverse impact posed by the bicycle parking shortfall and provides additional transportation options to the site.

It is noted that the bicycle parking facilities for the Multiple dwellings complies, with an additional rack provided in excess of requirements.

**Landscaping**

Element	Acceptable outcome	Proposed	Departure from acceptable outcome
Tree canopy and deep soil areas	1 medium tree and small trees to suit	4 small trees	1 medium tree
Deep soil area	10% of site (68.5m <sup>2</sup> )	8.7% of site (59.4m <sup>2</sup> )	1.3% (9.1m <sup>2</sup> )

It is noted that the overall configuration of the landscaping area has changed to have a net-increase in landscaped and deep soil area. It is noted that some areas are narrower (along Leslie Road), however the overall provision of deep-soil area within the site (not including that within the MRWA road reserve) has increased by 6.1m<sup>2</sup>. Within the MRWA road reserve, the amended plans have provided an additional 17.3m<sup>2</sup> of deep soil area, meaning the amended plans provides an overall increase of 23.4m<sup>2</sup> of deep soil area. The number of small trees remains the same.

The landscaping provided is considered to meet the relevant objectives of the R-Codes Volume 2 in the following ways

- Given the constrained nature of the site due to the Western Power powerlines along Leslie Road, and the MRWA road reserve requiring lower-level vegetation, the applicant has proposed in excess of the required amount of small trees;
- Deep soil area is provided throughout the site and at present is in excess of the requirement. However, it is noted that a portion of the site is affected by a Primary Regional Road reservation. If the PRR reservation is acquired by MRWA, there will be a loss of part of the proposed deep soil area on the subject site. The applicant has proposed the planting of trees outside of this area, meaning that even with the resumption of the land, the trees will not be adversely affected;
- Though the required dimensions for most of the deep soil areas don't comply, the City's Parks and Landscape Department have confirmed that the landscaping plan is sufficient to satisfy the development application requirements. Moreover, given the sites constraints as discussed in the body of the report, and the type of vegetation proposed, it is considered that the deep soil areas provided are acceptable, given the portions containing the small trees have a 2m width to allow for adequate growth, and opportunities exist for future planting on the building; and
- Additional smaller areas of soft landscaping are provided throughout the site, the common areas, and the road reserve.



While the overall plan is supported, a condition of approval, and supporting advice note is recommended to ensure the lodgement of a more detailed landscaping plan that specifies appropriate species and irrigation design is recommended.

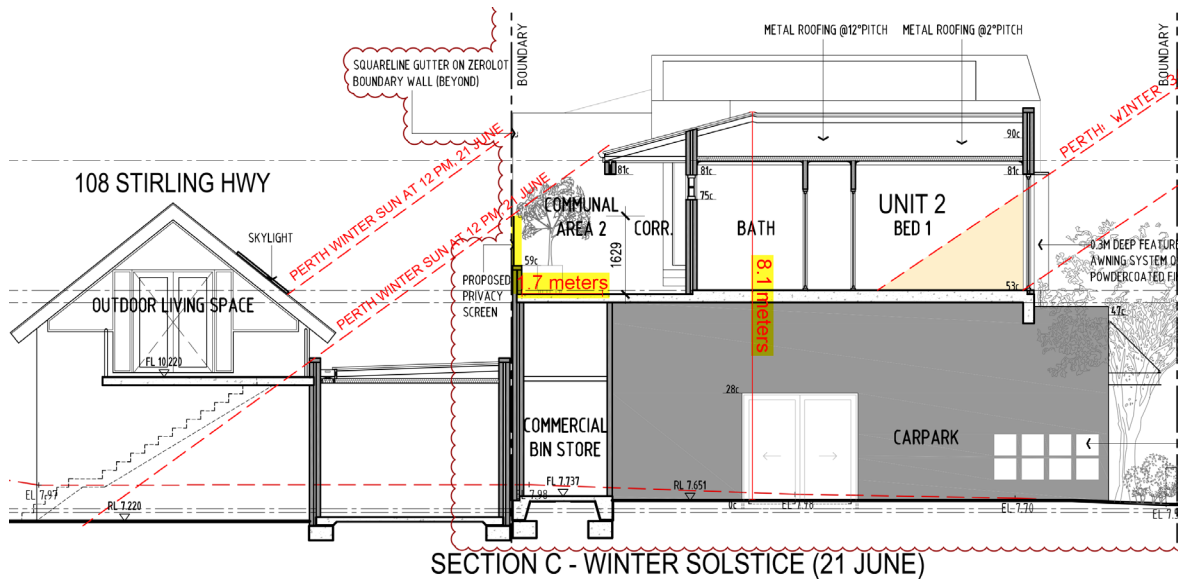
**Overshadowing**

Element	Acceptable outcome	Proposed	Departure from acceptable outcome
Overshadowing to No. 108 Stirling Highway	115.5m <sup>2</sup> (25% of neighbouring site)	216m <sup>2</sup> (47% of neighbouring site)	100.5m <sup>2</sup> (22% of neighbouring site)

The total amount of overshadowing of the southern property has decreased by 8m<sup>2</sup> in the amended plans from 224m<sup>2</sup> to 216m<sup>2</sup> due to the reconfiguration of the proposal. It is noted that the shadow impacting the rear raised outdoor living area at No. 108 Stirling Highway has also decreased, with the majority of new shadow being cast further into the mid-portion of the southern neighbours site.

The overshadowing is considered to meet the relevant Objectives of the R-Codes Volume 2 in the following ways:

- Though the ground and upper floor setbacks are reduced to nil to the southern lot boundary, they abut an area of flat roof, and are set back approximately 4.3m from the neighbours raised outdoor living area. Further, the portion of wall facing the outdoor living area comprises a privacy screen, with the full height section of wall being setback 1.7m behind it, meaning the shadow cast is negligible in its impact to the outdoor living area (see Diagram 3);
- The roof form facing the southern neighbour has a 15° pitch, with a maximum roof pitch height of 8.1m at its greatest height (as it faces the outdoor living area). This pitch, in combination with the setback proposed, means that the outdoor living area on the adjoining property is largely unaffected during the worst case scenario, being 12pm 21<sup>st</sup> June (see Diagram 3 below);
- The shadow predominantly falls upon areas of inaccessible roof, and the neighbouring front car parking area;
- It is further noted that there are no major openings or solar panels present on the southern neighbour’s site which would be significantly adversely impacted by the proposal.



**Diagram 3:** Cross section showing impact of shadow on 12pm on 21 June on rear outdoor living area of No. 108 Stirling Highway.

**Building height**

Element	Requirement	Proposed	Extent of Variation
External wall height – North	7.5m	Up to 9.4m	Up to 1.9m

It is noted that portions of the proposal have decreased in overall height on-balance, and other portions have increased in height from that originally proposed. Generally, the height of the pitched roofs and built form has been reduced, with elements including the pedestrian entry and gable ends facing Leslie Road and Stirling Highway being increased for portions. Minor increases in building height facing No. 108 Stirling Highway have been posed, and minor reductions in height for the built form facing No. 107 Stirling Highway have been proposed.

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

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



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

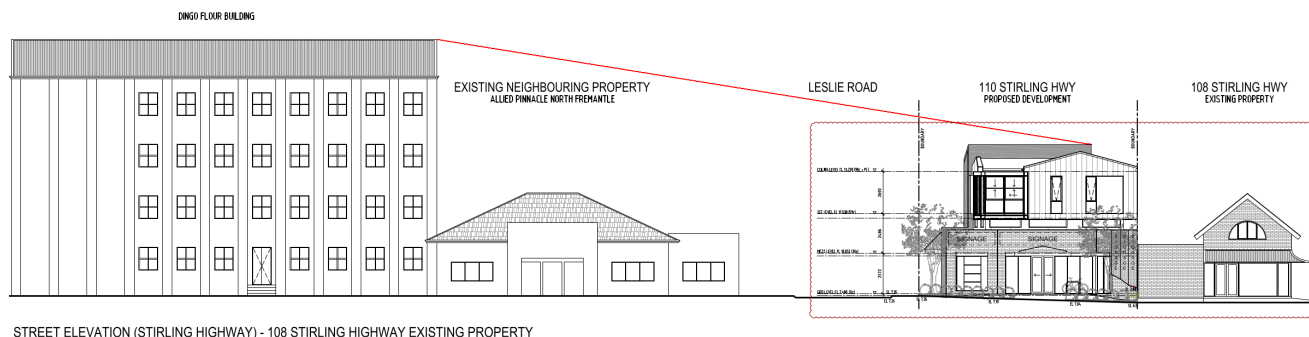
- (a) the variation would not be detrimental to the amenity of adjoining properties or the locality generally,*
- (b) degree to which the proposed height of external walls effectively graduates the scale between buildings of varying heights within the locality,*
- (c) conservation of the cultural heritage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

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

- The proposal poses an acceptable impact onto the amenity of adjoining properties and the locality more generally;
- Despite the built form being different from the southern neighbouring properties along Stirling Highway, the proposed heights are considered to provide an appropriate transition between the significantly higher Dingo Flour Mill and the adjoining properties;



**Diagram 4:** Number of storeys of buildings along nearby portions of Stirling Highway and Leslie Road.



**Diagram 5:** Street view from Stirling Highway

- It is considered that the proposed building height has no adverse impacts onto the cultural heritage value of the subject site, nor to the Dingo Flour Mill or any other properties in the locality; ,
- The additional building height will not result in a significant amenity impact on adjoining properties; and
- The highest points of the development facing north and west are the top of the gable ends/pedestrian access skillion roof, with the predominant building bulk (i.e. external wall height to main gutter line) sitting at or below 8.6m to the west, and 7.4-8.5m to the north.

### Universal design

Due to the small number of dwellings proposed, and the requirement to accommodate a commercial premises on the property to obtain “mixed use” status, the applicant has not proposed to apply universal design standards. It is noted that some retrofitting of the dwellings may be able to occur in future as required to suit the needs of residents. It is further noted that the development is two storeys, with one flight of stairs required to access the dwellings from the generally universally accessible parking area. The applicant has included accessibility features for the commercial use, including an ACROD bay and flat surface at the entry, in addition to 1.3m wide stair access with handrails to the Multiple dwellings.

It is noted that no substantial amendments to improve the universal design capability from those originally provided have been proposed.

### CONCLUSION

Based on the body of the report above, it is considered that the amended proposal is acceptable when assessed against the relevant provisions of Volume 2 of the R-Codes,



SPP 5.4, and LPS4. Therefore, it is recommended that the application be approved subject to the conditions contained in the officer recommendation below.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

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

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **COMMITTEE DECISION ITEM PC2022-1** **(Officer's recommendation)**

**Moved: Cr Geoff Graham**

**Seconded: Cr Adin Lang**

### **Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two Storey Mixed Used Development (three Multiple dwellings and a Shop) at No. 110 (Lot 2) Stirling Highway and No. 5 (Lot 3) Leslie Road, North Fremantle, subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 28 March 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**





- 2. All storm water discharge from the development hereby approved shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**
- 3. No part of the building/development (inclusive of awnings and below ground elements) shall be located within the land required for future Stirling Highway upgrades as detailed in Main Roads Western Australia's land requirement plan 1.7143/1.**
- 4. No earth works shall encroach onto the Stirling Highway road reserve.**
- 5. Prior to the issue of a Building Permit an updated version of Landscaping Plan SK01-D is to be provided including additional details of irrigation and modification of hardstand area located at the Stirling Highway frontage of the subject site to the satisfaction of the City.**
- 6. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the air conditioning units shall be screened from view from any public street/neighbouring property is to be submitted and approved, to the satisfaction of the City of Fremantle. The screening shall be installed prior to occupation.**
- 7. Prior to the issue of a Building Permit for the development hereby approved, the design and materials of the development shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 3. Specifically, the development shall provide air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.**
- 8. Prior to the issue of a building permit, details shall be provided to and approved by the City demonstrating the location of PV cells (2 x 6.6kwh panels and 2 x 5kwh inverters) and power points to each residential parking bay to facilitate electric car charging to the satisfaction of the City.**

**The panels and power points shall be installed prior to occupation of the development.**





- 9. Prior to occupation of the development hereby approved, the development must demonstrate compliance with the recommendations of the Road Traffic Noise Assessment prepared by 'Acoustics Consultants Australia' prepared on 22 March 2022, to the satisfaction of the City of Fremantle.**
  
- 10. Prior to occupation for the development hereby approved, a notification, pursuant to section 70A of the *Transfer of Land Act 1893*, shall be placed on the certificate of title for the subject lot. The notification shall be at the owner/applicants' expense and lodged with the Registrar of Titles for endorsement. The notification is to state as follows:**

*'This lot is in the vicinity of a transport corridor and is affected, or may in the future be affected, by road and rail transport noise. Road and rail transport noise levels may rise or fall over time depending on the type and volume of traffic.'*

*'This lot is in proximity to the Dingo Flour Mill, which may cause odour, noise, dust, and truck movements that may impact the amenity of the neighbouring properties'*
  
- 11. Prior to occupation of the development, the retained portion of limestone fence as detailed on the approved plans is to be repaired in accordance with good conservation practice, using a lime based mortar containing no cement to the satisfaction of the City of Fremantle.**
  
- 12. Prior to occupation of the development hereby approved, No. 110 (Lot 2) Stirling Highway and No. 5 (Lot 3) Leslie Road are to be legally amalgamated into one lot on the Certificate of Title. Alternatively, the owner may enter into a legal agreement with the City of Fremantle, drafted by the City's solicitors at the expense of the owner and be executed by all parties concerned. The legal agreement will specify measures to allow the development approval to operate having regard to the subject site consisting of two separate lots, to the satisfaction of the City of Fremantle.**
  
- 13. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle.**



**14.** Prior to the occupation of the development hereby approved, any redundant crossovers shall be removed and the verge and kerbing reinstated to the City's specifications, at the expense of the applicant and to the satisfaction of the City of Fremantle. The City's crossover specifications can be found via the following link: <https://www.fremantle.wa.gov.au/crossovers>.

**15.** Prior to the occupation of the development hereby approved, all car parking, and vehicle access and circulation areas shall be marked and signage and/or marking installed to clearly delineate between the residential and commercial components. The bays shall be maintained and made available for car parking and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.

**16.** Prior to the occupation of the development, the approved landscaping shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development, to the satisfaction of the City of Fremantle.

**17.** Prior to occupation/use of the development hereby approved, the boundary wall located on the eastern and southern lot boundaries shall be of a clean finish in any of the following materials:

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

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

**18.** Prior to occupation for the development hereby approved, a notification, pursuant to section 70A of the *Transfer of Land Act 1893*, shall be placed on the certificate of title for the subject lot. The notification shall be at the owner/applicants' expense and lodged with the Registrar of Titles for endorsement. The notification is to state as follows:

***"The subject lot is located within 1 kilometres of Fremantle Port. From time to time the location may experience noise, odour, light spill and other factors that arise from the normal operations of a 24 hour working Port."***



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

- a) **Use of City car parking bays for construction related activities;**
- b) **Protection of infrastructure and street trees within the road reserve;**
- c) **Security fencing around construction sites;**
- d) **Gantries;**
- e) **Access to site by construction vehicles;**
- f) **Contact details;**
- g) **Site offices;**
- h) **Noise - Construction work and deliveries;**
- i) **Sand drift and dust management;**
- j) **Waste management;**
- k) **Dewatering management plan;**
- l) **Traffic management; and**
- m) **Works affecting pedestrian areas.**

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

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

#### **ADVICE NOTES**

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



- ii. The applicant is advised that any signage may be subject to a separate application for planning approval.**
- iii. The applicant is encouraged to maintain the adjacent verge in accordance with the City’s Verge Garden Policy which can be found on the City website at: <https://www.fremantle.wa.gov.au/resident-perks>**
- iv. The applicant is advised that a crossover permit must be obtained from the City’s Engineering Department. New/modified crossover(s) shall comply with the City’s standard for crossovers, which are available on the City of Fremantle’s web site.**

**The applicant is advised that the new vehicle crossover shall be separated from any verge infrastructure by:**

- a minimum of 2.0 metres in the case of verge trees**
  - a minimum of 1.2 metres (in the case of bus shelters, traffic management devices, parking embayment’s or street furniture), and**
  - a minimum of 1.0 metre in the case of power poles, road name and directional signs.**
- v. This property is affected by land reserved in the Metropolitan Region Scheme and will be required for road purposes in the future.**
  - vi. The project for the upgrading/widening of Stirling Highway is not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability for the information provided.**
  - vii. The applicant is required to submit an application form to undertake works within the road reserve prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on Main Roads website > Technical & Commercial > Working on Roads.**



- viii.** All noise from the proposed development must comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* (as amended), such as:
- mechanical service systems like air-conditioners, exhaust outlets, motors, compressors and pool filters;
  - vehicles;
  - amplified acoustic systems; and
  - patron noise.
- ix.** The applicant is advised that any signage may be subject to a separate application for planning approval.
- x.** In relation to Condition 16 requiring the provision and approval of a Landscaping Plan, please note that the following elements are required, in addition to other elements:
- a. Irrigation plan;
  - b. Location, sizes and quantities of plant species;
  - c. Deletion of *Scaevola Crassiflora* and *Acacia Lasiocarpa* plants and replacement with more appropriate plantings to the City's satisfaction; and,
  - d. Confirmation of location of turf and olive tree plantings on verge area as noted in note 5 of the Landscaping Plan SK01-D, however not shown on plan.
- xi.** In regard to the condition requiring a Construction Management Plan, Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>. A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:  
<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>  
The Infrastructure Business Services department can be contacted via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.

**Carried: 6/0**

**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,  
Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**



**PC2022-2 SOUTH TERRACE, NO. 2/284 (LOT 22) SOUTH FREMANTLE – SECTION 31 STATE ADMINISTRATIVE TRIBUNAL RECONSIDERATION FOR CHANGE OF USE FROM OFFICE TO SHOP AND UNAUTHORISED SIGNAGE (JL DA0405/21)**

**Meeting Date:** 4 May 2022  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Development Plan  
**Additional information:** 1. Applicants Justification  
2. Site Photos

**SUMMARY**

**Approval is sought for a change of use from Office to Shop and associated existing signage at Unit 2, No.284 South Terrace, South Fremantle in a ground floor tenancy of the development on site.**

**On 1 December 2021, Planning Committee considered the application and made a decision to:**

***REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use to Shop and unauthorised signage at No. 2/284 (Lot 22) South Terrace, South Fremantle, as detailed on plans dated 15 September 2021, for the following reasons:***

- 1. The proposal does not meet the parking requirements of Local Planning Scheme No. 4.***
- 2. The proposed Shop, by virtue of its opening hours until 8pm daily, does not meet the Local Planning Scheme No. 4 objectives of the Mixed Use zone due to its impact on the amenity of adjoining residential uses.***



**3. *The proposal would be detrimental to the residential amenity of adjoining properties under clause 67 of Planning and Development (Local Planning Scheme) Regulations 2015***

**In January 2022, the applicant appealed the decision to the State Administrative Tribunal (SAT). The parties were invited to participate in onsite mediation (3 February 2022 and 17 March 2022), which included the participation of the business owners, owners of adjoining properties and owners of the property. Following the mediation, the SAT issued a direction inviting the City to reconsider an amended proposal.**

**The applicant has opted to amend the proposal by seeking temporary approval for a 12 month period and reduced opening hours for the business. The amended proposal is the subject of the current report.**

**The original application was 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). These discretionary assessments include the following:**

- **Land Use (Shop)**
- **On site car parking**
- **Unauthorised window signage**

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

## **PROPOSAL**

### **Detail**

Approval is sought for a change of use from Office to Shop of an existing 75m<sup>2</sup> commercial tenancy, on the ground floor of a mixed-use building at 284 South Terrace in South Fremantle. The original proposal included:

- Changing the approved use from Office to Shop so that the tenancy can be occupied for a Massage Parlour;
- Opening hours of 9am – 8pm (Monday – Sunday);
- Maximum of 2 employees onsite at anytime; and
- Unauthorised window signage 100% of windows.



The Planning Committee made a decision to refuse the above proposal on 1 December 2021. The applicant opted to lodge an appeal of the decision with the State Administrative Tribunal (SAT). Following SAT Mediation, the applicant submitted an amended application on 8 April 2022.

The amended proposal includes:

- Temporary approval for a period of 12 months,
- Reduced Window Signage from 90% to 47% coverage, and
- Reduced opening hours:

Original Application	Amended Application
9am – 8pm (Monday – Sunday)	9am-7pm, 4 days/week (Mon.-Thurs.);
	9am-6pm, 2 days/week (Fri. & Sun).
	Closed Saturday

The land use definition of a Shop under the City’s LPS 4 is: *‘A premise used to sell goods by retail, hire goods, or provide services of a personal nature (including a hairdresser or beauty therapist) but does not include a showroom or fast food outlet.’* Uses such as massage parlours and tattoo studios as well as hairdressers, beauty therapists and nail bars have been consistently interpreted by the City of Fremantle (the City) as falling within the ‘services of a personal nature’ component of this definition since the gazettal of LPS4 in 2007.

Amended Development Details and plans are included as attachment 1.

**Site/application information**

Date received: 15 September 2021  
 Owner name: South Terrace Management Pty Ltd South Terrace Development Trust  
 Submitted by: Metrowest  
 Scheme: Mixed Use







- A massage parlour is inappropriate for this site;
- The land use will result in carparking issues for the locality which is already under significant pressure and will impact local residents;
- The mix of Shops to small office offerings is also a concern, don't think the area needs more small shops,
- Bylaws of the strata should prevent this use,
- Concerned with the area becoming a 'red light district',
- Concerned that the community consultation signage was done correctly,
- Noise generated by the use is of concern,
- The City has made no provision for new car parking facilities in the locality to cater for more parking demands, and
- The present business at 2/284 South Terrace seems to operate at night-time when there is already a competing demand on car parking in the entire locality from existing hospitality businesses in the immediate vicinity.

As reiterated in the original report, the applicant submitted the following response (summarised):

- Concerns associated with an alleged illegal activity occurring within the premises need to be pursued with the Western Australian Police as the City doesn't have the jurisdiction to investigate or enforce such matters. The applicant's representative has also confirmed in writing that the business is not to be used for prostitution. Notwithstanding this, while anecdotal commentary has been provided by the community, there is not considered to be sufficient evidence to refuse the application on the basis of it potentially being an illegal use. As the use has not recommenced pending the outcome of this application, there is also no opportunity to review the operations.
- With regards to strata bylaws and enforcement of these provisions, this is a matter which would need to be pursued under Strata titles legislation which is not enforced or administered by the City.
- The City notes that the applicant will be advised the development will need address current acoustic requirements and must comply with the *Environmental Protection (Noise) Regulations 1997*.

The issue of car parking and land use is discussed further in the officer comment section below. These amendments are not considered to warrant readvertising as the application remain similar but with less signage, opening hours and a 12-month cessation date.



## OFFICER COMMENT

### Statutory and policy assessment

The proposals have been assessed against the relevant provisions of LPS4, and relevant Council local planning policies. In this application the areas outlined below require discretionary assessment under LPS4:

- Land use (Shop)
- On site car parking
- Signage

The above matters are discussed below.

### Background

The subject site is located on the eastern side of South Terrace, on the street block between Charles Street and King William Street. The site has a land area of approximately 1617m<sup>2</sup> and is currently occupied by a three-storey mixed-use building with residential apartments to the upper floors. The site is zoned Mixed Use and has a density coding of R30 but was developed to an R60 coding in accordance with LPS4 cl. 4.2.5. The site is located within the South Fremantle Heritage Area.

On site car parking is provided on the ground level behind a vehicle gate. The site was developed with a Restaurant (corner tenancy), two shops (two southern units) and 3 office tenancies (remaining units between the Restaurant and Shop units) to the ground floor of the building along South Terrace.

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

- 18 March 2015 - DAP013/15 – Demolition of existing Building and construction of three storey mixed use development, including allocation of land uses. Approved by JDAP.
- DAPV007/16 – Minor alterations to Mixed use development approved as part of DAP013/15. This application was also approved by the JDAP.

The application was presented to PC in December 2021, with a recommendation from officers to approve. PC voted to refuse the application for the following reasons:



1. *The proposal does not meet the parking requirements of Local Planning Scheme No.4*
2. *The proposed Shop, by virtue of its opening hours until 8pm daily, does not meet the Local Planning Scheme No. 4 objectives of the Mixed use zone due to its impact on the amenity of adjoining residential uses.*
3. *The proposal would be detrimental to the residential amenity of adjoining properties under Clause 67 of Planning and Development (Local Planning Scheme Regulations) 2015.*

It is noted that prior to a development application being received, the business commenced operating and had installed their signage. To officers' knowledge, the business ceased operations when requested and have not recommenced.

The applicant submitted an application for review of the City's decision to refuse the change of use to the State Administrative Tribunal (SAT). The parties were invited to participate in the onsite mediation (3 February 2022 and 17 March 2022), included the business owners, owners of adjoining properties and owners of the property. Following the mediation, SAT issued a direction inviting the City to reconsider an amended proposal.

The applicant submitted revised documentation and a written justification on 8 April 2022 which are the subject of this report.

### **Land Use (Shop)**

A Shop is an 'A' use in the Mixed-Use Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval and consultation has been undertaken with surrounding landowners and occupiers. 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*
- (y) *Any submissions received on the application.*

It is considered that the proposed land use of Shop is consistent with the objectives of the Mixed-Use zone for the following reasons:

- The proposed Shop could make a positive contribution to the Mixed Use zone, complementing existing uses, and adding vitality to the centre.
- It is considered that the change in use would not be significantly detrimental to the amenity of adjoining and adjacent residential properties. The proposed use will cater for a limited number of patrons at any one time not only by limiting the floor area of the tenancy, but it also is to have a maximum of two staff working at any time. In light of the modest size of the unit and the stated nature of the proposed business, it is considered that the potential for significant adverse impact on the amenity of residential properties can be appropriately managed.
- An appropriate advice note is recommended to be included alerting the owners to the requirement for compliance with the *Environmental Protection (Noise) Regulations 1997 (as amended)*.

Noting the objections received to the proposal previously, the applicant has proposed that they be issued with a 12 month approval. This would enable them to demonstrate that they are a genuine massage business and that their impact on the community in regard to parking is not significant. At the end of this period, the applicant would need to submit another application for approval or cease operations.

**On Site Car Parking**

Element	Requirement	Proposed	Extent of Variation
Existing Tenancy (Office)	1 Bay per 30m <sup>2</sup> gross lettable area (gla)	75m <sup>2</sup> gla = 2 bays	1 bay
Proposed Tenancy (Shop)	1 bay per 20m <sup>2</sup> of net lettable area (nla)	55m <sup>2</sup> nla = 2 bays	1 Bay



Again, it is considered that the relaxation of parking requirements under clause 4.7.3 of LPS4 is appropriate for the following reasons:

- The total shortfall of onsite carparking remains unchanged from the already approved Office tenancy as per the original development approval for the site, being 1 bay. There are 2 car bays allocated to this unit in the strata plan, meaning they are not intended to be used by anyone other than the occupants of this tenancy (or visitors to).
- The site is surrounded by a number of publicly available parking bays (detailed below) and it is considered that the nature of the business is such that the turnover of occupants would be appropriately staggered over the opening periods of a business day due to nature of service and the one-to-one customer to staff member ratio typically experienced in these businesses.
- The immediate locality is occupied by a number of hospitality venues and residences, which typically demand greater parking after daytime business hours. To restrict the impact on the local community, reduced hours of operation are now proposed in the amended application to be limited to 9am-7pm Mondays to Thursdays inclusive, 9am-6pm on Fridays and Sundays and no opening on Saturdays. It is noted that although the existing approval of Office would have contemplated slightly less hours per day it does have the same shortfall of car bays when assessed against LPS4 requirements, so limiting the business to the amended proposed hours would assist in managing the impact on the locality.

Street	Bays available
South Terrace Between Louisa Street to Rose Street (western side)	6 bays
South Terrace Between Louisa Street to Rose Street (eastern side)	5 bays
South Terrace between Rose Street and King William (western side only)	7 bays
South Terrace between Rose Street and King William (eastern side only)	5 bays
South Terrace west side (South of King William)	4 bays (one hour)
South terrace east side (South of King William)	2 bays
<i>Total</i>	<i>Approximately 29 bays</i>

In relation to the above assessment, it is noted that the bay numbers are approximate as some of the parking areas are not individually marked. The majority of these bays are restricted to a maximum 1 - 2 hour stay





limitation (shown below) which expected to be consistent with the potential time spent by a client of such a business.



**Image 1:** 2 hour parking areas shown in yellow, 1 hour shown in red

The applicant has advised that customers will be able to use bicycle racks on site. There are also end of trip facilities on site, with lockers and showers for staff usage.

### Signage

The majority of the existing tenancy frontage to South Terrace is covered with signage of the business that occupied the unit.

LPP2.14 states that window signage is appropriate when:



- (a) *Casual surveillance of the street is sufficiently maintained; and*
- (b) *The advertisement is no more than 50% coverage of the total window area of the tenancy.*

However, following the SAT mediation, the application has opted to reduce the signage to meet the above criteria. The signs will be modified to occupy 47% coverage of the enabling some level of casual surveillance into and out of the business. A condition is recommended to ensure the existing window sign be modified and reduced to a maximum coverage of 50% of the existing window area onsite for this tenancy to allow for an acceptable level of casual surveillance and interaction with the street.

## **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 the Scheme and Council policy. Accordingly, the amended proposal is recommended for approval, subject to conditions.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil





**COMMITTEE RECOMMENDATION ITEM PC2022-2**  
**(Officer's recommendation)**

**Moved: Cr Geoff Graham**

**Seconded: Cr Andrew Sullivan**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use from Office to Shop and unauthorised signage at No. 284 (Lot 22) South Terrace, South Fremantle, subject to the following condition(s):**

- 1) This approval relates only to the development as indicated on the approved plans, dated 8 April 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2) Notwithstanding Condition 1, this approval is valid for a period of one (1) year from the date of this approval after which the use and signage shall cease and be removed from site, to the satisfaction of the City of Fremantle.**
- 3) Opening hours are restricted to:**
  - 9am - 7pm on Monday to Thursday;**
  - 9am-6pm on Friday and Sunday;**
  - Closed Saturday's**
- 4) Within 60 days from the date of this decision letter, the existing window signage be modified to not occupy more than 50% of the existing window area for the site to the satisfaction of the City of Fremantle.**

**Advice notes:**

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



- ii. **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).**

**Carried: 6/0**

**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,  
Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**

**Cr Jenny Archibald. requested the item be referred to the Ordinary Meeting of Council. Seconded by Cr Geoff Graham**



**PC2022-3 SCOTT STREET, NO.26 (LOT 15), SOUTH FREMANTLE –  
ADDITIONS TO EXISTING SINGLE HOUSE – (CS  
DA0003/22)**

<b>Meeting Date:</b>	4 May 2022
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Agenda attachments:</b>	1. Amended Development Plans
<b>Additional information:</b>	1. Site Photos 2. Fencing Plan – Scott Street

**SUMMARY**

**Approval is sought for Additions to an existing Single house at No.26 Scott 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:**

- **Boundary wall**
- **Primary street fencing**
- **Street Setback (Carport height)**

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

**PROPOSAL**

**Detail**

Approval is sought for Additions to the existing Single house at No.26 Scott Street, South Fremantle. The proposed works include:

- Carport at front of the property
- Fencing within the primary street setback



- Outbuilding at rear of house

The applicant submitted amended plans on 29 March and 6 April 2022 including the following:

- Removal of roller door and access from outbuilding onto laneway at rear of property
- Amendments to primary street fencing to accommodate policy requirements and truncations

Development plans are included as attachment 1.

**Site/application information**

Date received:	5 January 2022
Owner name:	E Broderick & A Ramsey
Submitted by:	E Broderick
Scheme:	Residential Zone 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 discretionary



assessments against LPS4 and Local Planning Policies are sought. The advertising period concluded on 16 February, and four submissions were received. The following issues were raised (summarised):

- Laneway

The laneway at the rear of No.26 Scott Street is privately owned and maintained by No's 5-33 Wardie Street with no permission for the owner of No.26 to use it.

- Boundary wall

Object to the construction of a boundary wall and removal of the existing fence along the northern boundary.

In response to the above, the applicant submitted revised plans

removing the roller door and proposed access to the rear laneway (northern boundary) from the proposal. The only remaining objection is in relation to the boundary wall which is addressed in the officers assessment 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
- Street Setback - Carport
- Primary street fence

The above matters are discussed below.

## **Background**

The subject site is located on the northern side of Scott Street. The site has a land area of approximately 594m<sup>2</sup> and is currently a Single house. The site is zoned Residential and has a density coding of R30. The site is located within the South Fremantle Heritage Area.

The building was approved for conversion from a warehouse to single residential house, with various alterations and additions in 2010. The property has been residential since works were completed in approx. 2014.

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

- DA0551/10 – Change of use to Single house and additions and alterations to existing building – Approved
- VA0024/12 – Variation to previous planning approval (DA0551/10) - Approved



## **Heritage impact**

The proposal was reviewed by the City’s Heritage Officers, with the following comments provided:



- The works to the rear of the property and the carport are supported on heritage grounds;
- The proposed fencing to the front and side front boundaries will have an impact on the streetscape and the Heritage Area. The proposed design and materials do not fit within the generally accepted palate of fences however given the industrial nature of the building it is considered that in this particular instance this more industrial aesthetic is appropriate and can be supported.
- However, the place does sit alone within a predominantly residential streetscape and as such the heights (of particularly the side front walls) do have a negative impact on the streetscape and should comply with the height requirements.

**Boundary wall**

Element	Requirement	Proposed	Extent of Variation
Lot boundary setback (north and west)	1m	Nil	1m

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

- The proposed boundary walls do not result in a loss of access to daylight or direct sunlight owing to their location on the northern and western boundaries, and its setback to the existing dwelling(s) on adjoining sites.
- The boundary walls are not considered to contribute to a sense of confinement or building bulk as it only affects a small portion of each boundary.
- The boundary walls do not impact on any views of significance or existing significant vegetation.

**Primary street fence**

Element	Requirement	Proposed	Extent of Variation
Fencing height	Solid up to 0.9m OR Traditional open style up to 1.2m	Front elevation 750mm	Complies
	Hybrid (solid to 0.5m and open up to 1.2m) OR	East and west portions of wall 1.8m without visual permeability	Non compliant





	Piers up to 1.5m in height		
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The primary street fence is subject to the requirements of the newly adopted LPP 3.6 Heritage Areas Policy. As discussed in the heritage comments above, it's height is not complementary to the existing streetscape. It is noted that the policy does have different provisions to LPP 2.8 Fences Policy, however as LPP3.6 is the most recently adopted, its provisions are recommended to be implemented.

Notwithstanding that the side elevations of the front fence do not meet the policy criteria, the fence also does not

meet the Design principles of the R-Codes in the following ways:

- Scott Street is not a primary or district distributor or integrator arterial road
- The subject property does not have its primary outdoor living area located at the front of the property requiring screening for privacy.

Whilst the modern style of fencing has been supported in the Heritage Area due to the previous use of the building as a warehouse and the industrial characteristics remaining, as there is not an established pattern of higher fencing in this area (refer to plan included as Additional Information 2) it is recommended that a condition requiring the east and west side sections of the fence to be made visually permeable, and the height reduced to 1.5m in accordance with advice from the heritage department in order to preserve the character and openness of the existing streetscape.

**Street Setback**

Element	Requirement	Proposed	Extent of Variation
Carport in front of house	Open on all sides with no door	Open on all sides	Complies
	Constructed from timber or steel vertical supports no greater than 150mm in width	Steel supports (<150mm)	Complies
		Height between 3m – 3.1m	



	<p>Does not exceed an average of 2.8m in height above natural ground level</p> <p>The carport is located so as to maintain visibility of the dwelling from the street and surveillance from the dwelling to the street</p> <p>The maximum width of the carport is to be 6 metres</p> <p>The carport is setback 1m or greater from any side boundary</p>	<p>Maintains surveillance both ways</p> <p>5.6m side</p> <p>&lt;1m setback from both side boundaries</p>	<p>0.2 – 0.3m</p> <p>Complies</p> <p>Complies</p> <p>Complies</p>
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The proposed carport is considered to meet the requirements of clause 2.3 (variations) of the LPP2.9 in the following ways:

- The variation sought to the height (0.2 - 0.3m) is considered minor given the design of the carport remains simple in design and is visually subservient to the form and proportion of the existing dwelling.
- The existing dwelling is a warehouse conversion therefore is not a traditional style dwelling, and a slightly higher carport is considered appropriate given the existing proportions of the warehouse style building.
- The proposed carport remains open on all sides and maintains clear visibility of the dwelling from the street, and allows residents inside the dwelling to see the street.

**CONCLUSION**

The proposed additions are considered supportable as outlined above, subject to conditions of approval.

**STRATEGIC IMPLICATIONS**

Nil



### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

### **OFFICER'S RECOMMENDATION**

**Moved: Cr Geoff Graham      Seconded: Cr Ben Lawver**

Council:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions to existing Single house at No.26 (Lot 15) Scott Street, South Fremantle, subject to the following condition:

1. This approval relates only to the development as indicated on the approved plans, dated 6 April 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.
3. Prior to occupation/ use of the development hereby approved, the boundary wall located on the north and east boundary's 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.



4. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.
5. Prior to the issue of a Building Permit for the development hereby approved, all fencing within the Primary Street setback area shall be visually permeable above 750mm above natural ground level and a total height of 1.5m to the satisfaction of the City of Fremantle.
6. The pedestrian access and / or vehicle gate, as indicated on the approved plans, shall swing into the subject site only when open or closed and shall not impede the adjoining road reservation of the subject site.
7. Prior to the occupation of the development hereby approved, 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.
8. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

Advice Note(s):

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



- iii) It is recommended that the applicant liaise with the adjoining property owner (s) regarding the possible retention or replacement of the existing dividing fence along the common lot boundary. Please refer to the *Dividing Fences Act 1961* for the rights and responsibilities of land owners regarding dividing fences. Information is available at the following website: [http://buildingcommission.wa.gov.au/bid/Dividing\\_Fences.aspx](http://buildingcommission.wa.gov.au/bid/Dividing_Fences.aspx).

### **AMENDMENT 1**

**Moved: Cr Andrew Sullivan      Seconded: Cr Doug Thompson**

**Delete condition 7**

**Amendment carried: 6/0**

**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,  
Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**

### **Reason for change:**

The amendments made to the plans during the course of the application provide a satisfactory outcome for sightlines.

### **AMENDMENT 2**

**Moved: Cr Andrew Sullivan      Seconded: Cr Doug Thompson**

**Amend Condition 5 to read:**



Prior to the issue of a Building Permit for the development hereby approved, fencing for the initial 2.4m from the Primary Street boundary shall be visually permeable above 750mm above natural ground level and a total height of 1.5m to the satisfaction of the City of Fremantle.

**Amendment carried: 6/0**

**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,  
Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**

**Reason for change:**

To ensure the fencing is consistent with other properties in the streetscape that have dwellings closer to the street.

**COMMITTEE DECISION ITEM PC2022-3**  
**(Amended officer's recommendation)**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions to existing Single house at No.26 (Lot 15) Scott Street, South Fremantle, subject to the following condition:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 6 April 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on-site unless otherwise approved by the City of Fremantle.**



3. **Prior to occupation/ use of the development hereby approved, the boundary wall located on the north and east boundary's 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.**
  
4. **The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
  
5. ***Prior to the issue of a Building Permit for the development hereby approved, fencing for the initial 2.4m from the Primary Street shall be visually permeable above 750mm above natural ground level and a total height of 1.5m to the satisfaction of the City of Fremantle.***
  
6. **The pedestrian access and / or vehicle gate, as indicated on the approved plans, shall swing into the subject site only when open or closed and shall not impede the adjoining road reservation of the subject site.**
  
7. **Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

**Advice Note(s):**

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



- ii) **Fire separation for the proposed building works must comply with Part 3.7.2 of the Building Code of Australia.**
  
- iii) **It is recommended that the applicant liaise with the adjoining property owner (s) regarding the possible retention or replacement of the existing dividing fence along the common lot boundary. Please refer to the *Dividing Fences Act 1961* for the rights and responsibilities of land owners regarding dividing fences. Information is available at the following website: [http://buildingcommission.wa.gov.au/bid/Dividing\\_Fences.aspx](http://buildingcommission.wa.gov.au/bid/Dividing_Fences.aspx).**

**Carried: 6/0**  
**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,  
Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**





**PC2022-4 MCCLEERY STREET, NO. 32 (LOT 2), BEACONSFIELD -  
DEMOLITION OF EXISTING SINGLE HOUSE (ED DA0078/22)**

<b>Meeting Date:</b>	4 May 2022
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Agenda attachments:</b>	1. Demolition Plan/ Heritage Assessment
<b>Additional information:</b>	1. Site Photos

**SUMMARY**

**Approval is sought for demolition of the existing single house at No. 32 (Lot 2) McCleery Street, Beaconsfield.**

**The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4). These discretionary assessments include the following:**

- **Demolition of a building within a heritage area.**

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

**PROPOSAL**

**Detail**

Approval is sought for demolition of the existing single house on the subject site. No proposal for redevelopment of the site has been submitted to the City at this stage. The proposed works include:

- Full demolition of the existing dwelling and all incidental structures on the subject site.

Demolition Plans and a Heritage Assessment are included as attachment 1.



**Site/application information**

Date received: 11 March 2022  
Owner name: Vittorio Camillo Pasquarelli  
Submitted by: Vision Surveys Pty Ltd  
Scheme: Residential (R25)  
Heritage listing: Not Listed; 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 involves demolition of a building within the South Fremantle Heritage Area. The advertising period concluded on 13 April 2022, and 1 submission was received that raised no objection to the proposal.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

The proposal has been assessed against the relevant provisions of LPS4. The application seeks discretionary assessment of the following:

- Demolition of a dwelling in a heritage area.

The above matters are discussed below.

### **Background**

The subject site is located on the eastern side of McCleery Street in Beaconsfield. The site has a land area of approximately 683m<sup>2</sup> and is currently a Single House. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed though is located within the South Fremantle Heritage Area.

Aerial photography from 1953 shows a building on the site of 32 McCleery Street. The footprint matches that of the extant building in 2021 and is the earliest available documentary evidence for 32 McCleery Street, Beaconsfield. It is assumed the dwelling was constructed between 1949 and 1953.



A search of the property file has revealed no recent or relevant development applications for the property; however, the development history of the property is discussed in the attached heritage assessment and in the officer comment section below.

No redevelopment proposal for the subject site has been submitted or discussed with the City at this stage.

### **Demolition and Heritage**

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

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

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

Clause 4.14.2 of the LPS4 provides that in considering an application under clause 4.14.1, Council shall have regard to any heritage assessment required under the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The City's Heritage Team reviewed the proposal for the demolition of the existing dwelling on the subject site and are supportive of the demolition offering the following conclusions:

- 32 McCleery Street, Beaconsfield is not included on the Heritage List but is located within the South Fremantle Heritage Area. There is no place record for 32 McCleery on the Inherit database.



- *Heritage Assessment, 32 McCleery Street Beaconsfield, Stephen Carrick Architects November 2021*, is a well-considered assessment of 32 McCleery Street and, as the place is not individually included on the Heritage List, it assesses the significance of the place in the context of the heritage values of the South Fremantle Heritage Area. The report concludes that 32 McCleery Street has limited cultural heritage significance and is not worthy of retention but should be recorded with an archival record prior to demolition.
- 32 McCleery Street was constructed between 1949 and 1953 and is a typical example of the modest, single storey Post War infill development of western Beaconsfield. McCleery Street is the first parallel street east of Hampton Road and this area of Western Beaconsfield, together with South Fremantle, was largely developed between 1890 and 1930. The streetscape of the block between Mary Street and Lefroy Road is somewhat mixed and reflects the fact that this part of Beaconsfield, unlike South Fremantle which was more densely developed by the 1930s, contained larger properties and some areas of undeveloped land. While 32 McCleery Street is generally sympathetic with the form and scale of the pre-1930s houses in this street, it is set further back on the block and has a lower plate height than the traditional development. The place shows the influence of Post-War Migrants from east and southern Europe and the contribution that they made to the development of Fremantle.
- The house at 32 McCleery Street does not meet the threshold for inclusion on the City of Fremantle Heritage List. Its value depends upon the contribution that it makes to the South Fremantle Heritage Area. The statement of significance for the South Fremantle Precinct Heritage Area focuses on the pre-1930s development of the area and does not explicitly recognise Post-War development and later infill as one of the significant elements that contribute to its value. The demolition of this house will have no discernable impact on the heritage value of the South Fremantle Heritage Area or the setting of the individually heritage listed houses in this section of McCleery Street.

On the basis of the above, demolition of the existing dwelling on the subject site is considered acceptable pursuant to Clause 4.14 of the LPS4, subject to an appropriate archival condition, as the demolition is considered to have no discernible impact on the heritage value of the South Fremantle Heritage Area or the setting of the individually heritage listed houses in this section of McCleery Street.

## **CONCLUSION**

In accordance with the above assessment, the development is considered to satisfy the statutory planning requirements of the LPS4 and is therefore considered worthy of approval, subject to appropriate conditions.



## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **COMMITTEE DECISION ITEM PC2022-2** **(Officer's recommendation)**

**Moved: Cr Geoff Graham**

**Seconded: Cr Jenny Archibald**

**Council:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Demolition of Existing Single House at No. 32 (Lot 2) McCleery Street, Beaconsfield, subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 11 March 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Prior to the issue of a Demolition or Building Permit for the development hereby approved, an archival record is to be made of the building to be demolished and submitted to the City of Fremantle for approval, and shall include:**
  - a) A site plan prepared at 1:200 scale.**
  - b) Digital photographs taken of the building (once vacated) to include:**
    - i. a general/overall photo of the building to be demolished; and**
    - ii. photos of each of the four elevations and any special architectural features.**
  - c) the history of ownership of the property to record the contribution made by Post-War migrants to South Fremantle.**



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

**Advice Notes:**

- i. A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.
- ii. Any removal of asbestos is to comply with the following –

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

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

**Carried: 6/0**

**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,**

**Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**



**PC2022-5 JENKIN STREET, NO. 9 (LOT 23), SOUTH FREMANTLE –  
DEMOLITION OF EXISTING HOUSE AND NEW SINGLE  
STOREY SINGLE HOUSE (ED DA0046/22)**

<b>Meeting Date:</b>	4 May 2022
<b>Responsible Officer:</b>	Manager Development Approvals
<b>Decision Making Authority:</b>	Committee
<b>Agenda attachments:</b>	1. Development Plans
<b>Additional information:</b>	1. Site Photos 2. CoF Heritage Assessment

**SUMMARY**

**Approval is sought for demolition of the existing house and construction of a new single storey single house at No. 9 (Lot 23) Jenkin Street, South Fremantle.**

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

- **Demolition of a building within a heritage area;**
- **Street setback;**
- **Boundary walls (east); and**
- **Shed lot boundary setback (west).**

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

**PROPOSAL**

**Detail**

Approval is sought for demolition of the existing house and construction of a new single storey single house at No. 9 (Lot 23) Jenkin Street, South Fremantle. The proposed works include:





- demolition of the existing dwelling on the subject site; and
- construction of a new 3-bedroom single storey dwelling with single carport.

Development plans are included as attachment 1.

**Site/application information**

Date received	17 February 2022
Owner name:	Kurt Tobias Spanswick
Submitted by:	Ehdo
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 the proposal involves demolition of a building within the South Fremantle Heritage Area and seeks some discretionary assessments on Council local planning policies and the deemed-to-comply requirements of the Residential Design Codes. The advertising period concluded on 31 March 2022, and nil 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:

- Demolition of a building within a heritage area;
- Street setback;
- Boundary walls (east); and
- Shed lot boundary setback (west).

The above matters are discussed below.

## **Background**

The subject site is located on the southern side of Jenkin Street, South Fremantle, approximately 50m from the junction with South Terrace. The site has a land area of approximately 359m<sup>2</sup> and is currently a single house. The site is zoned 'Residential' and has a density coding of R30. The site is not individually heritage listed though is located within the South Fremantle Heritage Area.

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



## **Demolition and Heritage**

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

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

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

Clause 4.14.2 of the LPS4 provides that in considering an application under clause 4.14.1, Council shall have regard to any heritage assessment required under the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The City's Heritage Team reviewed the proposal for the demolition of the existing dwelling on the subject site and are supportive of the demolition offering the following conclusion (full heritage assessment found at Additional Information 2 of this report):

*Jenkin Street is a long street that runs from Marine Terrace in the West, across South Terrace and Hampton Road to Maxwell Street in the East. The street cranks slightly at South Terrace where the block alignment changes slightly. 9 Jenkin is located in the street block nearest the sea. Slightly over half the houses in this block are included on the Heritage List and all of these are shown on the 1907 Sewerage Plan. Most of the Late-Twentieth Century houses including 9 Jenkin are set back considerably further than the earlier heritage development.*

*9 Jenkin Street is a simple brick and tile house with a hipped roof and boxed eaves. The windows and sliding doors have aluminium frames and the openings have a tile sill detail. The house is considerably smaller in scale than the surrounding heritage buildings because it has a concrete floor slab laid on ground level and a minimum plate height. The house has*



*a matching front fence with a brick panel detail and a wrought iron gate. There is no evidence of any earlier structures on this site.*

*The proposed demolition of 9 Jenkin Street is acceptable as it does not reduce the heritage value of the Jenkin Street streetscape or the South Fremantle Heritage Area. As a condition of development approval, a simple archival record of the place must be prepared in accordance with the requirements of City of Fremantle policy.*

On the basis of the above, the demolition of the existing dwelling on the subject site is acceptable pursuant to Clause 4.14 of the LPS4, subject to an appropriate condition to secure an archival record of the property.

### **Street Setback**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent of Variation</b>
LPP 2.9 - Table 1 (South Fremantle)	Minimum 7m street setback for buildings with an external wall height of 4m or less	3.0m	4.0m

The reduced street setback of the development is considered acceptable in this instance, for the following reasons:

- The reduced street setback is proposed to a minor, lightweight, unenclosed/open roof covered decking structure that sits within the street setback forward of dwelling though still maintains full view of the main dwelling behind (which is setback at a minimum of 7m) where viewed from the street and will allow passive surveillance of the street from the dwelling.
- This southern portion Jenkin Street has no real prevailing street setback character as all building street setbacks are highly varied and inconsistent among properties (refer aerial image above).
- The adjoining western dwelling (7 Jenkin Street) has a street setback of approximately 2.5m to the front verandah and 3.0m to the building line of the main dwelling that will sit approximately level with the proposed open decking structure.



## **Boundary Walls (East)**

As demonstrated in the proposed site plan for the new dwelling, with the exception of the unenclosed carport, the proposed boundary walls have been purposefully located along the eastern boundary of the site so as to avoid being opposite openings of the adjoining dwelling (11 Jenkin Street). They are also staggered along the boundary to break up the overall bulk of the new dwelling. An open pergola and void in the proposed development is proposed where opposite the major opening of the neighbouring dwelling to mitigate any amenity impact on this eastern neighbour. Each of the proposed boundary walls are evaluated under the design principles as follows:

### *Carport Boundary Wall (east)*

The eastern carport boundary wall is considered acceptable for the following reasons:

- Due to the north-south orientation of the subject site, all shadow from the proposed carport (as assessed under the R-Codes) is to fall onto the subject site only and not impact any major opening or outdoor living area of the neighbouring residential property;
- The carport is of an open, lightweight design with a flat roof and overall height of only 2.6m and thus is not expected to cause any adverse building bulk impact upon the neighbouring property; and
- The carport is setback beyond the building line of the main dwelling and thus is to have no impact upon the streetscape.

### *Bedroom Boundary Wall (east)*

The eastern bedroom boundary wall is considered acceptable for the following reasons:

- Due to the north-south orientation of the subject site, all shadow from the proposed bedroom boundary wall (as assessed under the R-Codes) is to fall onto the subject site only and not impact any major opening or outdoor living area of the neighbouring residential property; and



- The boundary wall is located opposite a blank wall of the adjoining property and therefore is not to have any adverse building bulk impact upon any major opening or outdoor living area of the adjoining property.

*Toilet-Office Boundary Wall (east)*

The eastern toilet-office boundary wall is considered acceptable for the following reasons:

- Due to the north-south orientation of the subject site, all shadow from the proposed toilet-office boundary wall (as assessed under the R-Codes) is to fall onto the subject site only and not impact any major opening or outdoor living area of the neighbouring residential property;
- Due to the relatively minor length (5.1m) and height (3.5m) of the proposed boundary, in conjunction with its location next to a heavily vegetated area of the adjoining property’s rear garden, the wall is not expected to have any adverse building bulk impact upon the neighbouring property; and
- The adjoining rear garden is extensive and the wall is not proposed adjacent to any identified sensitive outdoor living area of the neighbouring property.

**Lot Boundary Setback (West) - Outbuilding**

<b>Element</b>	<b>Requirement</b>	<b>Proposed</b>	<b>Extent Variation</b>	<b>of</b>
R-Codes 5.1.3	1.0m	0.45m	0.55m	

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

- Due to the north-south orientation of the subject site, the shadow from the outbuilding is to fall on the subject site only and not to impact any adjoining residential dwelling;
- Due to the minor length (2.6m) and height (2.4m) of the outbuilding, it will only sit approximately 600mm above the height of a standard dividing fence (1.8m) and therefore is not expected to have any building bulk impact upon the adjoining property; and
- Due to the non-habitable nature of the outbuilding it is no have no implications on privacy for the adjoining dwelling.



## **CONCLUSION**

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

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **COMMITTEE DECISION ITEM PC2022-5** **(Officer's recommendation)**

**Moved: Cr Geoff Graham**

**Seconded: Cr Andrew Sullivan**

### **Council:**

**APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Demolition of Existing House and new Single Storey Single House at No. 9 (Lot 23) Jenkin Street, South Fremantle, subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 17 February 2022. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**





**2. Prior to occupation/ use of the development hereby approved, the boundary walls located on the eastern 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.**

**3. Prior to the issue of a Demolition or Building Permit for the development hereby approved, an archival record is to be made of the building to be demolished and submitted to the City of Fremantle for approval, and shall include:**

- d) A site plan prepared at 1:200 scale.
- e) Digital photographs taken of the building (once vacated) to include:
  - iii. a general/overall photo of the building to be demolished;
  - iv. photos of each of the four elevations; and
  - v. photos of any special architectural features.

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

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

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

**Advice Notes:**

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

**ii. Any removal of asbestos is to comply with the following –**

**Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste)**



**Regulations 2001. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the Occupational Safety and Health Act 1984 and accompanying regulations and the requirements of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)];**

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

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

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

**Carried: 6/0**

**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,**

**Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**



**PC2022-6 Information Report - May 2022**

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

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

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

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

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

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

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



- The applicant is invited to submitted amended plans and the City is invited to reconsider its decision on or before 13 July 2022.
- A report dealing with the Amended Plans will be presented to the July Planning Committee.

<b>2. Application Reference</b>
DA0405/21
<b>Site Address and Proposal</b>
No 2/284 South Terrace, South Fremantle- Proposed change of use Shop (Massage Parlour)
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• At its meeting held on 1 December 2021, the Council resolved to refuse the application.</li> </ul>
<b>Current Status</b>
<ul style="list-style-type: none"> <li>• On 3 January 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>• A Mediation session between the parties was held on 3 February 2022.</li> <li>• The applicant submitted further information for discussion in mediation held on 17 March 2022.</li> <li>• The applicant is invited to submit an amended proposal, and the City is invited to reconsider its decision before 7 June 2022.</li> <li>•A report dealing with the Amended Plans is included in this Agenda.</li> </ul>

<b>3. Application Reference</b>
DA0294/21
<b>Site Address and Proposal</b>
No 207 High Street, Fremantle – Internal alterations to existing Grouped dwelling
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>• Nil</li> </ul>
<b>Current Status</b>
<ul style="list-style-type: none"> <li>• On 24 March 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>• A Directions Hearing was held on 14 April 2022.</li> <li>• A Mediation session between the parties has been scheduled for 27 April 2022.</li> </ul>

<b>4. Application Reference</b>
DA0440/21
<b>Site Address and Proposal</b>
No 90 Bracks Street, North Fremantle – Demolition of existing buildings and structures
<b>Planning Committee Consideration/Decision</b>



<ul style="list-style-type: none"> <li>At its meeting held on 2 March 2022, the Council resolved to approve the application subject to conditions not recommended by officers.</li> </ul>
<b>Current Status</b>
<ul style="list-style-type: none"> <li>On 30 March 2022 an Application for Review by the State Administrative Tribunal was lodged by the owner.</li> <li>A Directions Hearing was vacated with orders issued instructing Council to reconsider its decision by the end of May. The applicant has been provided the opportunity to provide any additional materials to aid this reconsideration.</li> </ul>

<b>1. Application Reference</b>
DAPV001/21
<b>Site Address and Proposal</b>
19-21 McCabe Street, North Fremantle – Proposed variation to DAP004/20 (Eight storey mixed use development comprising 13 Grouped Dwellings, 97 Multiple Dwellings, Restaurant, Shop)
<b>Planning Committee Consideration/Decision</b>
<ul style="list-style-type: none"> <li>At its meeting held on 2 February 2022, the Planning Committee resolved to provide a comment to the JDAP that it did not support the Officers recommendation to refuse the development.</li> <li>At its meeting on 15 February 2022, the Joint Development Assessment Panel (JDAP) resolved to defer a decision on the application for a period of eight weeks, to enable further information to be prepared on parking and traffic issues.</li> <li>A second meeting was held on 12 April 2022, with the JDAP approving the variation, with the requirement for two additional car bays to be constructed in the McCabe Street verge.</li> </ul>

**COMMITTEE DECISION ITEM PC2022-6**  
**(Officer’s recommendation)**

**Moved: Cr Geoff Graham**

**Seconded: Cr Andrew Sullivan**

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

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

**Carried: 6/0**

**Cr Doug Thompson, Cr Geoff Graham, Cr Andrew Sullivan,  
Cr Jenny Archibald, Cr Adin Lang, Cr Ben Lawver**



## **10.2 Council decision**

Nil

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

Nil

## **12. Urgent business**

Nil

## **13. Late items**

Nil

## **14. Confidential business**

Nil

## **15. Closure**

**The Presiding Member declared the meeting closed at 7.48pm.**