



# Agenda

## Planning Committee

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Wednesday, 2 September 2020, 6.00pm



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

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday, 2 September 2020** in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.

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

Paul Garbett  
**Director Strategic Planning and Projects**

28 August 2020

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**CITY OF FREMANTLE**  
**Planning Committee**  
**Agenda**

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

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

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

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

**3. Disclosures of interests by members**

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

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

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

**5. Public question time**

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

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

**6. Petitions**

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

**7. Deputations**

**7.1 Special deputations**

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

**7.2 Presentations**

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

**8. Confirmation of minutes**

**OFFICER'S RECOMMENDATION**

**The Planning Committee confirm the minutes of the Planning Committee meeting dated 5 August 2020.**

**9. Elected member communication**

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

## 10. Reports and recommendations

### 10.1 Deferred items

**PC2009 - 1 DEFERRED ITEM -STIRLING HIGHWAY, NO. 140 (LOT 2), NORTH FREMANTLE - DEMOLITION OF EXISTING BUILDINGS - (NB DA0431/19)**

|                                   |   |
|-----------------------------------|---|
| <b>Meeting Date:</b>              | 2 September 2020  |
| <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. Hocking Heritage Report<br>2. Applicant's Response<br>3. Site Photos |

### SUMMARY

Approval is sought for demolition of the building, hardstand and dividing fences at No. 140 Stirling Highway, North Fremantle.

The proposal is referred to the Planning Committee (PC) as it proposes the demolition of a building within the North Fremantle heritage area.

The application was originally referred to the 15 January 2020 Planning Committee meeting where it was resolved that:

*The item be referred for further information to the next appropriate Planning Committee to allow for Officers to undertake research into the potential heritage significance of the existing building.*

The City subsequently commissioned a third party (Hocking Heritage) to assess the heritage significance of the buildings on the lot and it was determined that the office building on the corner of McCabe Street and Stirling Highway was of some significance. In response to the Hocking Heritage Report, the applicant submits that the retention of any buildings on site will prohibit the implementation of the One-Steel Structure Plan including the planned widening and upgrading of the McCabe Street and Stirling Highway intersection.

In accordance with clause 4.14 of LPS4, given the office building is identified to be of some cultural heritage significance, its retention is recommended. As such the application is recommended for conditional approval to demolish the warehouse structures but retain the office building on the corner of McCabe Street and Stirling Highway.

## PROPOSAL

### Detail

Approval is sought for demolition of the building, hardstand and dividing fences at No. 140 Stirling Highway, North Fremantle. The retaining walls along McCabe Street are proposed to be demolished, with the land graded in towards the site. The retaining walls along Stirling Highway are proposed to remain.

No plans or details have been submitted in regard to the future redevelopment of the site, however, the site is the subject of a valid structure plan approved in 2009.

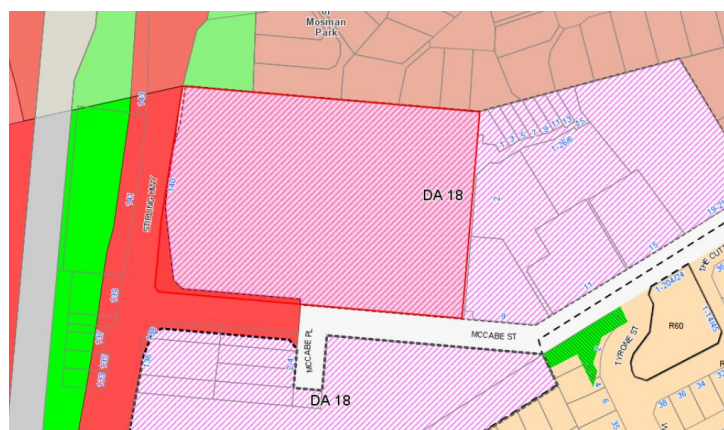
The applicant has submitted a written submission In response to the PC's referral and the Hocking Heritage Report, that details the following justification in support of the complete demolition of the subject site as currently proposed:

- The City endorsed One Steel Structure Plan cannot be implement in its endorsed form unless all the existing buildings are demolished.
- The planned widening and upgrading of the McCabe Street and Stirling Highway intersection requires demolition of the at least a portion of the office building on the corner of the site in order to upgrade the intersection to a suitable standard to accommodate current and forecast traffic in this location; and
- The heritage assessment prepared by Hocking Architecture is flawed and cannot be relied upon as it does not consider the State Government's intention to demolish the portion of the building within the Primary Regional Road reserve.

Development plans are included as attachment 1 and a complete copy of the applicant's additional submission is included as attachment 2

### Site/application information

|                     |   |
|---------------------|---|
| Date received:      | 6 November 2019   |
| Owner name:         | Guangdai Australia Investment Pty Ltd                               |
| Submitted by:       | Samuel Jeanes   |
| Scheme:             | Development Area (DA18)   |
| Heritage listing:   | North Fremantle Heritage Area                                       |
| Existing land use:  | Shop, Health Studio, Private Recreation, Industry, Office, Showroom |
| Use class:          | n/a   |
| Use permissibility: | n/a   |



## **CONSULTATION**

### **External referrals**

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

The application was referred to MRWA for comment as the site is affected by a Primary Regional Road reservation. MRWA have advised that they support the development subject to several conditions regarding access and site works. These conditions have been included in the Officer's Recommendations.

### **Community**

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the complete demolition of a building within a heritage area is proposed. The advertising period concluded on 3 December 2019, and 12 submissions were received. The following issues were raised (summarised):

- Vegetation along the boundaries should be retained
- Concerned about the safe removal of asbestos
- Want to be warned of any demolition
- Concerns about dilapidation of buildings
- Concerns about removal of dividing fences
- Concerns about dust during demolition

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

- The applicant is encouraged to retain the vegetation along the boundaries, as this will help screen the site and provide additional noise and dust protection for surrounding properties, however, no planning approval is required for the removal of vegetation. An advice note has been included recommending retention of onsite vegetation.
- Safe removal of asbestos, and dust suppression are environmental health requirements and the applicant is required to comply with all relevant legislation. Given the size of the site, the potential asbestos risk, and the potential for dust and noise, it is recommended that a condition be imposed requiring a demolition management plan be approved by the City prior to the issue of a demolition permit.
- Dividing fences are a civil matter between individual landowners. Demolition of dividing fences does not require planning approval. An advice note is included advising the applicant of their responsibilities under the Dividing Fences Act.

The remaining comments are addressed in the officer comment below.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

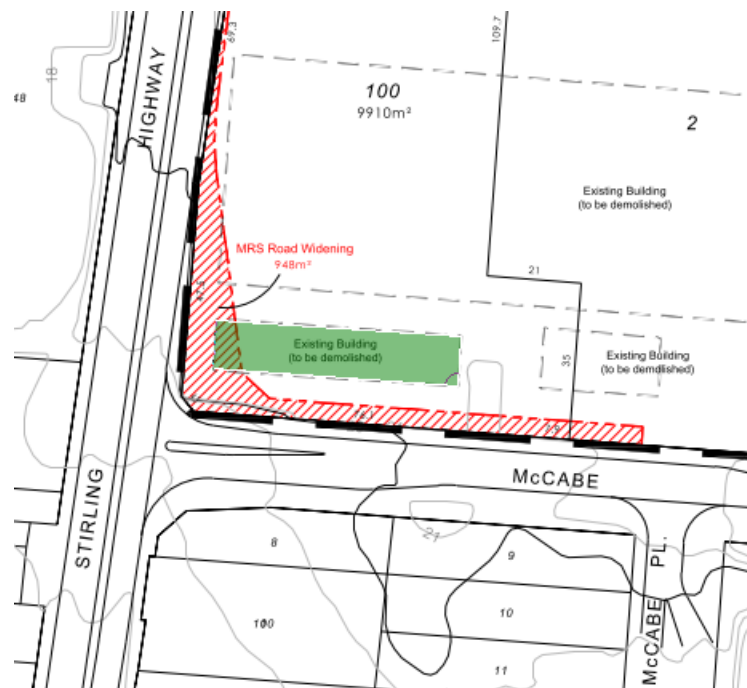
The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies.

## Background

The subject site is located on the eastern side of Stirling Highway, north of McCabe Street. The site has a land area of approximately 31,019m<sup>2</sup> and is zoned Development Area DA18 and is subject to a structure plan adopted in 2009 but not acted upon. The site is not individually heritage listed but is located within the North Fremantle Heritage Area. There are no current or approved plans for substantial redevelopment of the site in the City's records.

The site is improved by an office building on the corner of McCabe Street and Stirling Highway, with a large warehouse located behind, which takes up the bulk of the site. The existing buildings comprise a mix of retail, industrial and commercial uses. An existing retaining wall along Stirling Highway slopes up from nil to approximately 2 metres in height and wraps around the corner of McCabe Street. This retaining wall does not form part of this demolition.

An application to subdivide the lot into two lots in accordance with the approved structure plan is awaiting approval from the Western Australian Planning Commission (WAPC). The City recommended that the subdivision be approved as it did not impact the office building that was determined to have heritage significance. A decision on the subdivision has not yet been made and City Officers understand that the WAPC's decision is complicated by the fact that the office building recommended to be retained is located within the MRS road reserve intended for the future widening of Stirling Highway. This is shown in figure 1 and further discussed below.



**Figure 1:** Office building (green) in relation to the future road widening.

The application was originally referred to the 15 January 2020 Planning Committee with a recommendation for approval of demolition of all structures on site. At the meeting, concerns were raised regarding the heritage significance of some of the structures on site, and Planning Committee subsequently resolved that:

*The item be referred for further information to the next appropriate Planning Committee to allow for Officers to undertake research into the potential heritage significance of the existing building.*

## Heritage

City officers' original recommendation for approval of demolition was predicated on the belief that the site had been assessed for significance at the time of creation of the approved structure plan in 2009, which required the complete demolition of all structures on the lot. However, subsequent research reveals that the heritage assessment within the structure plan only included a search of the Heritage Council database and not an actual assessment of any structures on site to capture heritage significance that may have been missed.

Further, there has been recognition in recent years that cultural significance is not strictly limited to buildings constructed prior to or around the turn of the 20<sup>th</sup> century. Previously, and when the City's Municipal Heritage Inventory was first created, the prevailing view was that generally only those buildings built prior to around the 1940s were worthy of retention, with some exceptions. It has come to be recognized, however, that good examples of architectural trends and cultural eras also contribute to the historic significance of the area. The office constructed in 1956/1957 is one such building.

Following the Planning Committee decision, the City commissioned Hocking Heritage to assess the buildings on site, and their full assessment is included as Attachment 1. The report finds that the office building shown in green in Figure 1 above is predominantly intact and has aesthetic, historic and social significance, being an intact example of the 1950's Bauhaus architectural movement and representing the post war international architectural style with its distinctive cubiform shape and regular rhythm of fenestration along the key elevations. The report assesses the three sets of buildings (Office, Warehouse, and incidental Amenities Building located directly across from McCabe Place) as follows:

*On an individual basis the Office Building is of primary significance due to its rarity as a largely intact example of a Post-WWII International style building. Although the original building was extended in the 1960s, the additions were to the same design and construction and the original design intent of the building was not compromised as a result of the additional bays. Although roof cladding has been changed and additional signage has been added, the building still clearly represents the original architectural style.*

*The Warehouse building as an individual element is of secondary significance. The building is of simple utilitarian construction and clearly represents a warehouse development. An additional bay was constructed to the same designs in the early 1970s which complemented the original construction. Whilst the warehouse is largely intact, it does not demonstrate the same rarity value as the office building, hence the lower level of significance.*

*The Amenities Building is also of the Post-WWII International Style though on a smaller scale and is more simplistic in its presentation. The building architecturally connects with the office building through material palette but lacks the finesse and detailing of the main building and therefore demonstrates a secondary level of significance.*

The wider zone of significance encompasses the office building and the warehouse, but the primary significance is limited to the office building. The office contributes to the significance of the warehouse, but not the other way around. In other words, the warehouse can be demolished with no significant loss of heritage significance to the office building.

The applicant was provided a copy of the Hocking Heritage Report and has responded with a number of points summarised below (full response is included as Attachment 2), followed by City Officer response to the points:

- The City-endorsed One Steel Structure Plan cannot be implemented in its endorsed form unless all existing buildings are demolished. In particular, the 8 storey apartment building on the corner is not viable if it has to be constructed around or integrate the office building. Retention of this building will significantly undermine the structure plan.

The structure plan approved in 2009 envisages complete demolition of all buildings on site in order to be fully implemented. Retention of the office building would require a significant amendment to the existing structure plan.

- The planned widening and upgrading of the McCabe Street / Stirling Highway intersection requires demolition of at least a portion of the office building on the corner of the site in order to upgrade the intersection to a suitable standard to accommodate current and forecast traffic in this location. This portion of the building sits within a Main Roads reserve and Main Roads has the power to demolish the area of building within the reserve without City approval.

This point is discussed in 'Demolition' below.

- The heritage assessment prepared by Hocking Architecture is flawed and cannot be relied upon as it does not consider the State Government's intention to demolish the portion of the building within the Primary Regional Road reserve. The report also overstates the historical and social significance of the building in relation to its industrial nature. City Officers previously recommended demolition of all structures as they were deemed to be of little significance.

City Officers disagree that the Hocking Heritage report is flawed on the grounds that it did not take into account the State's intention to demolish a portion of the building. Heritage reports are not a response to future intended development but, rather, an assessment of a particular building or area in its current form. The heritage report rightly provides an assessment by the heritage consultants of the onsite structures without regard for possible future demolition.

City Officers did previously recommend approval for demolition of all structures primarily based on the history contained within the structure plan documentation as discussed above. Based on the more detailed assessment contained within the Hocking Heritage

Report, City Officers no longer consider it appropriate to recommend approval of demolition of all buildings on site including the office building for the reasons discussed below.

- The building has been largely vacated and is subject to vandalism. The cost associated with repairing and retaining the building, and ensuring that it remains secure is considerable. Furthermore, the safety risks and the liability associated with any major incident are of significant concern to the landowners. Demolition is the only way to completely eliminate this risk, and ensure that the building does not become an attractor for antisocial behaviour and vandalism.

Vacant buildings can be the target of vandalism and anti-social behaviour. Given the extensive demolition works required to the remainder of the warehouse buildings onsite, and in particular the dangers of asbestos, it is unlikely that any uses could continue to safely operate from the office building during the course of demolition.

## **Demolition**

Clause 4.14.1 of LPS4 states:

*Council will only grant planning approval for the demolition of a building or structure where it is satisfied that the building or structure:*

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

The office building has been determined to have some cultural heritage significance and contributes to the broader cultural heritage significance of the area and its demolition cannot therefore be supported. A condition of approval has been included to remove the office building from the scope of the approved demolition works. Should Council nonetheless consider it appropriate to approve demolition of all buildings, it is recommended that proposed condition 2 be deleted and replaced with the following condition and advice note (as proposed by the applicant in their response):

2. *Prior to the issue of a Demolition Permit, a "Detailed" archival record of the office building is to be submitted by the applicant and approved by the City of Fremantle.*

### **ADVICE NOTE:**

- v. *The archival record documentation requirements for a "Detailed" assessment are available here: <https://www.dplh.wa.gov.au/getmedia/8ffcb91d-93cf-4478-ba68-1b96de5efc6a/HER-Guide-to-Preparing-an-Archival-Record-2019>*

The remaining buildings and structures on site have limited or no significance and their demolition is supported.

It is noted that part of the office building encroaches into the MRS road reserve for the future widening of Stirling Highway by Main Roads. The City has been advised that the Stirling Highway road widening is not within Main Roads' four year confirmed projects timeline. It is possible that the road widening will not occur or will be further delayed, in which case there is no need to demolish the building at this time when the possibility of permanent retention remains. Additionally, Main Roads has the authority to override the City's decision and demolish the building should the need arise as part of future road works, so the City's decision to refuse demolition of the office building at this time will not impede those works.

### **Site Management**

No details have been submitted in regard to the future use and/or development of the site. Although any interim and/or long term use/development of the site will be subject to a separate application for approval, given the complete demolition of a site of this scale a plan that manages the potential short term impacts including sand and dust drift, security etc. should be implemented on an interim basis. As such a condition is recommended to require the submission of a site management plan prior to issue of a Demolition Permit.

Vegetation and dividing fences do not require planning approval to remove, however, given the large area of the site and the fact that it backs on to a number of residential properties, the ongoing site management plan is also recommended to include a provision that the applicant identify trees and swathes of vegetation recommended for retention along the boundaries of the site. It is not intended that significant trees be identified for permanent retention (which would require arboricultural reports, etc.), only that the dense vegetation along the boundaries be retained for the duration of the demolition to screen adjoining residential properties and until such time as future construction occurs. Advice note (i) clarifies this requirement.

### **STRATEGIC IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demolition of the building at No. 140 (Lot 2) Stirling Highway, North Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 6 November 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Notwithstanding condition 1 above, the office building on the corner of Stirling Highway and McCabe Street does not form part of this demolition approval and is to be retained to the satisfaction of the City of Fremantle.**
- 3. No earthworks are to encroach onto the Stirling Highway road reserve to the satisfaction of the City of Fremantle on advice of Main Roads.**
- 4. No stormwater drainage is to be discharged onto the Stirling Highway road reserve to the satisfaction of the City of Fremantle on advice of Main Roads.**
- 5. Within 60 days of completion, the landowner/applicant shall make good any damage to the existing verge vegetation within the Stirling Highway road reserve to the satisfaction of the City of Fremantle on advice of Main Roads.**
- 6. All vehicle access for demolition works to be taken via McCabe Street to the satisfaction of the City of Fremantle on advice of Main Roads.**
- 7. Prior to the issue of a Demolition Permit for the development hereby approved, a Site Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the Site Security, On-going sand/dust Management, and identification of vegetation near the boundaries of the site suitable for retention. The approved plan shall be implemented to the satisfaction of the City of Fremantle.**
- 8. Prior to the issue of a Demolition Permit for the development hereby approved, a Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:**
  - a. Use of City car parking bays for construction related activities;**
  - b. Protection of infrastructure and street trees within the road reserve;**
  - c. Security fencing around construction sites;**
  - d. 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;**
- m. Asbestos handling and removal;**
- n. Works affecting pedestrian areas.**

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

**ADVICE NOTES:**

- i. The identification of vegetation around the boundaries of the site required by the ongoing Management Plan is not intended to identify significant trees, etc. recommended for permanent retention, but only to retain vegetative screening during the course of the demolition and until such time as future development occurs.**
- ii. It is recommended that the dividing fences be retained until such time as redevelopment is proposed. It is recommended that the applicant liaise with the adjoining property owners regarding the possible retention or replacement of the existing dividing fences along the common lot boundaries. Please refer to the Dividing Fences Act 1961 for the rights and responsibilities of land owners regarding dividing fences. Information is available at the following website:  
[http://buildingcommission.wa.gov.au/bid/Dividing\\_Fences.aspx](http://buildingcommission.wa.gov.au/bid/Dividing_Fences.aspx).**
- iii. This property is affected by land reserved in the Metropolitan Region Scheme as shown on the Main Roads drawing 1.7143-1 and will be required for road purposes at some time in the future.**
- iv. The project for the upgrading/widening of Stirling Hwy 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 whatsoever for the information provided.**

**PC2009 - 2 DEFERRED ITEM - SOUTH TERRACE, UNITS 1 AND 2, NO. 240  
(STRATA LOTS 9 AND 10), SOUTH FREMANTLE - CHANGE OF USE  
TO HOME STORE (TG 0140/20)**

**Meeting Date:** 2 September 2020  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Amended development plans  
**Additional information:** 1. Site Photos  
2. Applicant submission  
3. Original development plans

**SUMMARY**

Approval is sought for a change of use for two existing shop tenancies at Unit 1 and 2, 240 South Street, South Fremantle. These tenancies have been constructed in accordance with an approved development for the site comprising a mixed-use development.

The proposal is referred to the Planning Committee (PC) due to the unusual nature of the proposal 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), Local Planning Policies and Volume 2 of the Residential Design Codes. These discretionary assessments include the following:

- Land use (Home store).
- Residential Density
- Residential Design Codes Volume 2 Matters

The application was considered by PC at its meeting on 1 July 2020 and deferred for the applicant to make amendments to the proposal and provide additional information to address concerns from PC that the accommodation component of the proposed Home Stores would have a poor level of internal amenity. The applicant was encouraged to consider alterations that would improve access to sunlight, daylight and ventilation.

Amended plans and additional details were provided by the applicant on 12 and 14 August 2020. Although the changes are not significant and do not maximise the opportunity for improved access to natural light and ventilation, given the proposal involves the adaptive re-use of two existing shop tenancies, the amendments are considered to achieve an acceptable standard level of amenity in this instance. As such, the amended application is recommended for approval, subject to conditions.

## PROPOSAL

### Detail

Approval is sought to change the use of two existing Shop tenancies on the ground floor of the existing mixed use development at 240 South Terrace. It is proposed to change the use of each of the tenancies to a Home store, which is a land use in its own right under LPS4.

A home store is defined in LPS4 as *“any shop with a net lettable area not exceeding 100 square metres attached to a dwelling and which is operated by a person resident in the dwelling”*

In accordance with this definition of a Home store, the shop component (being the Home store) must be attached to a dwelling. Therefore, this application also considers the appropriateness of two additional Multiple dwellings on the ground floor of the mixed use development.

In support of the Home store proposal, the applicant has submitted indicative shop uses and associated floor plans which illustrate the following:

#### Unit 1 (Strata Lot 9) Home store (Retail Shop)

- Small retail shop area adjacent to South Terrace
- Monday to Saturday 9am -6pm
- Minimal deliveries will be mostly through Australia post to cover such small floor space, or indeed picking up stock, car bays at the front expect to be utilised.
- Signage will be up to the operator to confirm.
- No special equipment

#### Unit 2 (Strata Lot 10) Home store (Hairdresser or Beauty Salon)

- Small hairdresser or beauty salon area adjacent to South Terrace
- Monday to Saturday by appointment
- No deliveries, small service provider only.
- Signage will be up to the operator to confirm.
- Sink and chair to be installed, cleaning regime to be COVID Safe compliant.

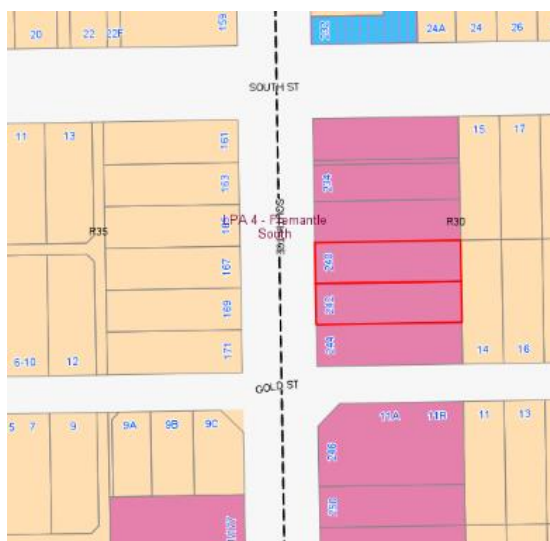
Both tenancies are indicatively fitted out as dwellings to the rear of the tenancy including an area for a winter garden, lounge area, kitchen/dining area, bedroom, bathroom, and laundry.

The applicant submitted amended plans and application details on 12 and 14 August 2020 providing additional elements to improve the internal amenity of the accommodation component of the tenancies and providing additional detail in relation to the original proposal. Amended development plans and fit outs are included as attachment 1. Additional information 2 includes the details of the inclusions the applicant has made to improve the internal amenity of the tenancies. The alterations to the tenancies proposed under the amended proposal are as follows:

- The inclusion of a glass brick wall to the northern wall of the northern tenancy.
- The inclusion of additional vents to each end of each tenancy for airflow.
- The addition of a skylight to the existing lightwell for the southern tenancy.

### Site/application information

Date received: 24 May 2020  
 Owner name: Lemeg Ventures Pty Ltd  
 Submitted by: Megara  
 Scheme: Mixed Use  
 Heritage listing: South Fremantle Heritage Area  
 Existing land use: Shop and Multiple dwellings  
 Use class: Home Store  
 Use permissibility: A



### CONSULTATION

#### External referrals

Nil required.

#### Community

The original application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposed land use was required to be advertised in accordance with LPS4. The advertising period concluded on 25 May 2020, and three (3) submissions were received. The following issues were raised (summarised):

- Concern that the existing light well to a bedroom to the southern side of the development could be used as a vent for the kitchen of a proposed home store.
- Concerns in relation to the finalisation of construction on site.
- Concerns that the use of the two ground floor tenancies would result in the development not complying with the definition of 'mixed use'.
- Concern that if approved, the development will significantly exceed the R60 requirements and result in residential density greater than that allowable under LPS4 and the site will not comply with minimum and average site area requirements.

In response to the above, the applicant submitted the following response (summarised):

- The neighbouring bedroom is provided with a skylight.
- Vents would be provided in accordance with NCC requirements.
- Issues with the finalisation of construction on site are to be resolved between the builder and neighbour.

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

- It was a requirement of the original development approval for the development that the building be set back to provide light and ventilation to the adjoining habitable room.
- Concerns in relation to the finalisation of the development and compliance with development approval conditions may be referred to the City's compliance team for investigation and action if required.
- As discussed below, the development remains compliant with the definition of 'Mixed Use' in LPS4 as the land use 'Home Store' is listed under the commercial uses in the LPS4 use class table.

The remaining comments are addressed in the officer comment below.

In accordance with LPP1.3, as the amended proposal does not include any further variation the amended plans were not required to be re-advertised.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

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

- Residential Density
- Land use (Home store).
- R-Codes Volume 2 Matters

The above matters are discussed below.

### **Background**

The subject site is located on the eastern side of South Terrace, close to the intersection with South Street. The site has a land area of approximately 876m<sup>2</sup> and is currently occupied by a recently constructed two storey mixed use development. The site is zoned Mixed Use and has a density coding of R30. The site is not individually heritage listed however is located within the South Fremantle Heritage Area.

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

- DA0238/17 – Two storey mixed use development (cancelled).
- DAP004/17 – Two storey mixed use development (approved).
- DAPV003/19 – Change of use to Restaurant and Small Bar (cancelled).
- DA0349/19 – Change of use to Restaurant and Small Bar (cancelled).

The development on site today, was approved by the Metro South West Joint Development Assessment Panel in 2017, with the approved residential density supported under clause 4.2.5 of LPS4. The determination of this application predated the adoption of Local Planning Policy 2.21 which related to the assessment of proposals under cl 4.2.5. While construction of the development was underway, the applicant sought to change the use of the approved Shop tenancies to Restaurant and Small Bar use under DA0349/19.

DA0349/19 was considered at the Ordinary Council Meeting on 27 November 2019 after previous consideration at the Planning Committee Meeting on 6 November 2019, with the Council making the following decision:

*REFER the application for the Change of Use to Restaurant and Small Bar at No. 240 and 242 (Lots 30 and 31) South Terrace, South Fremantle to the next appropriate Planning Committee Meeting to allow the applicant to give further consideration to amending the proposal to address the Council's concerns relating to the provision of car parking for the proposed uses.*

Following this decision by the Planning Committee, the applicant chose to withdraw the application and pursue the subject application for Home Store, citing the following reasons for the new proposal:

*This change of use is proposed to amend the commercial tenancies at the ground floor from "Shop" to "Home Store". This is to meet the market where there has been limited, if any, interest in retail tenancies, and this was before COVID-19 impacts. Now there is limited, if any interest in standard office, shop or entertainment uses. This accords with macro-economic forces and the contemporary nature of retailing; where it is going through a paradigm shift as we move into a post COVID-19 future and online retail continues to take over bricks and mortar.*

It is noted that this application significantly reduces the previously proposed on site car parking shortfall considered for the change of use to Restaurant and Small Bar. The provision of onsite car parking for the proposed change of use is discussed further in the officer comment section below.

The subject application was considered by PC on 1 July 2020, where the following decision was made:

*Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the change of use to Home store at Units 1 and 2, No. 240 (Strata Lots 9 and 10) South Terrace, South Fremantle based on the current submitted plans, and invite the applicant, prior to the next appropriate meeting, to consider amending the proposal to address the concerns relating to the poor level of internal amenity for the accommodation component of the tenancies. The applicant is encouraged to consider alterations that will improve access to sunlight, daylight and ventilation into the tenancies.*

In response to the above decision, the applicant provided amended plans and additional detail in relation to the proposal on 12 and 14 August 2020.

### Land Use

A Home Store 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 after giving special notice (advertising) in accordance with clause 64 of the Regulations. In considering an 'A' use the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

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

A Home store is an unusual use under LPS4. It sits within the Commercial Use Classes of the land use table of LPS4 and not the Residential Use Class. It is a use that is not typically proposed for new development, and is more typically associated with the historic 'corner store' within a residential area. Nonetheless, it is a use under LPS4 that can be considered within the Mixed use zone in accordance with the above provisions.

It is considered that the proposed Home store use is consistent with the objectives of the Mixed Use zone for the following reasons:

- A Home store use will make a positive contribution to the mixed use area, complementing existing uses, adding vitality to the area and retail and services for the locality and residents on the subject site, accessible to the local and broader community.
- A Home store use contributes to an active public domain.
- As discussed below, the development is considered to provide sufficient parking for the proposed use.
- A Home store would not be significantly detrimental to the amenity of adjacent residential properties nor those on site. The use will cater for a limited number of patrons at any one time given the limited shop floorspace integral to the land use definition of a Home store, and if they operated as per the applicant's submission. In light of the modest size of both tenancies and the stated nature of the proposed businesses (although noting these are only indicative and the applicant does not have confirmed prospective tenants), it is considered that the potential for significant adverse impact on the amenity of residential properties can be appropriately managed.

Accordingly, a Home store use is considered capable of approval for the reasons above.

### **Residential Density**

The existing mixed use development was approved by the Metro South West Joint Development Assessment Panel in 2017, with eight dwellings – equating to a residential density of R90 if calculated purely on the basis of dividing the site area by number of dwellings. This is above the LPS4 base density of R30. The increase in density was supported in accordance with clause 4.2.5 of LPS4. The proposed change of use will add a further two Multiple dwellings taking the total number of dwellings in the development to 10 which equates to a residential density of R115.

Density is a planning tool, commonly used to control land subdivision and built form. In this instance the building envelope of the approved development and the total number of strata lots is not proposed to change, therefore the built form of the development remains acceptable in accordance with the original approval for the mixed use development. In such instances, the increase in density is considered in light of the potential consequences of the additional dwellings and the impact these might have on external and internal amenity and the provision and use of available amenities (e.g. car parking and communal open space if applicable).

Officers have used the Residential Design Codes Volume 2 to guide the assessment of the potential consequences of the two additional dwellings.

The following sections of this report outline officers' assessment against these requirements, concluding that the adaptive reuse of the existing shop tenancies for the Multiple dwelling component of the Home store use provides for appropriate internal amenity and is therefore suitable for occupation on a permanent basis. The internal amenity of the dwellings is considered to be improved by inclusions such as louvres, light wells and additional ventilation. Accordingly the application is recommended for approval, provided these amendments are undertaken.

### **LPP 2.21 – R60 Development under Clause 4.2.5 of LPS4**

The previous consideration of this application involved assessment against the requirements of the above policy. The purpose of this policy was to provide guidance on the criteria against which impact on amenity will be assessed under Clause 4.2.5 of LPS4 in order to provide additional certainty and consistency of decision making and promote better built form and community outcomes. Following the deferral of this application on 1 July 2020, this policy was revoked by Council, as it was considered that State Planning Policy 7.3 – Volume 2 Apartments adequately addressed the requirements listed under LPP 2.21.

### **State Planning Policy 7.3 - Residential Design Codes Volume 2 – Apartments**

The existing mixed use development was approved prior to the introduction of State Planning Policy 7.3 - Residential Design Codes Volume 2 – Apartments. These requirements provide criteria for the assessment of Multiple dwellings and/or the dwelling component of a mixed use development. As the building is already in existence, officers have not reviewed the approved Multiple dwellings (eight dwellings) against the Element Objectives of R-Codes, however where applicable, officers have assessed the Multiple dwelling component of the proposed Home store tenancies against these provisions.

Element 4.13 provides Element Objectives for the adaptive reuse of existing structures. This element guides the assessment of the configuration of new apartments within existing buildings with an aim to achieve liveable and unique apartments. The element acknowledges that the acceptable reuse of an existing building for Multiple dwellings requires a balanced assessment between the benefits of adaptive reuse and residential amenity. This is key to assessment of the current proposal.

In regard to residential amenity, officers have reviewed the overall amenity and performance of the Multiple dwelling component of the proposed use against the primary requirements for acceptable internal amenity including access to sun and light, natural and cross ventilation, private open space and/or outdoor living areas and visual and acoustic privacy. Each of these is discussed in turn below.

#### *Solar and daylight access*

##### Objective(s)

- The development is sited and designed to optimise the number of dwellings receiving winter sunlight to private open space and via windows onto habitable rooms.
- Windows are designed and positioned to optimise daylight for habitable rooms.

##### Officer comment

The Multiple dwelling component of each Home store tenancy includes an existing west facing shopfront window protected by an awning. This window does not provide for a northern aspect, however it is considered to facilitate some sunlight penetration into the front of the dwelling. The applicant intends to provide glass bricks to the northern tenancy northern façade and a skylight to the southern tenancy to allow for additional sunlight penetration into the central living area of the accommodation component of each Home Store. These inclusions are considered to provide for appropriate sunlight access into the rear of each tenancy. Given the glass blocks are located in a boundary wall and the adjoining site to the north may be developed in the future, it is considered appropriate to condition any approval to require a notification be placed on the title of Lot 1, advising all future owners that the glass block could be built up to by a future development.

The Home store including the dwelling component comprises one large area, with the shop/salon, living area and bedroom divided by curtains rather than walls. Access to daylight is considered to be achievable when all the curtains are in an open position and the skylight/glass blocks allow for sunlight access mitigating the depth of each dwelling.

#### *Natural Ventilation*

##### Objective(s)

- Individual dwellings are designed to optimise the natural ventilation of habitable rooms.
- Single aspect apartments are designed to maximise and benefit from natural ventilation.

Officer comment

The applicant has already provided operable louvred windows to the front façade of each tenancy, with an additional mechanical vent to be provided over the front door which cross ventilates out through a vent in the rear of the tenancy. The applicant has confirmed that this system will exceed the Australian Standards ventilation requirements by 50%. These vents will permit cross ventilation across the units. The winter garden areas of the tenancies are ventilated per the above and vented over the door, with ventilation facilitated by the winter garden doors being open. These ventilation measures will allow for appropriate ventilation even when the operable louvres to the front of the tenancies are closed. These operable louvres will however provide suitable natural ventilation to the tenancy when open, supported by the rear vent.

*Private open space and balconies*

Objective(s)

- Dwellings have good access to appropriately sized private open space that enhances residential amenity.
- Private open space is sited, oriented, and designed to enhance liveability for residents.

Officer comment

Generally for a studio apartment a minimum private open space area of 8m<sup>2</sup> should be provided. The applicant proposes that a portion of the tenancy be used as an enclosed 'winter garden' in lieu of a private unenclosed open space area. Considering the constraints on the tenancies, this is considered to be an appropriate response based on the additional information provided by the applicant with respect to sunlight access and ventilation. It is noted that there are multiple public open space areas available in the immediate locality for use, and this winter garden is able to provide for visual amenity to the streetscape as well as internal amenity for inhabitants.

*Storage*

Objective(s)

- Well designed, functional and conveniently located storage is provided for each dwelling.

Officer comment

No dedicated store area is provided for each dwelling, however considering the size of the dwelling component, there is considered to be sufficient space for the inclusion of inbuilt storage for the tenancies.

Although the changes are not significant and do not maximise the opportunity for improved access to natural light and ventilation, given the proposal involves the adaptive re-use of two existing shop tenancies, the amendments are considered to achieve a supportable standard of living in this instance. As such, the amended application is recommended for approval, subject to conditions.

### **Car parking**

The existing development was approved with five commercial car parking bays with two bays being allocated to each Shop tenancy and one commercial bay remaining in common property. At the time of the original assessment, a shortfall of six commercial bays was supported on the basis that sufficient on street parking was available in the immediate area, the site was accessible via public transport and the potential for the reciprocal use of the residential visitor bays.

A Home store land use does not have a specific car parking requirement in accordance with LPS4. The proposed provision of two car parking bays per Home store is considered acceptable for the following reasons:

- The Shop component of the Home store use is significantly less than the area of the approved Shop tenancies.
- The parking allocation exceeds the minimum requirement for parking for a Multiple dwelling (i.e.. 0.75 bays per dwelling).
- The parking allocation exceeds the provision of the parking for the existing two-bedroom Multiple dwellings (i.e.. One bay per dwelling).
- The Home store must be operated by the occupier of the dwelling, therefore additional parking for staff is unlikely to be required.

Given the above, the existing parking provision is considered acceptable for the proposed Home store use.

### **CONCLUSION**

Officers acknowledge the applicant's submission that the Home store land use is proposed as an alternative to a Shop, Office or Entertainment land use, being uses that are of very limited interest to the market due to the unprecedented impacts of COVID-19 on commercial activities. It is also understood that the effects of COVID-19 on the Retail and Hospitality economy will be experienced for an unknown period of time post the current epidemic. It is understood that these Home Store uses are not intended to be a permanent solution to the accommodation of these tenancies, and it is anticipated that they will eventually return to Shop or similar dedicated commercial use. While this change may be subject to a change of use application, this can be considered by the City.

In accordance with the above considerations, a Home store land use, is considered an acceptable land use within an existing mixed use development on the subject site. Although not considered to be an optimum standard of living, the additional information and amendments to the Multiple dwelling component of the Home store is considered, on balance, to enhance the internal amenity of the spaces to a supportable level.

### **STRATEGIC IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

## LEGAL IMPLICATIONS

Nil

## OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

**APPROVE**, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Change of Use to Home Store at Units 1 and 2, No. 240 (Strata Lots 9 and 10) 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 12 August 2020 and 14 August 2020. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. Prior to the occupation of the tenancies for the use hereby approved, the Home Store tenancies shall be modified in accordance with the approved plans, to the satisfaction of the City of Fremantle.
3. Prior to the occupation of the development hereby approved, the modifications to the boundary wall located on the northern boundary shall be of a clean finish and be thereafter maintained to the satisfaction of the City of Fremantle.
4. Prior to occupation of the development hereby approved, a Notification pursuant to Section 70A of the Transfer of Land Act 1893 shall be registered against the Certificate of Title of Lot 9 to the land the subject of the proposed development advising the owners and subsequent owners of Lot 9 of the potential for the glass blocks in the northern boundary to be built up to and blocked by future development on the adjacent site. The notification is to be prepared by the City's solicitors at the expense of the owner and be executed by all parties prior to occupation.
5. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

Advice note(s):

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

**PC2009 - 3 DEFERRED ITEM - SWANBOURNE STREET, NO.18 (LOT 1034),  
FREMANTLE – DEMOLITION OF EXISTING SINGLE HOUSE AND  
CONSTRUCTION OF A TWO STOREY SINGLE HOUSE – (CS  
DA0088/20)**

**Meeting Date:** 2 September 2020  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Development Plans (Amended)  
**Additional information:** 1. Site Photos  
2. Applicant's Submission  
3. Original Development Plans

### **SUMMARY**

Approval is sought for demolition of an existing house and construction of a two storey Single house.

The original proposal was considered by Planning Committee on 5 August 2020. The item was deferred pending further consideration by the applicant of the impact of overshadowing on the outdoor living area of the adjoining dwelling to the south.

The applicant has submitted amended plans which have revised the design of the dwelling by reducing wall height on the southern side of the dwelling and removing a parapet wall. This has resulted in a small reduction in the amount of overshadowing to the adjoining property. The application is referred back to Planning Committee for further consideration.

Additional information including the applicant's justification and solar access diagrams are provided in Additional Information item 2.

The amended proposal seeks discretionary assessments against the following:

- Demolition
- Lot boundary setback (north)
- Boundary wall (south)
- Building height
- Visual Privacy

The application is recommended for conditional approval.

## PROPOSAL

### Detail

Approval is sought for demolition of an existing house and construction of a two storey Single house.

The applicant has submitted amended plans which have revised the design of the dwelling by reducing wall height on the southern side of the dwelling and removing a parapet wall. This has resulted in a small reduction in the amount of overshadowing to the adjoining property. The application is referred back to Planning Committee for further consideration.

Development plans (amended) are included as attachment 1.

Additional information including the applicant's justification and solar access diagrams are provided in Additional Information item 2.

### Site/application information

|                     |  |
|---------------------|--|
| Date received:      | 11 March 2020  |
| Owner name:         | Spencer Flay   |
| Submitted by:       | Pindan Homes Pty Ltd   |
| Scheme:             | Residential R25  |
| Heritage listing:   | Memorial Reserve Heritage Area, Adjacent to State Registered Place |
| Existing land use:  | Single house   |
| Use class:          | Single house   |
| Use permissibility: | P  |



## CONSULTATION

### External referrals

#### *Heritage Service (DPLH)*

The application was referred to Heritage Services as the subject site is located adjacent to a property listed on the State Register of Heritage Places (Fremantle War Memorial and Monument Hill). Heritage Services have advised that the proposed development does not significantly impact on the identified cultural significance of Monument Hill and War Memorials, Fremantle therefore they have no objection to the proposal. The revised plans do not significantly alter the original proposal, therefore the revised plans were not required to be referred back to Heritage Services for further comment.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal included the demolition of a building in a Heritage Area and discretion was sought for lot boundary setbacks, wall height and visual privacy. The advertising period concluded on 3 April 2020, and one (1) submission was received. The following issues were raised (summarised):

- Concern regarding overshadowing to property to the south and their north facing outdoor areas and living areas
- Concern regarding the height and length of proposed boundary wall being longer and higher than the existing boundary wall
- Concern regarding bulk of the two storey element being closer to the boundary
- Concern that the building hasn't been designed to accommodate the slope of the land
- Overlooking, would require screening to be applied where necessary
- Retaining walls and excavation close to an old (c1900) dwelling

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

- It is noted that the adjoining property is not a heritage listed property
- Overshadowing is compliant with R-Codes clause 5.4.2 – solar access for adjoining sites (properties coded R25, 25% of the site area permitted, 24.52% proposed, as amended) The height measurements for south and north elevations are taken at the highest point of the side elevations.
- It should be noted that with a significant level change across the site both east/west and north/south, the proposed dwelling has a number of different heights. For example:
  - Viewed from the street (western elevation) – 7m
  - Viewed from the garden area of No.18 (eastern elevation) – 6.5m
- The dwelling could be considered as three storeys as viewed from the rear due to the slope of the land, however this only applies to a small portion of the dwelling, with the majority of the house being two storey.

The remaining comments are addressed in the officer comment below.

In accordance with LPP1.3, as the amended proposal does not include any further variation the amended plans were not required to be re-advertised.

## 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
- Lot boundary setback (north)
- Boundary wall (south)
- Building height
- Visual Privacy

The above matters are discussed below.

### Background

The subject site is located on the eastern side of Swanbourne Street directly opposite the Fremantle War Memorial and Monument Hill. The site has a land area of approximately 684m<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 but is located within the Memorial Reserve Heritage Area. The site is improved by a two storey Single house which is proposed to be demolished as part of this application.

The site slopes quite steeply from the highest point at the front (west) towards the rear (east), with approximately 3m difference between the front corner of the site and approximately half way down the block to the Water Corp Easement. There is also a 1.4m slope across the site north/south, with the northern side being 1.4m lower than the southern side.

The original proposal was referred to the 5 August 2020 Planning Committee meeting where it was resolved to:

*Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the demolition of existing Single house and construction of two storey Single house at No. 18 (Lot 1034) Swanbourne Street, Fremantle based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal to reduce the height of the building to reduce the overshadowing impact on the north facing primary outdoor living area of 20 Swanbourne Street, Fremantle.*

The applicant subsequently submitted amended plans in response to the Committee's concerns. These amended plans are the subject of this report.

## Demolition and Heritage

In determining an application for demolition, Council must be satisfied the criteria of clause 4.14.1 of LPS4 is achieved.

Clause 4.14.1 of LPS4 states:

*Council will only grant planning approval for the demolition of a building or structure where it is 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.*

The existing house and associated additions and outbuildings are considered to be of limited heritage significance. Any remnants of the C1950's house have been largely altered due to the later construction and therefore does not require retention and demolition can be supported.

Although the site is not individually heritage listed it is located within the Memorial Reserve Heritage Area. Although the new two storey development is considered to be more substantial in form than the existing house, it is considered that the overall impact will be minimal and is acceptable on a heritage basis.

### Lot boundary setback

| Element                      | Requirement | Proposed | Extent of Variation |
|------------------------------|-------------|----------|---------------------|
| Lot boundary setback (north) | 2.4m        | 1.3 – 2m | 0.4 – 1.1m          |

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

- The proposal has compliant lot boundary setbacks on the southern side. The staggered wall (height and setback) on the northern side results in some variations (between 0.4m and 1.1m). However, it is considered that the design has taken account of the sloping site and reduced height and setback where possible.
- No objection has been received in relation to these variations and it is considered that there would be no impact of the bulk of the building to the property to the north, which is also a large two storey dwelling.

### Lot boundary setback (boundary wall)

| Element                      | Requirement | Proposed | Extent of Variation |
|------------------------------|-------------|----------|---------------------|
| Lot boundary setback (south) | 1m          | Nil      | 1m                  |

The Lot boundary setback (boundary wall) is considered to meet the Design principles of R-Codes and the discretionary criteria of LPP2.4 in the following ways:

- The proposed boundary wall would be located 1.8m away from the window of the living area at No.20. Given the raised FFL of No.20 (approx. 1.5m higher than NGL at this point), the proposed boundary wall is not considered to have a significant impact on the amenity of this property
- The proposed boundary wall located on the southern boundary is 8.7m long. It replaces an existing boundary wall in a similar location. The FFL of the adjoining house and the setback from the boundary is not considered to create an unacceptable loss of sunlight to these rooms.
- The proposed boundary wall is considered to be acceptable in the general streetscape context as it makes best use of the space available and there are many examples of boundary walls in the street.

### Visual privacy

| Element                           | Requirement | Proposed | Extent of Variation |
|-----------------------------------|-------------|----------|---------------------|
| Ground Floor - Living/dining area | 6m          | 2.8m     | 3.2m                |
| Ground Floor - Alfresco area      | 7.5m        | 2.8m     | 4.7m                |
| First Floor – Bed 3               | 4.5m        | 3.8m     | 0.7m                |
| First Floor – Bed 4               | 4.5m        | 2.8m     | 1.7m                |

The proposed setbacks are not considered to meet the Design principles of the R-Codes as the cone of vision falls over the rear garden area of adjoining properties.

It is considered appropriate to require the applicant/owner to provide appropriate screening to the openings listed above to ensure that privacy of adjoining owners is protected.

### Building height (Original Plans)

| Element             | Requirement | Proposed | Extent of Variation |
|---------------------|-------------|----------|---------------------|
| Wall height (south) | 6m          | 7.2m     | 1.2m                |
| Wall height (north) | 6m          | 8m       | 2m                  |

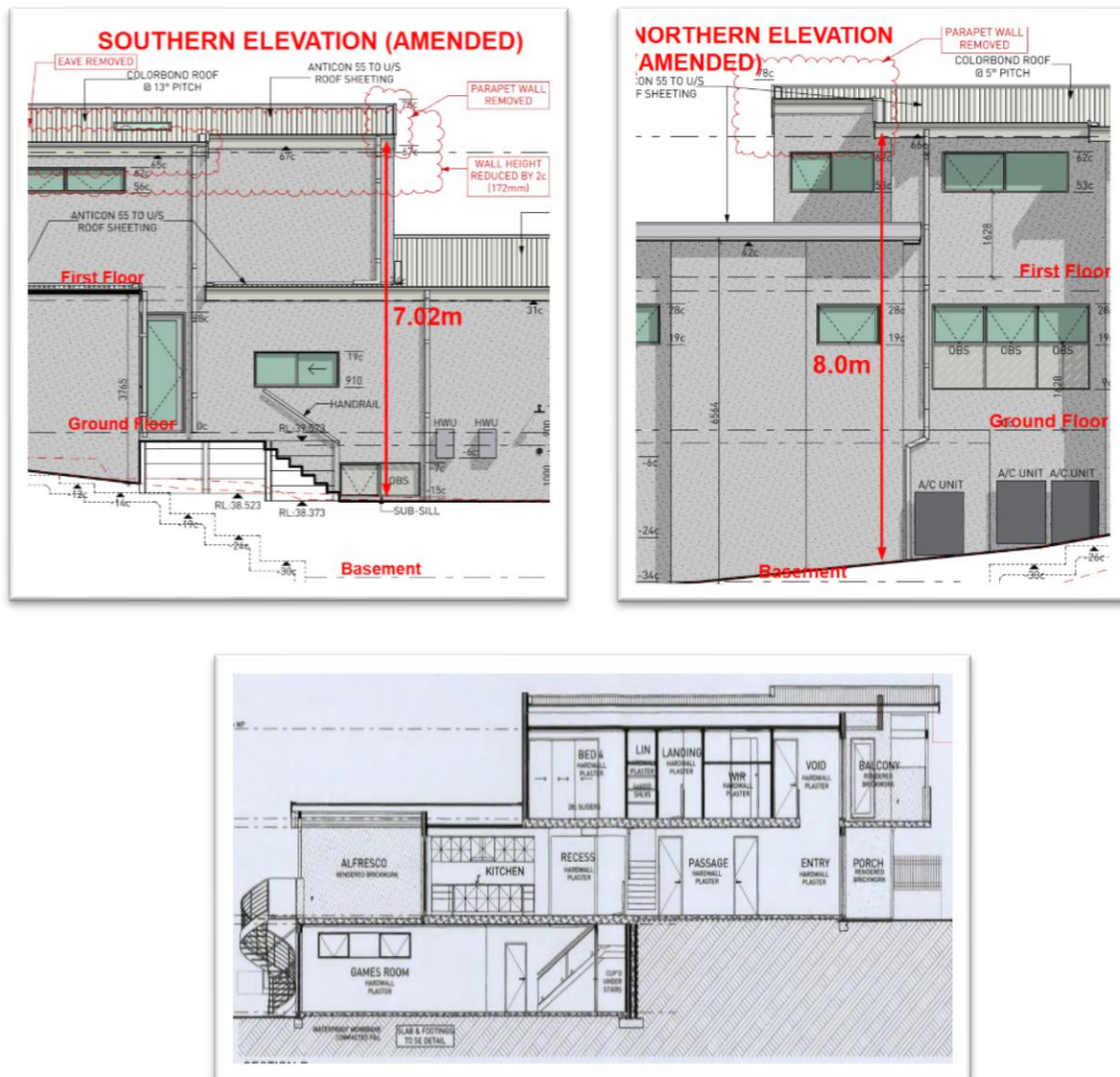
### (Amended Plans)

| Element             | Requirement | Proposed | Extent of Variation |
|---------------------|-------------|----------|---------------------|
| Wall height (south) | 6m          | 7.02m    | 1.02m               |
| Wall height (north) | 6m          | 8m       | 2m                  |

The amended plans have removed the parapet wall to Bedroom 4 and reduced the height of the external wall of Bed 4 on the southern side, as well as removed the eaves overhang on the southern side of the dwelling for a length of 5.19m. This has resulted in a slight reduction in wall height on this side from a maximum of 7.2m to 7.02m.

The amended building height (wall height) is considered to meet the Design principles of the R-Codes in the following ways:

- The proposal seeks discretion for wall height on both the north and south sides of the dwelling due to the significant sloping site. It should be noted that the overall height of the development remains compliant when measured to the NGL at various points across the site. The design of the dwelling has created a house with a partial basement level, a full length ground floor level and a first floor that extends only partly across the ground floor. A portion of the dwelling in the middle is therefore three storeys (but remaining within the 9m overall height parameters). (See north and south elevations and cross section shown below):



**Figures 1, 2 and 3:** North and south elevations (amended) and cross section of the proposed dwelling illustrating the location of the proposed height variations.

- Overshadowing is compliant, and the staggered design of the three different levels results in a reduced amount of overshadowing over the kitchen window and outdoor living area at No.20.

- Due to the east/west orientation of the lot, overshadowing of the north facing windows of the property to the south will always occur, however the higher FFL of No.20 assists in ameliorating any significant impact from the compliant overshadowing.
- The adjoining property to the south is positioned 1.8m away from the lot boundary. It has two north facing major openings that the occupier is concerned about. The house at No.20 is single storey but has a FFL approximately 1m above NGL at the front of the dwelling, and due to the slope of the land towards the rear of the site, this equates to a FFL approximately 2m above NGL, with the rear raised patio area being at first floor level.

### **OFFICER COMMENT ON AMENDED PLANS**

The change to the plans has reduced the wall height on the southern side, which is discussed above.

The amended design has reduced the overshadowing to the southern property from 24.97% to 24.52% (a reduction of 3.2m<sup>2</sup>), which assists in mitigating the impact of overshadowing on the outdoor living area of the adjoining neighbour.

The amended plans do not change the variations previously sought to Lot Boundary Setback (north), Lot Boundary Setback (Boundary wall) and Visual Privacy.

### **CONCLUSION**

The proposed dwelling seeks discretion for a number of areas, however, as detailed above, none are considered to be major variations. The impact on the adjoining properties has been considered in terms of access to light and overshadowing and are not considered to create an unacceptable outcome. However, a condition requiring visual privacy to be compliant is considered to be appropriate.

On balance the proposal (amended plans) is considered supportable.

### **STRATEGIC IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of existing Single house and construction of two storey Single house at No. 18 (Lot 1034) Swanbourne Street, Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 11 August 2020. 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 the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the window(s) and alfresco area located on the north and east elevations are to be screened in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes by either:
  - a) fixed obscured or fixed translucent glass to a minimum height of 1.60metres above internal floor level, or**
  - b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**
  - c) a minimum sill height of 1.60 metres above the internal floor level.**Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.**
- 4. Prior to occupation of the development hereby approved, the boundary wall located on the southern boundary shall be of a clean finish in any of the following materials:
  - Coloured sand render,**
  - Face brick,**
  - Painted surface**And be thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. Prior to the issue of a Building Permit for the development hereby approved, all fencing within the Primary Street setback area shall be visually permeable above 1.0 metres above natural ground level as per clause 5.2.4 C4 of the Residential Design Codes and thereafter maintained to the satisfaction of the City of Fremantle.**
- 6. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**

**ADVICE NOTE(S):**

i. The applicant is advised in relation to condition 3, the application of film to a window can be considered provided the film is translucent or obscured to a minimum of 75% obscure in order to meet the objectives of Clause 5.4.1 C1.1 of the Residential Design Codes and is maintained for the life of the development.

ii. In regards to condition 5 visually permeable is defined by LPP 2.8 Fences Policy as:

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

- Continuous vertical or horizontal gaps of at least 50mm width occupying not less than one half of its face in aggregate of the entire surface or where narrower than 50mm, occupying at least two thirds of the face in aggregate, as viewed directly from the street; or
- A surface offering equal or lesser obstruction to view.

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

iii. 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.

iv. 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.

v. The applicant is advised that a crossover permit must be obtained from the City’s Engineering Department. New/modified crossover(s) shall comply with the City’s standard for crossovers, which are available on the City of Fremantle’s website.

## 10.2 Committee delegation

### PC2009 - 4 COLLUCK STREET, NO. 35 (LOT 1361), HILTON - TWO STOREY ADDITIONS AND ALTERATIONS TO EXISTING SINGLE HOUSE – (NB DA0204/20)

|                                   |                               |
|-----------------------------------|-------------------------------|
| <b>Meeting Date:</b>              | 2 September 2020              |
| <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                |

#### SUMMARY

Approval is sought for a two storey extension to the rear of the existing single storey Single house at 35 Collick Street, Hilton.

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

- Maximum height
- Boundary wall (south)

The application is recommended for conditional approval.

#### PROPOSAL

##### Detail

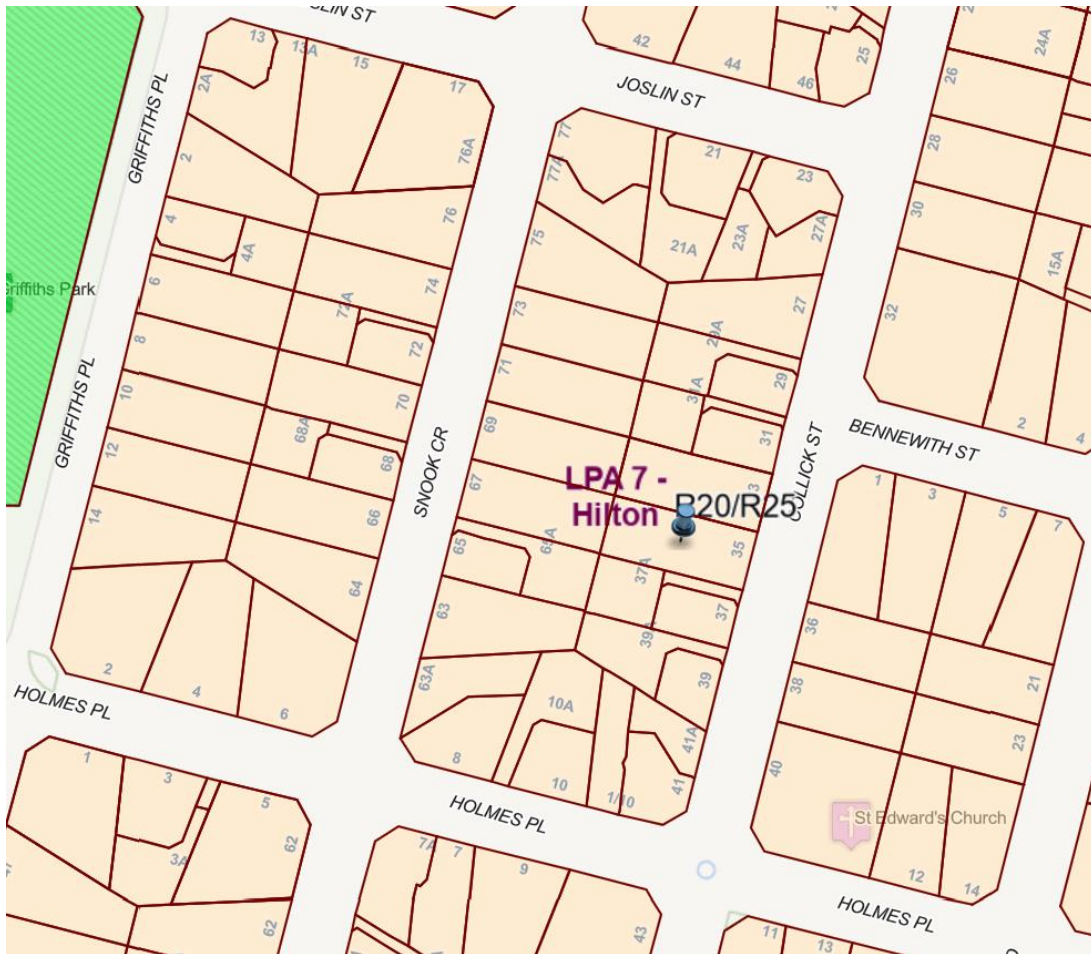
Approval is sought for additions and alterations to an existing single storey Single house. The proposed works include:

- Single storey extension to the south comprising a walk-in closet and ensuite
- Two storey addition to the rear comprising a ground floor living room and an upstairs bedroom.

Development plans are included as attachment 1.

##### Site/application information

|                     |                      |
|---------------------|----------------------|
| Date received:      | 17 June 2020         |
| Owner name:         | David Doyle          |
| Submitted by:       | David Doyle          |
| Scheme:             | Residential R20/R25  |
| Heritage listing:   | Hilton Heritage Area |
| Existing land use:  | Single house         |
| Use class:          | Single house         |
| Use permissibility: | P                    |



## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought against the R-Codes and local planning policy. The advertising period concluded on 13 July 2020, and two (2) submissions were received. The following issues were raised (summarised):

- The shadow from the two storey building will obscure light to the kitchen window.
- The two storey structure will severely impede upon our courtyard through the building bulk and reduction of the “green” aspect.
- An increased setback of the two storey structure would have less of an impact.
- The proposed parapet wall would require removal of the dividing fence and result in a mix of materials that would interrupt the uniformity of the fence line.
- The upper floor windows will overlook adjoining properties to the north and west.

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

- The upper floor only impacts the garage and driveway of the adjoining house.
- The proposal removes the existing overlooking between the two properties that currently occurs while creating no new variations.
- The fence is to be kept in position, with the building built up against it.
- All trees are to be retained, with the only vegetation being removed the large bamboo near the southern boundary, which is a fast growing non-native species of plant.
- The development puts all outdoor living areas, which could be a source of noise, on the opposite side of the extension from the southern neighbours.

In regards to visual privacy to the north, City Officers provide the following response:

- The upper floor windows are fully compliant with the Deemed-to-comply setback requirements of the R-Codes.

The remaining comments are addressed 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:

- Maximum height
- Boundary wall (south)

The above matters are discussed below.

### **Background**

The subject site is located on the western side of Collick Street between Joslin Street and Holmes Place in Hilton. The site has a land area of approximately 812m<sup>2</sup> and is currently a single storey Single house. The site is zoned Residential and has a density coding of R20/R25. The site is not individually heritage listed but is located within the Hilton Heritage Area.

### **Maximum height**

| <b>Element</b> | <b>Requirement</b> | <b>Proposed</b> | <b>Extent of Variation</b> |
|----------------|--------------------|-----------------|----------------------------|
| Wall height    | 3.5 m              | 6 m             | 2.5 m                      |
| Roof ridge     | 6.5 m              | 7.24 m          | 1.24 m                     |

Clause 2.2.1 of Policy LPP 3.7: Hilton Garden Suburb Precinct Heritage Area sets a maximum external wall height of 3.5m and a maximum roof ridge height of 6.5m (equivalent to a single storey and loft).

Clause 2.2.2(b) provides for variations as follows:

*Excluding development on a rear survey strata lot, battleaxe lot or the equivalent, the front and side elevations of the development present generally as a single storey dwelling when viewed from the street with the predominant bulk of the element exceeding the prescribed maximum building height located at the rear of the dwelling.*

The wall height is considered to meet the Design principles of the R-Codes and the planning policy in the following ways:

- The two storey extension is set well behind the roof line and the building footprint of the existing house such that the dwelling presents as a single storey when viewed from the street. The predominant bulk of the element exceeding the height is located at the rear, in line with clause 2.2.2(b).
- The upper floor is set back 1.2m from the boundary as required by the R-Codes and the overall height is comparable to the typical R-Codes requirements for building height (ie: 6m wall height, 9m roof ridge).
- The upper floor adjoins the battleaxe leg and vehicle manoeuvring area of the adjoining lot, resulting in minimal impact on direct sun and daylight access to major openings or usable outdoor areas on the adjoining lot.
- The additional wall height does not block views of significance from surrounding sites.

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

| <b>Element</b>       | <b>Requirement</b> | <b>Proposed</b> | <b>Extent of Variation</b> |
|----------------------|--------------------|-----------------|----------------------------|
| Ground floor (south) | 1m                 | Nil             | 1m                         |

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

- The setback is to a single storey boundary wall that abuts the vehicle access leg of the adjoining lot. No outdoor living areas or major openings to habitable rooms are impacted.
- The boundary wall does not present any visual privacy variation to the adjoining lot.
- The boundary wall, by virtue of its relatively small dimensions and location against the battleaxe leg of the adjoining lot, will have minimal impact to the adjoining lot in regard to building bulk, sunlight, or ventilation.

#### **STRATEGIC IMPLICATIONS**

Nil

#### **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two storey additions and alterations to existing single house at No. 35 (Lot 1361) Collick Street, Hilton, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans dated 17 June 2020. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.**
- 2. The approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.**
- 3. Prior to occupation/ use of the development hereby approved, the boundary wall located on the south boundary shall be of a clean finish in any of the following materials:**
  - coloured sand render,**
  - face brick,**
  - painted surface,****and be thereafter maintained to the satisfaction of the City of Fremantle.**

## **ADVICE NOTES:**

- i. Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.**
- ii. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**

**PC2009 – 5 KNUTSFORD STREET, NO. 6 (STRATA LOT 2) FREMANTLE - TWO STOREY SINGLE HOUSE (TG DA0180/20)**

|                                   |   |
|-----------------------------------|---|
| <b>Meeting Date:</b>              | 2 September 2020  |
| <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<br>2. Heritage Assessment<br>3. State Heritage Assessment (DPLH) |

## **SUMMARY**

**Approval is sought for a two storey Single House at 6 Knutsford Street, Fremantle.**

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

- **Building height (external wall)**
- **Primary street setback**
- **Boundary wall (east and west)**
- **Lot boundary setback (east, west and north)**
- **Open space**
- **Vehicle sightlines**
- **Driveway width**
- **Site works and retaining walls**
- **Visual privacy (north, east and west)**

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

## **PROPOSAL**

### **Detail**

Approval is sought for a two storey Single House to an existing vacant property at 6 Knutsford Street, Fremantle. The proposed works include:

- **Ground floor.**
  - Two car garage.
  - Study/Guest room.
  - Kitchen/Living Room.
  - Powder room.
  - Outdoor living area.
- **Upper floor**
  - Three bedrooms and bathrooms.
  - Balcony.

The applicant submitted amended plans on 18 August 2020 including the following:

- The atrium structure was reversed to reduce the prominence of this element when viewed from the street.
- Making amendments to the wall to the return to the western boundary to include a high level window to the first floor bathroom and, increase the height of the arch leading to the rear yard and adding a breeze wall.

Development plans are included as attachment 1.

### Site/application information

|                     |   |
|---------------------|---|
| Date received:      | 29 May 2020   |
| Owner name:         | Wave Bay Holdings Pty Ltd as trustee for the Smith Family Trust |
| Submitted by:       | Slavin Architects Pty Ltd                                       |
| Scheme:             | Residential R25   |
| Heritage listing:   | Ord Street Precinct Heritage Area, Heritage Listed              |
| Existing land use:  | Vacant site   |
| Use class:          | Single House  |
| Use permissibility: | P   |



### CONSULTATION

#### External referrals

##### *Heritage Service (DPLH)*

The application was referred to Heritage Services as the subject site is located in the Ord Street Heritage Area and adjoins several individually State Heritage Listed properties. Heritage Services recommended several amendments to the proposal so it better reflected the existing streetscape. The applicant incorporated these amendments into the design and upon review DPLH heritage services advised that they had no objection per the attached assessment.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the development proposed variations to several deemed-to-comply criteria and policy requirements. The advertising period concluded on 22 June 2020, and two (2) submissions were received. The following issues were raised (summarised):

| Submitter concern   | Officer comment  |
|---|--|
| <p>The submitter was concerned that the new build does not attempt to relate to the existing visual language of the heritage streetscape beyond a superficial reference on the front facade. The flattened rooflines that sit behind the equally shallow front verandah pitch do not provide enough depth and articulation to the streetscape to relate to the rhythm of the existing pitched rooflines (note the contemporary Klopper style build opposite that does reference the angle of the surrounding pitched roofs).</p>  | <p>The design of the building has been reviewed for its consistency with the existing streetscape of Knutsford Street by the City's internal Heritage Officers and the Heritage Services Department of the Department of Planning, Lands and Heritage. The application has been supported.</p>                                 |
| <p>The submitter was concerned with the double garage dominating the front elevation, and reading as a flat front to the streetscape. It was noted that there are no double roller door garages with minimum setback in the area. Where they do exist, they are recessed well back into a lot so as not to detract from the existing houses as a dominant feature.</p> <p>From an established heritage precinct perspective, this is an anomaly in the streetscape. Particularly when the verandah does not overhang the garage and it has been designed as a prominent feature fronting the ground level pedestrian streetscape.</p> | <p>While it is noted that none of the other dwellings have a garage facing the streetscape at a reduced setback, it is considered that the proposed garage responds well to the streetscape in contributing to the appearance of a solid foundation, resulting in the dwelling being more consistent with the streetscape.</p> |
| <p>The submitter was concerned with the materials that maybe chosen for the western side wall, particularly if it is a continuation of solid limestone. The submitters concern in this regard was as follows: "From our ground level to the rear in our courtyard in sections we already have over 3m in height of solid limestone retaining wall, to follow on top of that with the same material would read as a bit like</p>   | <p>The finish of the dividing fence/wall to the western boundary would be a matter to be agreed between neighbours under the Dividing Fences Act.</p>  |

|  |   |
|--|---|
| <p>Freo Prison". A change in materials above this would mitigate the look and feel of a contiguous solid wall of the same material that would reach a height of almost 5m from our ground level.</p>   |   |
| <p>The submitter was concerned with the potential incursion of privacy from overlooking on the west from bathrooms, study window, and from the large void expanse.</p> <p>The submitter noted that obscured glass on these windows would help and additional confirmation of the angling and movement potential of the angled louvres that are proposed to restrict overlooking potential was requested.</p> <p><i>"Essentially its not so much whether they really physically can look into our rear courtyard(our only private area) but rather the perception of overlooking from several windows and a particularly large void window looking down on us."</i></p> <p>The front balcony was also of concern the submitter from overlooking into neighbouring rear space, particularly should the existing Sugar Gum be pruned.</p> | <p>The applicant has demonstrated the barriers to overlooking through the submission of section B, the applicant has included a vertical blade privacy screen to protect mutual privacy between the two sites.</p> <p>Otherwise it is noted that overlooking from bathroom/ensuite windows and hallways such as the far side of the void is not able to be controlled by the R-Codes deemed-to-comply criteria.</p> <p>Overlooking from the upper floor master bedroom is controlled by a privacy screen which is required to meet the screening definition listed in the R-Codes. The applicant has also included a screen structure to the void.</p> <p>Overlooking towards the west from the front balcony and atrium/living area is discussed below in the officer comment section.</p> |
| <p>Proposed setbacks to the west were considered fairly minimal which unfortunately and were considered to increase the potential feel of overlooking to the neighbouring rear area.</p>   | <p>Lot boundary setbacks facing west are considered to satisfy the relevant design principles of the R-Codes as discussed in the officer comment section below.</p>   |
| <p>The submitter noted that it was 'difficult to imagine' how the building will insert itself into the rhythm of the existing heritage streetscape without confirmation of building materials and external paint finishes etc. Construction materials and render/paint finishes will have the potential to soften the insertion of the contemporary style of the build or create too much contrast and compete with the existing heritage buildings.</p>   | <p>In accordance with the assessments completed by the DPLH and City's internal heritage officers the building is considered to respond positively to the prevailing streetscape character.</p>   |
| <p>A submitter considered that the proposed house was 'grossly oversized' for such a small site, and out of scale in an</p>  | <p>Per the below assessment, the building is considered to satisfy the relevant design principles of the R-Codes with respect to</p>  |

|   |  |
|---|--|
| <p>historically sensitive area. The submitter felt that will be overwhelming and obstruct both natural breeze and views of importance.</p>  | <p>on site open space, building height and street setbacks.</p>  |
| <p>Submitter objected to the width of the crossover due to the impact it would have on street parking availability in the cul-de-sac. It was requested that the crossover be reduced to 4m or less and relocated to the western side of the frontage for safety and sightline reasons, and to preserve existing street parking.</p>   | <p>The proposed 6m wide crossover does not satisfy the discretionary criteria of LPP 2.9 which restricts crossovers to be 4.5m or less. This matter is discussed further in the Officer Comment section below.</p>                                   |
| <p>The submitter was concerned about the loss of south-westerly views which would be obscured by the atrium/clerestory.</p>   | <p>The limited depth of this element and open character of the structure are considered to permit any views which will be enjoyed over the building and site to be at least partly retained.</p>   |
| <p>The submitter was concerned upper that the proposed street setback did not allow for graduation in the street setback as the proposed atrium/clerestory is set well forward of the neighbouring floor.</p>   | <p>The applicant has amended their plans to reverse the orientation of the atrium/clerestory element to the roof, resulting in the roofscape better reflecting the existing dwellings in the street and reducing the prominence of this element.</p> |
| <p>The submitter objected to the boundary wall and reduced lot boundary setbacks to the eastern boundary for the following reasons:</p> <ul style="list-style-type: none"> <li>○ The bulk of the wall was considered visually overwhelming.</li> <li>○ Ventilation would be inhibited, the submitter noted that their dwelling relies on cross ventilation from the south west which may be limited by the development.</li> <li>○ The adverse impact of the development and setback upon access to views.</li> </ul> | <p>In accordance with the below assessment, the boundary wall to the eastern site boundary is considered to appropriately address the design principles of Local Planning Policy 2.4.</p>  |
| <p>The submitter was concerned in relation to overlooking from bedroom 2 towards the property to the west and the potential impact upon the privacy of the neighbouring dining room.</p>  | <p>It is recommended that this opening be appropriately screened to protect mutual privacy.</p>  |

The remaining comments are addressed in the officer comment below.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

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

- Building height (external wall)
- Primary street setback
- Boundary wall (east and west)
- Lot boundary setback (east, west and north)
- Open space
- Vehicle sightlines
- Driveway width
- Site works and retaining walls
- Visual privacy (north, east and west)

The above matters are discussed below.

### **Background**

The subject site is located on the northern side of Knutsford Street, Fremantle. The site has a land area of approximately 287m<sup>2</sup> and is currently vacant. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed but is located in the Ord Street Precinct Heritage Area.

The site is currently occupied by several retaining walls, having been subdivided from the rear yard of the adjoining property at 24 Ord Street. Topographical information indicates an approximate slope of 1.5m metres across the site.

### **Heritage**

In addition to being considered and supported by the State Heritage officers, the proposal has been considered by the City's Heritage Officers. The subject site is individually heritage listed, located in the Ord Street Precinct Heritage Area and adjoins several properties which are individually State Heritage Listed.

The Heritage Council's documentation on the property contains Management Strategies for the precinct that confirm that new development should be controlled so as to retain the heritage significance of the precinct and its diverse components. While the need for the evolution of the place is recognised, change is to be managed to conserve the visual harmony of the precinct.

In considering the design of the proposed dwelling, the City's Heritage Officers found that many elements of the proposal were 'cleverly designed' and were able to be supported from a heritage perspective. The initial assessment identified two areas of concern with the proposal, being the orientation of the skylight/atrium structure, and the upper floor ensuite wall (located to the return in the western boundary) being a flat wall facing the street.

In response to these concerns, the applicant submitted amended plans reversing the orientation of the atrium and providing additional articulation to the ensuite wall. These amended plans were supported by the City's Heritage Officers as they had appropriately addressed their concerns. Accordingly the development is considered to be worthy of approval with respect to its impact on the heritage significance of the immediate streetscape.

### **Primary Street setback**

| <b>Element</b>                                   | <b>Requirement</b> | <b>Proposed</b> | <b>Extent of Variation</b> |
|--|--------------------|-----------------|----------------------------|
| Ground Floor –<br>Garage and<br>Study/Guest Room | 5m                 | 0.8m-1.5m       | 4.2m (max)                 |
| Upper Floor –<br>Master Bedroom                  | 7m                 | 2.6-3.5m        | 4.4m (max)                 |

The upper floor setbacks are considered to satisfy the discretionary criteria of Local Planning Policy 2.9 – Residential Streetscapes for the following reasons:

- The proposed dwelling design is considered to appropriately reflect the streetscape character through the provision of a modern dwelling which still reflects the character of the setbacks of the buildings in the streetscape.
  - The ground floor is considered to be consistent with the large limestone foundations for the remaining dwellings in the streetscape, with the upper floor sitting above this structure consistent with the ground floors of the other dwellings in the streetscape. The windows into the study will be partially screened by the retained limestone wall to the street boundary.
  - The upper floor, with the verandah element in front of the main building is likewise consistent with the design characteristics of the other dwellings along Knutsford Street which all exhibit verandahs facing the street.
- Overall the height of the dwelling appropriately steps down the street in accordance with the character of the streetscape, with higher elements such as the clerestory set back from the street and not as readily visible to pedestrians.
- The development is considered to appropriately reflect the streetscape character and will therefore not result in a projecting element into the street.
- The initial proposal included the roof clerestory element however this was oriented to face south, resulting in a bulkier structure facing the street. This element was not supported by DPLH Heritage Services, nor the City's Heritage officers and accordingly the applicant reversed the orientation of this element.
- The imagery submitted by the applicant below demonstrates how the development will exist in the Knutsford Street streetscape.



**Figure 1:** View of dwellings along Knutsford Street with proposed dwelling inserted.



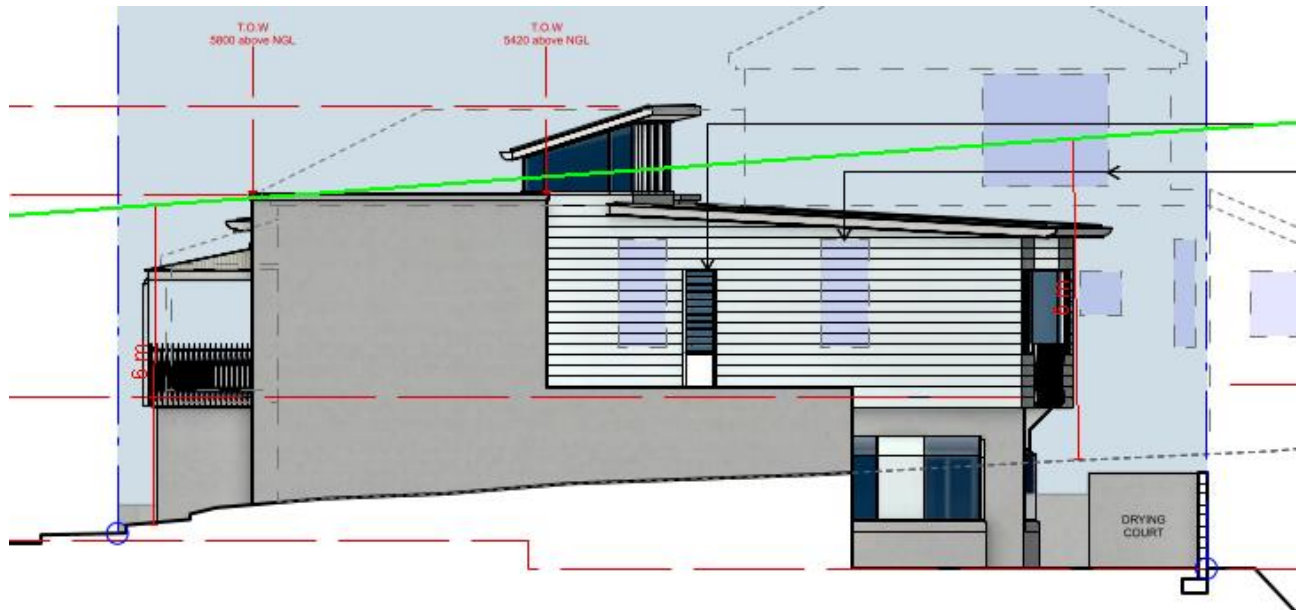
**Figure 2:** 3D view of proposed dwelling and adjoining property.

**Building Height (external wall)**

| Element  | Requirement                   | Proposed | Extent of Variation |
|--|-------------------------------|----------|---------------------|
| Atrium roof structure (light well) – wall height | 6m                            | 8.4m     | 2.4m                |
| Wall height (east)                               | 7m (wall with concealed roof) | 7.1m     | 0.1m                |

The height of the roof light well atrium structure is considered to meet the Design principles of the R-Codes in the following ways:

- The subject lot is oriented such that shade from the building at midwinter generally falls over the streetscape, the lightwell structure is located centrally on site and therefore shade cast by this element will generally be contained by the development.
- The limited depth of this element and open character of the structure permits any views which will be enjoyed over the building and site to be at least partly retained.
- The lightwell is set back from the front of the building and oriented such that it will not be readily visible from the streetscape in front of the property and will not result in an impression of building bulk onto the streetscape.



**Figure 3:** Eastern elevation showing area of atrium above 6m wall height requirement

The height of the eastern wall of the building exceeds the 7m permitted wall height for walls with concealed roofs. This minor variation considered to meet the Design principles of the R-Codes in the following ways:

- The minor variation to height requirements results from the approximate 0.5m fall across the subject site, the area of discretion is considered to be minor with the area of wall exceeding the applicable height requirement highlighted below in green.
- Any views across the subject site are not unduly impacted by this element, as the opposite side of the building is the same height above AHD and meets the deemed-to-comply requirement.
- The shade cast by this portion of wall will predominantly fall over the streetscape when measured at midday on midwinter, when shade cast by buildings is greatest.



**Figure 4:** Portion of western wall which exceeds height requirements for walls with concealed roofs.

**Boundary walls**

| Element                  | Requirement | Proposed | Extent of Variation |
|--------------------------|-------------|----------|---------------------|
| Garage and Master (East) | 1.5m        | Nil      | 1.5m                |
| Ensuite (South/West)     | 1.2m        | Nil      | 1.2m                |

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

- The majority of the high portion of this boundary wall abuts a section of wall to the adjoining property which does not exhibit openings. The wall is also set behind the line of the adjoining verandah, thereby not unduly limiting views out towards the streetscape.
- The remainder of the boundary wall element is set at a similar height to a dividing fence (approximately 1.8m).
- The wall/building will cast shade at midwinter over the street, rather than adjoining properties due to lot orientation.
- Based on the attached heritage assessments, the development as amended is considered to positively contribute to the prevailing development context and streetscape.
- With respect to privacy, the wall is not considered to impose significant privacy impact due to a lack of openings in the wall.

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

- The wall is of a minimal dimension along the boundary and is angled perpendicular to the adjoining property, resulting in limited bulk impact.
- The applicant has amended the wall to include 'green wall' elements which contribute to a reduction in building bulk.
- Shade cast by the wall would fall over the extended rear yard and retaining wall areas of the adjoining property.
- Based on the attached heritage assessments, the development as amended is considered to positively contribute to the prevailing development context and streetscape.
- With respect to privacy, the wall is not considered to impose significant privacy impact due to a lack of openings in the wall.

#### **Lot boundary setback**

| <b>Element</b>            | <b>Requirement</b> | <b>Proposed</b>          | <b>Extent of Variation</b> |
|---------------------------|--------------------|--------------------------|----------------------------|
| Kitchen (GF East)         | 1.5m               | 1.1m                     | 0.4m                       |
| Garage nib (GF East)      | 1m                 | 0.8m                     | 0.2m                       |
| Bedroom 2-Stair (UF East) | 1.5m               | 1.1m                     | 0.4m                       |
| Verandah (UF East)        | 1m                 | 0.7m                     | 0.3m                       |
| Living -Atrium (GF West)  | 1.5m               | 1m                       | 0.5m                       |
| Void – Verandah (UF West) | 1.5m               | 1.1m (minimum to screen) | 0.4m                       |

The reduced setbacks to the eastern boundary are considered to meet the Design principles of the R-Codes in the following ways:

- The walls along this property boundary are appropriately articulated with a variety of openings and materials to appropriately reduce building bulk impacts.
- With respect to privacy, the windows along this boundary are either onto non-habitable spaces or set well below the level of the adjoining property such as the windows onto the kitchen.
- The shade cast by these walls will predominantly fall over the subject site, especially at midwinter due to lot orientation.

The reduced setbacks to the eastern boundary are considered to meet the Design principles of the R-Codes in the following ways:

- The building utilises varied setbacks and materials in order to assist in ameliorating building bulk, the building facing this boundary is also well articulated with a variety of openings and screens.
- With respect to privacy, the development generally provides non-major openings along this boundary or openings onto habitable rooms are otherwise screened.
- The shade cast by these walls will predominantly fall over the subject site, especially at midwinter due to lot orientation.

### Open Space

| Element            | Requirement                | Proposed                   | Extent of Variation |
|--------------------|----------------------------|----------------------------|---------------------|
| On site open space | 50% (143.5m <sup>2</sup> ) | 41.2% (118m <sup>2</sup> ) | 25.5m <sup>2</sup>  |

The provision of open space for the building is considered to meet the Design principles of the R-Codes in the following ways:

- The building is considered to reflect the existing and desired streetscape character for the immediate area in being designed so as to appropriately reflect the appearance of adjoining dwellings.
- The dwelling is provided with outdoor living area open to northern sunlight in winter at the rear of the building.
- Open space is predominantly provided to the side and rear of the dwelling, as the dwelling has been located close to the street in accordance with the streetscape character.
- External facilities and fixtures are provided for appropriately on site.
- The building is provided with additional outdoor living areas in the form of the balcony and verandah to the front and rear of the dwelling.

### Vehicle Sightlines

| Element           | Requirement                                 | Proposed                           | Extent of Variation |
|-------------------|---|------------------------------------|---------------------|
| Garage sightlines | 1.5x1.5m truncation at vehicle access point | 0.8x1.5m (east)<br>1.3x1.5m (west) | Per proposed        |

The sightlines for the garage access point are considered to meet the Design principles of the R-Codes in the following ways:

- The proposed sightlines provide for appropriate rear view to vehicles exiting the subject site.
- The garage being close to the front boundary will result in any vehicles leaving the property at low speed.
- The garage door opening will provide some forewarning of vehicle movements to and from the site.

### Driveway Width

| Element                  | Requirement | Proposed | Extent of Variation |
|--------------------------|-------------|----------|---------------------|
| Driveway/crossover width | 4.5m        | 6m       | 1.5m                |

The proposed crossover width is not considered to meet the discretionary criteria of Local Planning Policy 2.9 nor the design principles of the Residential Design Codes for the following reasons:

- Per the proposed site plan, the crossover exceeds the dimension of the proposed garage door opening (5m wide) and provides additional unnecessary crossover dimension into the streetscape.
- The proposed driveway width does not minimise the area of crossover onto the street.
- The additional area of hard stand does not permit the installation of high quality landscape features.

Accordingly a condition of approval is recommended to restrict the dimension of the crossover at the property boundary to 4.5 metres. By restricting the crossover dimension, this will allow for the inclusion of some additional landscaping adjoining the driveway.

### Site works and retaining walls

| Element                                    | Requirement | Proposed | Extent of Variation |
|--|-------------|----------|---------------------|
| Site fill and retaining (western boundary) | 0.5m (max)  | 0.9m     | 0.4m                |

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

- The levels across the site generally provide for the appreciation of the natural slope along Knutsford Street while bringing the western portion of the site level with the remainder of the property.
- With respect to privacy the building itself is provided with an angled privacy screen and the side access of the dwelling is not an active habitable space, being an accessway only but is otherwise screened by a standard dividing fence.

### Visual Privacy

| Element               | Requirement | Proposed          | Extent of Variation |
|-----------------------|-------------|-------------------|---------------------|
| Front verandah (west) | 7.5m        | 2.5m              | 5m                  |
| Rear balcony (north)  | 7.5m        | 3.5m              | 4m                  |
| Bed 2 (north/east)    | 4.5m        | 3.5m (n) 3.2m (e) | 1m (n) /1.3m (e)    |
| Bed 3 (north/west)    | 4.5m        | 3.7m (n) 3m (w)   | 0.8m (n) 1.4m (w)   |
| Atrium/Living (west)  | 6m          | 2.1m              | 3.9m                |

The overlooking from the rear balcony and adjoining bedrooms is not considered to meet the Design principles of the R-Codes for the following reasons:

- These openings and the balcony provide for almost full overlooking of the rear yard of the neighbouring property to the north and partial overlooking to the eastern and western properties.
- While it is noted that heavy vegetation provides some screening at this time, in the future the mutual privacy of these properties may be unduly impacted.

In accordance with the above consideration, it is considered that screening should be provided to the north facing windows to Bedrooms 2 and 3 and the rear balcony. A condition of development approval is recommended to this effect.

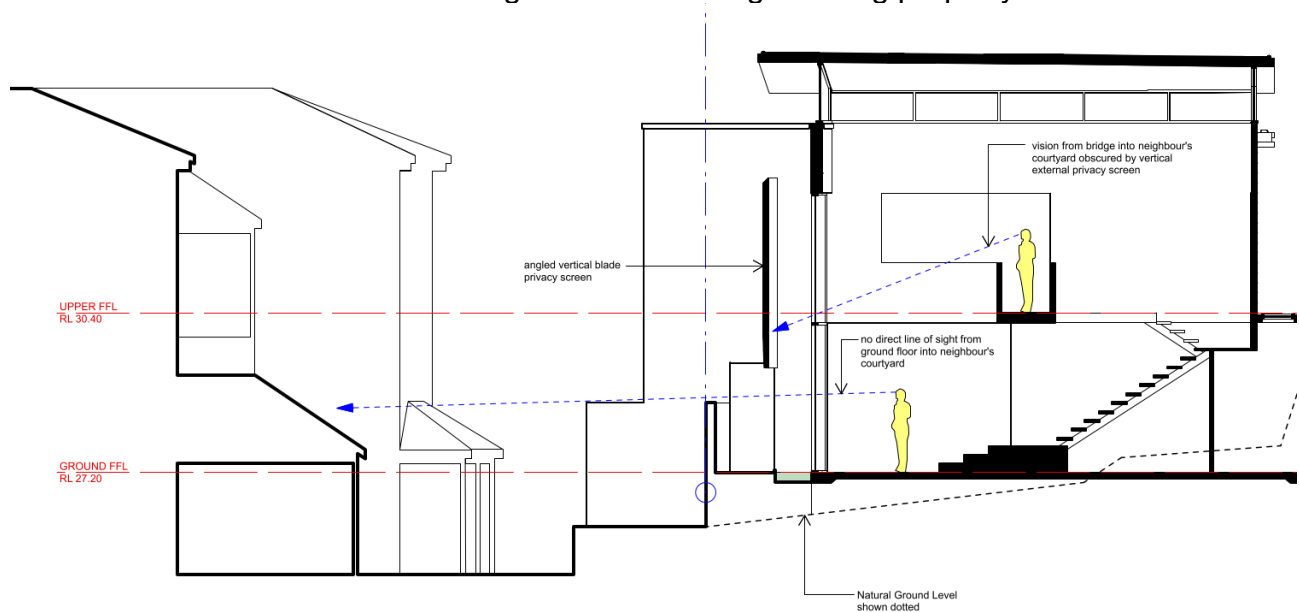
The overlooking from the front verandah is considered to meet the Design principles of the R-Codes in the following ways:

- The verandah partially overlooks the extended rear yard of the neighbouring property, with the primary outdoor living areas of the property being well set back from the subject site.
- The master bedroom wall acts to block some overlooking from the balcony back towards the neighbouring property.

- Generally the verandah is oriented towards the streetscape and accordingly any overlooking would be likely to be oblique only, with users of the balcony generally facing south.
- It is noted that the introduction of screening to the side of this verandah would result in a more solid structure in the streetscape area.

With respect to the ground floor atrium/living area, this area is raised >0.5m above natural ground level and therefore subject to visual privacy assessment. This area is considered to satisfy the design principles of the R-Codes for the following reasons:

- The area is considered to be a transitional zone between the dwelling entry and living area and is unlikely to be occupied frequently or for long periods of time.
- Section B submitted by the applicant demonstrates how overlooking towards the rear yard of 24 Ord Street will be limited by existing fencing due to the difference in lot levels and the inclusion of the void screen.
- The below extract from section B submitted by the applicant demonstrates measures to limit overlooking towards the neighbouring property.



**Image 5:** Section B, illustrating the view towards 24 Ord Street

## CONCLUSION

As discussed above, the majority development is considered to appropriately satisfy the relevant deemed-to-comply criteria or design principles of the Residential Design Codes and relevant Local Planning Scheme No. 4 and Local Planning Policy Requirements. Some elements such as visual privacy overlooking from the rear of the building to the north and with oblique overlooking to the east and west is considered to require modification to appropriately protect the privacy of adjoining properties. Conditions of approval are recommended to address this.

Generally, the development is considered to comprise an appropriate addition to the immediate streetscape and is supported by State Heritage Officers and the City's Heritage Officers, utilising design elements which reflect the streetscape while providing for a modern dwelling.

In accordance with the above considerations, the development is considered to be worthy of support, subject to conditions.

### **STRATEGIC IMPLICATIONS**

Nil

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

### **OFFICER'S RECOMMENDATION**

Planning committee acting under delegation 1.1:

**APPROVE**, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two storey Grouped Dwelling at No. 6 (Strata Lot 2) Knutsford Street, Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 18 August 2020. 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 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.
4. All works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
5. 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.
6. Prior to the issue of a Building Permit for the development hereby approved, final details of the external materials, colours and finishes of the proposed development, is to be submitted and approved to the satisfaction of the City of Fremantle, on the advice of the Department of Planning, Lands and Heritage (Heritage Services).

7. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the **Balcony, Bedroom 2 and Bedroom 3 Windows** located on the **northern** elevation, are to be screened in accordance with Clause 5.4.1 C1.1 of the Residential Design Codes by either:
- fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or
  - fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or
  - a minimum sill height of 1.60 metres above the internal floor level.
- Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.
8. Prior to the issue of a Building Permit for the development hereby approved, a detailed drawing showing how the screen to the upper floor master bedroom window to the western elevation is to satisfy the deemed-to-comply requirements of Clause 5.4.1 C1.1 of the Residential Design Codes is to be submitted to the satisfaction of the City of Fremantle. Prior to occupation of the development hereby approved, the approved screening method shall be installed and maintained to the satisfaction of the City of Fremantle.
9. Prior to occupation/ use of the development hereby approved, the boundary walls located on the eastern southern boundaries shall be of a clean finish in any of the following materials:
- coloured sand render,
  - face brick,
  - painting surface,
- and be thereafter maintained to the satisfaction of the City of Fremantle.
10. 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 2. Specifically, the development shall provide the following:
- Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or “double glazed” utilising laminated or toughened safety glass of a minimum thickness of 3mm.
  - Air conditioners shall provide internal centrally located ‘shut down’ points and associated procedures for emergency use.
  - Roof insulation in accordance with the requirements of the Building Codes of Australia.

11. Prior to the issue of a building permit for the development hereby approved, the property driveway is to taper from garage to the street at a maximum rate of 1:5, and be a maximum width of 4.5 metres at the front property boundary, and thereafter maintained to the satisfaction of the City of Fremantle.
12. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues

**Advice Notes**

- i) A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.
- ii) Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.
- iii) The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Knutsford Street road reserve. An application for obstruction permit can be found via [www.fremantle.wa.gov.au](http://www.fremantle.wa.gov.au)
- 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.
- v) Levels as per existing footpath and/or ROW
  - a) Levels at the property boundary including any driveways and pedestrian access points shall match existing footpath and/or right of way levels;
  - b) Any adjustment in levels is to be achieved within the property boundaries;
  - c) Details of all existing and proposed levels to be shown in the submitted working drawings for a building permit, to show that existing footpath levels are maintained.

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

The floor level of any new structure capable of being occupied is to be a minimum of above 150 mm plus 2% slope towards to the property boundary. Basement car parks and similar areas may be permitted

below this level if the structure and any access to the structure is tanked to a level of above. Please contact the Infrastructure Business Services department via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.

**PC2009 – 6 COLLICK STREET, NO. 93 (LOT 1415), HILTON – DEMOLITION OF SINGLE HOUSE (TG DA0256/20)**

**Meeting Date:** 2 September 2020  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Development Plan  
**Additional information:** 1. Heritage assessment and site photos

**SUMMARY**

Approval is sought for the demolition of an existing Single house at 93 Collick Street, Hilton.

The proposal is referred to the Planning Committee (PC) as it proposes the demolition of a building within the Hilton heritage area. The application seeks discretionary assessments against Local Planning Scheme No. 4 (LPS4) for demolition of dwelling in heritage area.

The application is recommended for refusal as the dwelling is considered to remain of cultural heritage value.

**PROPOSAL**

**Detail**

Approval is sought for the demolition of an existing Single house at 93 Collick Street Hilton. The City has not received subsequent development plans for the site.

Demolition plans are included as attachment 1.

**Site/application information**

Date received: 13 July 2020  
Owner name: A Grice  
Submitted by: A Grice  
Scheme: Residential R20  
Heritage listing: Hilton Heritage Area  
Existing land use: Single house  
Use class: Single house  
Use permissibility: P



## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved the demolition of a dwelling in a heritage area. The advertising period concluded on 31 July 2020, and one submission was received, supporting the demolition, citing the poor repair of the dwelling and that it does not appear to be a Hilton cottage similar to surrounding dwellings.

## OFFICER COMMENT

### Statutory and policy assessment

The proposal has been assessed against the relevant provisions of Local Planning Scheme No. 4 and relevant Council local planning policies. In this particular application the areas outlined below require assessment against Scheme or policy provisions:

- Demolition of dwelling in a heritage area.

The above matter is discussed below.

## Background

The subject site is located on the western side of Collick Street in Hilton, across the street from the Foley Village retirement village. The site has a land area of approximately 908m<sup>2</sup> and is currently occupied by a Single house and appurtenant outbuildings. The site is zoned Residential and has a density coding of R20. The site is not individually heritage listed but is located within the Hilton Heritage Area. The dwelling was initially constructed in the 1950s and subsequent additions and alterations have been made to the dwelling over time. In the 1970s the dwelling was clad with a single leaf of brickwork, with the remainder of the dwelling otherwise being left as existing.

The site has an approximate slope of two metres from front to back. Based on the approximate site area of 908m<sup>2</sup>, the site is capable of subdivision into two lots under the R20 coding. In accordance with the Hilton Heritage Area Local Planning Policy generally a 'battleaxe' subdivision would be preferred even if demolition of the subject dwelling were supported.

In 2018 the WAPC approved the subdivision of the subject site in a battleaxe arrangement with a common property access (WAPC156257). The approved subdivision plan showed the existing dwelling being retained.

## Demolition of Dwelling in Heritage Area

In approving an application for demolition, Council is to be satisfied of the following in accordance with clause 4.14.1 of LPS4:

*"Council will only grant planning approval for the demolition of a building or structure where it is satisfied that the building or structure:*

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

The applicant has not provided a heritage assessment supporting the demolition, noting however in their application that the dwelling is in "poor condition and is considered not economic to restore". The City's Heritage team has considered the proposed demolition and based on the attached assessment, the demolition of the dwelling is not supported.

It has been found that the original house is completely intact behind a single leaf of brickwork erected in the 1970s. It is considered that this brickwork cladding could be easily removed without damaging the original house. It was found in a site visit that almost every detail of the original dwelling was intact, external cladding, timber windows, doors, the brick chimney, cast plaster ceiling, timber floorboards and even the meter box, bathroom cabinet and kitchen tiling.

While the comments from the applicant in relation to the poor repair of the dwelling, such as termite damage, rotted rafters, and ceiling maintenance issues are noted, it is considered that the dwelling is of sufficient heritage significance to require its retention. Based on a preliminary review of the dwelling, while it is noted to be in need of maintenance, none of the issues appear to be structural. The economic cost of maintenance to the building is not able to be considered in assessing the heritage significance of a building under Local Planning Scheme No. 4 cl 4.14.

In relation to the demolition of the rear outbuilding, this is not exempt from requiring approval under Local Planning Policy 1.7 as this exceeds an area of 25m<sup>2</sup>. Based on aerial photography, this outbuilding was constructed in the early 1990s and is therefore considered to be of little or no heritage significance and therefore the structure is worthy of removal, however this structure was not proposed for demolition by the applicant.

## **CONCLUSION**

In accordance with the above assessment and the attached heritage assessment, the dwelling is considered to be worthy of retention due to its intact cultural heritage significance, which could be readily made visible by through works to remove the 1970s cladding and therefore the proposal is recommended for refusal.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Demolition of Existing Single house at No. 93 (Lot 1415) Collick Street, Hilton, as detailed on plans dated 13 July 2020, for the following reasons:**

- 1. The proposed demolition of the existing dwelling on site is not supported in accordance with clause 4.14.1 of Local Planning Scheme No. 4 (LPS4) as the existing dwelling is considered to have cultural heritage significance and make a contribution to the broader cultural heritage significance and character of the Hilton Locality which is a prescribed heritage area under LPS4.**
- 2. The proposal is detrimental to the amenity of the area, detrimental to the cultural heritage significance of the area, and incompatible with the objectives of the Residential Zone set out in clause 3.2.1 (a) of the Local Planning Scheme No. 4, as per clauses 67(a), (l) and (n) of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.**

**PC2009 - 7 FIELD STREET, NO. 18 (LOT 9), BEACONSFIELD– DEMOLITION OF SINGLE HOUSE (JL PW0016/20)**

**Meeting Date:** 2 September 2020  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Development Plan  
**Additional information:** 1. Site Photos  
2. Heritage assessment

**SUMMARY**

Approval is sought for the demolition of an existing Single House at 18 Field Street, Beaconsfield. Development approval under Local Planning Scheme No. 4 would normally be required due to the site being located within the South Fremantle Heritage Area, however in this case as the owner of the site is the Department of Communities and the proposed works are considered to be public works, no approval is required from the City. The City is required to forward the application, with its comment, to the Western Australian Planning Commission (WAPC) for their determination under the Metropolitan Region Scheme.

The proposal is referred to the Planning Committee (PC) as the application involves the demolition of a dwelling in a heritage area. The application seeks discretionary assessments against Local Planning Scheme No. 4 for demolition of dwelling in a heritage area.

The application is recommended for conditional approval.

**PROPOSAL**

**Detail**

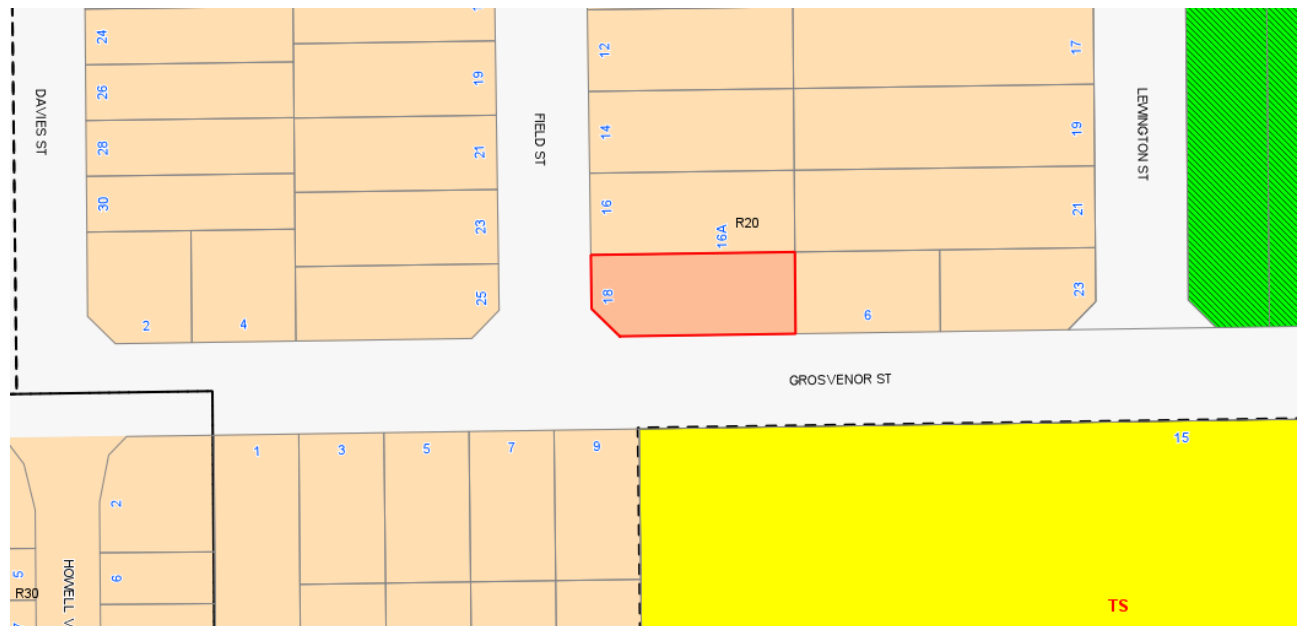
Approval is sought for the demolition of an existing Single house which is located within the South Fremantle Heritage Area. The City has not received subsequent development plans for the site.

As the owner of the site is the Department of Communities and the proposed works are considered to be public works, no approval is required from the City. The City is required to forward the application, with its comment, to the WAPC for their determination under the Metropolitan Region Scheme.

Demolition plans are included as attachment 1.

**Site/application information**

Date received: 31 July 2020  
 Owner name: Housing Authority  
 Submitted by: Housing Authority  
 Scheme: Residential R20  
 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 involved the demolition of a dwelling in a heritage area. The advertising period concluded on 26 August 2020, and no submissions were received.

**OFFICER COMMENT**

**Statutory and policy assessment**

The proposal has been assessed against the relevant provisions of Local Planning Scheme No. 4 and relevant Council local planning policies. In this application the areas outlined below require assessment against Scheme or policy provisions:

- Demolition of dwelling in a heritage area.

The above matter is discussed below.

## **Background**

The subject site is located on the south eastern corner of Field Street and Grosvenor Street in Beaconsfield, across the street from the former Fremantle TAFE Site. The site has a land area of approximately 766m<sup>2</sup> and is currently occupied by a Single house and appurtenant outbuildings. The site is zoned Residential and has a density coding of R20. The site is not individually heritage listed but is located within the South Fremantle Heritage Area.

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

## **Demolition of Dwelling in Heritage Area**

In approving an application for demolition, Council is to be satisfied of the following in accordance with clause 4.14.1 of LPS4:

*“Council will only grant planning approval for the demolition of a building or structure where it is satisfied that the building or structure:*

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

The subject dwelling is a single storey brick and tile Post-War era house which shows the influence of functionalist design style. The condition of the dwelling is fair to poor and has suffered from a lack of maintenance. South Fremantle is significant as part of Fremantle with a history of settlement dating back to the mid nineteenth century, however Field Street, being in the suburb of Beaconsfield not South Fremantle, was developed after the Second World War and has a different character to the rest of the South Fremantle Heritage Area. As such, the dwelling is considered to be of limited significance and does not make a significant contribution to the broader cultural heritage significance and character of the locality. Its proposed demolition is supported.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.1:

REFER to the Western Australian Planning Commission with a recommendation for APPROVAL under the Metropolitan Region Scheme for the proposed demolition of existing Single house at No.18 (Lot 9), Field Street, Beaconsfield, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 31 July 2020. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.

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

The Infrastructure Business Services department can be contacted via [info@fremantle.wa.gov.au](mailto:info@fremantle.wa.gov.au) or 9432 9999.

**PC2009 - 8 HOLLAND STREET, NO. 9 (LOT 720), FREMANTLE – CHANGE OF USE TO HOME OCCUPATION (CLINICAL PSYCHOLOGY) TO EXISTING SINGLE HOUSE (JCL DA0231/20)**

**Meeting Date:** 2 September 2020  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1.Development Plans  
**Additional information:** 1.Schedule of Submissions  
 2.Site Photos

**SUMMARY**

**Approval is sought for a Home Occupation (Clinical Psychology) at No. 9 (Lot 720) Holland Street, Fremantle.**

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4) for Land use (Home Occupation).

The application is recommended for conditional approval.

**PROPOSAL**

**Detail**

Approval is sought for a Home Occupation to an existing Single house at No. 9 Holland Street, Fremantle. The proposed use includes:

- Use of 20m<sup>2</sup> front room,
- 5 clients per week,
- An average of one client per day attending the site for up to 1.5 hours per session.

Amended plans submitted 17 August 2020 addressing concerns raised relating to vehicle access and allotment boundaries of the subject site.

Amended development plans are included as attachment 1.

**Site/application information**

Date received: 30 June 2020  
 Owner name: Cheryl Lange  
 Submitted by: Denis McCarthy  
 Scheme: Residential R25  
 Heritage listing: Individually Listed Category 3 and Holland/Forrest Street Heritage Area  
 Existing land use: Single house  
 Use class: Home Occupation  
 Use permissibility: D



## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as a Home Occupation is a discretionary land use. The advertising period concluded on 27 July 2020, and seven (7) submissions were received. The following issues were raised (summarised):

- Parking and congestion issues posed,
- Use of Right-of-Way for parking is not supported;
- Proposal should comply with parking management requirements;
- Proposal should comply with the Building Code of Australia;
- Vacant properties in Fremantle CBD/other commercial areas should be used to accommodate use;
- Concerns about anti-social behaviour;
- Use considered inappropriate due to proximity to residential and educational uses; and,
- Use must not devalue property.

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

- Parking is an issue during school pick up/drop off periods. Use is proposed to occur between 9:30am and 5:30pm;
- Additional parking is available in the locality;
- The right-of-way is not intended to be used for parking, which will occur on-street, where there are no parking restrictions. Clients will be advised as such;
- Holland Street has a range of socio-economic backgrounds constituting its character. Approx. 5 clients walking to and from their cars will not have adverse character impacts, and has similar impact to a visitor attending the property;
- People seeking psychological help are not considered to contribute to anti-social/undesirable behaviour;
- The scale of the use doesn't warrant a separate premise, as proponent will see up to five clients a week;
- No additional workers are proposed;
- The proposal is unlikely to cause an adverse impact on property values given its scale and lack of signage; and,
- A precedent in the general locality of similar uses exists.

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

- The parking issues are noted and discussed further in this report;
- Proponent is not proposing parking within any Rights-of-Way;
- Any on-street parking must comply with the City's parking policies;
- The existing buildings Building Code classification will not change due to the proposed change in use;

The remaining comments are addressed in the Officer Comment below.

## **OFFICER COMMENT**

### **Statutory and policy assessment**

The proposal has been assessed against the relevant provisions of LPS4. In this application, the areas outlined below do not meet the LPS4 requirements, and need to be assessed under the LPS4 discretionary criteria:

- Land use.

The above matters are discussed below.

### **Background**

The subject site is located on the south side of Holland Street, approximately 25m east of East Street. The site has a land area of approximately 776m<sup>2</sup> and is currently a Single house. The site is zoned Residential and has a density coding of R25. The site is individually heritage listed and located within the Holland/Forrest Street Heritage Area.

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

## Land Use

A Home Occupation is a 'D' use in the Residential Zone, which means that the use is not permitted unless the Council has exercised its discretion. In this regard the following matters have been considered:

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

## Amenity Impacts

The proposal has been considered in relation to the potential impacts on the amenity of the neighbourhood. Typically, residential amenity impacts arise when such a use becomes frequented by a high number of clients. As a result of busy operations, significant increased vehicle activity and/or car parking issues are the most common impacts that are considered inconsistent with the residential nature and amenity of the area.

In the case of this proposal, the nature of the Home Occupation and number of clients and appointment times are considered relevant in determining the potential impact that the operation of the Home Occupation will have on the surrounding amenity of the area, specifically in relation to vehicle traffic and movement. Typically one client is proposed to visit the site per day, with up to five clients per week. Appointment times will be limited to 1.5 hours a day with no weekend operating times.

For the reasons outlined above, it is considered that the Home Occupation will not result in an unreasonable increase in traffic during the hours of operation and is not likely to have a significant adverse effect on the residential amenity of the area.

## Car Parking/ Traffic Concerns

The existing dwelling has no on-site car bays. Clients of the Home Occupation will have to utilise on street parking if approved. The car parking requirements for Home Occupation are specified in Table 2 of the Scheme. Table 2 specifies that car parking requirements are required "as per Council's Policy", however there is currently no Council policy that refers to a Home Occupation's car parking requirements. Although there is no specific requirement, multiple concerns were raised by submitters regarding the existing parking issues within the area. It is considered that the Home Occupation will not generate an unreasonable amount of additional car parking demand for the following reasons:

- The Home Occupation at any given time will have a maximum one client onsite for a maximum period of 1.5 hours. This is anticipated to have the same impact as a visitor attending the residence for social rather than business reasons.
- The anticipated operating times (being 9:30am to 5:30pm, Monday to Friday with no weekend appointments) are considered to be when the demand for on street parking demand is at its lowest with the exception of the end-of-school pickup time, given the site's proximity to John Curtin College of the Arts on the opposite side of East Street. Accordingly, to further reduce the impact of street parking, a condition is recommended limiting clients visiting times to 9:30am-2:30pm Monday to Friday.

## **CONCLUSION**

On the basis of the above report, it is considered on balance that the proposed Home Occupation poses an acceptable impact to the amenity and car parking capacity of the locality. The imposition of conditions is considered necessary to reduce any potential adverse impacts of the proposal. On this basis, the Home Occupation is supported, subject to the conditions contained in the Officer recommendation below.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

**Planning committee acting under delegation 1.1:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Change of use to Home Occupation (Clinical Psychology) at No. 9 (Lot 720) Holland Street, Fremantle, subject to the following conditions:**

- 1. This approval relates only to the development as indicated on the approved plans, dated 17 August 2020. 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. The Home Occupation (Clinical Psychology) hereby permitted shall have hours of operation that do not exceed 9:30am to 5:30pm Monday to Friday. Saturday and Sunday trading is not permitted.**
- 3. Notwithstanding condition 2, in person appointments with clients are to be restricted to between 9.30am and 2.30pm Monday to Friday only.**

- 4. This approval allows the Home Occupation (Clinical Psychology) hereby permitted to be conducted by Denis McCarthy. If Denis McCarthy ceases to operate the Home Occupation (Clinical Psychology) hereby permitted or occupy the subject site, this approval will expire.**
  
- 5. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

**PC2009 – 9 STAPLES STREET, NO. 17 (LOT 5), NORTH FREMANTLE - PARTIAL CHANGE OF USE TO HOME OCCUPATION (HAIR SALON) TO EXISTING SINGLE HOUSE (TG DA0186/20)**

**Meeting Date:** 2 September 2020  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Agenda attachments:** 1. Proposal and Development Plans  
**Additional information:** 1. Site Photos  
2. Streetscape photos from applicant

**SUMMARY**

**Approval is sought for a Home Occupation (Hair Salon) at 17 Staples Street, North Fremantle.**

**The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against Local Planning Scheme No. 4 (LPS4) for Land use (Home Occupation).**

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

**PROPOSAL**

**Detail**

Approval is sought for the operation of a Home Occupation to an existing Single house at 17 Staples Street in North Fremantle. The proposed works include:

- The use of an existing studio/laundry room at the back of the property for a hair salon.
- 2 to 3 clients per day, operating Monday to Friday between 10am and 4pm.

Development plans are included as attachment 1.

**Site/application information**

**Date received:** 3 June 2020  
**Owner name:** L Norman and H Smith  
**Submitted by:** J Bodrug  
**Scheme:** Residential R25  
**Heritage listing:** Individually Listed Level 3 and North Fremantle Heritage Area  
**Existing land use:** Single House  
**Use class:** Home Occupation  
**Use permissibility:** A



## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved discretionary assessment of the proposed land use. The advertising period concluded on 29 June 2020, and three (3) submissions were received. The following issues were raised (summarised):

- Concerns in relation to on street car parking and potential parking across property driveways.
- Parking for the business will contribute to congestion in Staples Street.
- Concerns in relation to insufficient parking being provided for the existing residents of the site.
- Concerns about noise from cars using the street due to small front setbacks in the street so use of the street should be limited to residents and occasional visitors. Submitter objected to a business operating in a residential area.
- Concerns about the establishment of signage for the business.

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

- The application does not include signage for the business. Generally under Local Planning Scheme No. 4 signage for a Home Occupation is limited to one sign no greater than 0.2m<sup>2</sup>.
- It is noted that the site and street is zoned Mixed Use under Local Planning Scheme No. 4.

The remaining comments in relation to car parking are addressed in the officer comment below.

## OFFICER COMMENT

### Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. In this particular application the area outlined below requires discretionary assessment.

- Land Use (Home Occupation).

Due to the concerns raised in relation to car parking for the use, on site car parking is also discussed below despite Local Planning Scheme No. 4 not providing a car parking requirement for the use.

### Background

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

The subject site is currently occupied by a single storey dwelling originally constructed in 1932 and subsequently extended to the rear. In the early 2000s a two storey outbuilding (laundry/studio) was constructed at the rear of the site. The proposed hair salon use is to be carried out from the ground floor of the rear outbuilding.

### Land Use

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

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

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

- The use is not considered to unduly impact the amenity of surrounding residences. The provision of the services proposed is generally quiet and with one customer coming to the site at a time it is considered that the potential parking impact will be limited.
- The hours of operation for the use are generally when other residents would be out of the area for work during the week.
- In accordance with the objectives of the Mixed-use zone, the use is considered to contribute to a mix of compatible land uses in a small scale premises, with no significant change anticipated with respect to the amenity of the immediate locality.

The impact of the use on parking in the Staples Street streetscape is discussed further below.

### **Car parking**

The car parking requirements for Home Occupation are specified in Table 2 of the Scheme. Table 2 specifies that car parking requirements are required “*as per Council’s Policy*”, however there is currently no Council policy that refers to a Home Occupation’s car parking requirements. Although there is no specific requirement, the car parking demand for the proposed Home Occupation land use is considered to be acceptable for the following reasons:

- The applicant proposes that 2-3 clients will visit the site per day, with only one customer visiting the property at any one time.
- The applicant has provided photos of the streetscape at various times throughout the day when they would be operating, showing that generally car parking can be provided for at these times, when most residents and other landowners would be at work.
- The subject site is readily accessible via public transport (train and bus) and some clients may choose to visit the subject site using these methods.
- The concerns raised in relation to customers parking across property driveways are noted however this is not permitted and can be investigated by the City’s Parking team should this occur.
- It is noted that per the submitted plans the dwelling has parking to the side of the dwelling for the residential use of the property (one bay is required in accordance with the requirements of the R-Codes).
- The applicant has advised that the cars associated with occupiers of the dwelling are gone during the day as their users are at work.
- The applicant has advised that if parking is unavailable directly in front of the subject street that customers will be advised to park in available spaces on Thompson Street.

## **CONCLUSION**

As considered above, the proposed Home Occupation (Hair Salon) is considered capable of operation without unduly impacting the street. Accordingly, the application is recommended for approval, subject to conditions. It is noted that the use would be limited to the proponent only, meaning that this approval has no ongoing validity should the applicant cease residing at the property.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICER'S RECOMMENDATION**

Planning committee acting under delegation 1.1:

**APPROVE**, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Partial Change of use to Home Occupation (Hair Salon) at No. 17 (Lot 5) Staples Street, North Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 3 June 2020. 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. The Home Occupation (Hair Salon) hereby permitted shall have hours of operation that do not exceed 10:00 am to 4:00 pm on Monday to Friday.
3. This approval allows the Home Occupation (Hair Salon) hereby permitted to be conducted by Jessica Bodrug. If Jessica Bodrug ceases to operate the Home Occupation (Hair Salon) hereby permitted or occupy the subject site, this approval will expire.
4. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

**Advice note:**

- i) **The premises must comply with the Hairdressing Establishment Regulations 1972. For further information contact Environmental Health Services on 9432 9856 or via [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au).**

**PC2009 - 10 PRITCHARD STREET, NOS 7 AND 9 (LOT 1 AND 2), O'CONNOR –  
DEMOLITION OF EXISTING BUILDINGS, AND CONSTRUCTION OF  
SINGLE STOREY 24 HOUR PETROL FILLING STATION (CS  
DAP0005/20)**

|                                   |  |
|-----------------------------------|--|
| <b>Meeting Date:</b>              | 2 September 2020   |
| <b>Responsible Officer:</b>       | Manager Development Approvals  |
| <b>Decision Making Authority:</b> | Planning Committee   |
| <b>Agenda attachments:</b>        | 1. Proposal and Development Plans  |
| <b>Additional information:</b>    | 1. Main Roads advice<br>2. Applicant's Report<br>3. Traffic Impact Assessment<br>4. Environment Noise Assessment<br>5. Site Photos |

### **SUMMARY**

**Approval is sought for the demolition of existing buildings at 7 – 9 Pritchard Street, O'Connor and the construction of a single storey, 24 hour Petrol Filling Station, associated canopy and car parking.**

**As the value of the proposal is \$2 million, the applicant has opted to have the application determined by the Metro Inner South Joint Development Assessment Panel (JDAP). The City's Responsible Authority Report (RAR) is referred to the Planning Committee for comment.**

**The development seeks discretion against the Local Planning Scheme No.4 (LPS4) for:**

- **Land Use (Petrol Filling Station)**
- **Landscaping**

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

### **PROPOSAL**

#### **Detail**

Approval is sought for the demolition of the existing buildings on site (warehouse and showrooms), and the construction of a single storey, 24 hour Petrol Filling Station, comprising a 242m<sup>2</sup> shop, fuel pumps and canopy and associated signage and vehicle parking.

The development includes the following:

- Complete demolition of all existing buildings
- Construction of single storey, 24 hour Petrol Filling Station with associated fuel canopy and pumps
- Eight (8) car parking bays, including one (1) ACROD bay
- Landscaping

- Four freestanding signs (3 small signs directing traffic to the relevant entry and exit points, 1 large internally illuminated pylon sign for fuel price display)
- One internally illuminated fascia sign on the building, and 4 internally illuminated fascia signs on the fuel canopy
- Crossover amendments and verge works.

### Site/application information

Date received: 20 July 2020  
 Owner name: Nadia D'Adamo, Lidia Colangelo, Gianni Colangelo, Rosa Colangelo  
 Submitted by: Planning Solutions  
 Scheme: Industry and Commercial  
 Heritage listing: N/A  
 Existing land use: Showroom and Warehouse  
 Use class: Petrol Filling Station  
 Use permissibility: 'P' and 'D'



### OFFICER'S RECOMMENDATION

#### Planning Committee:

**SUPPORT** the Officer's Recommendation to **APPROVE**, under the Metropolitan Region Scheme and Local Planning Scheme No.4, the Demolition of existing buildings, construction of Single Storey 24 Hours Petrol Filling Station at Nos. 7-9 (Lots 1 and 2) Pritchard Street, O'Connor, subject to the conditions outlined in the responsible authority report.

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

|                                   |   |
|-----------------------------------|---|
| <b>Property Location:</b>         | Nos. 7 and 9 (Lots 1 and 2) Pritchard Street, O'Connor  |
| <b>Development Description:</b>   | Demolition of existing buildings and Construction of Single Storey 24 Hour Petrol Filling Station   |
| <b>DAP Name:</b>                  | Metro Inner South JDAP  |
| <b>Applicant:</b>                 | Planning Solutions  |
| <b>Owner:</b>                     | Nadia D'Adamo, Lidia Colangelo, Gianni Colangelo, Rosa Colangelo  |
| <b>Value of Development:</b>      | \$2 million   |
| <b>LG Reference:</b>              | DAP005/20   |
| <b>Responsible Authority:</b>     | City of Fremantle   |
| <b>Authorising Officer:</b>       | Julia Kingsbury, Manager Development Approvals  |
| <b>DAP File No:</b>               | DAP/20/1822   |
| <b>Report Due Date:</b>           | 5 October 2020  |
| <b>Application Received Date:</b> | 20 July 2020  |
| <b>Application Process Days:</b>  | 90 days   |
| <b>Attachment(s):</b>             | 1: Development Plans and Elevations<br>2: Main Roads advice<br>3: Applicant's Report<br>4: Transport Impact Assessment<br>5: Environmental Noise Assessment<br>6: Site Photos |

**Officer Recommendation:**

That the Metro Inner South JDAP resolves to:

- Approve** DAP Application reference DAP/20/1822 and accompanying plans 3295 01, 3295 02, 3295 03 (amended), 3295 04, 3295 05, 3295 06, 3295 07, 3295 08 in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of the City of Fremantle Local Planning Scheme No. 4, and pursuant to clause 24(1) and 26 of the Metropolitan Region Scheme subject to the following conditions:

**Conditions**

- This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the four year period, the approval shall lapse and be of no further effect.

2. All storm water discharge shall be contained and disposed of on-site, and not discharged onto the South Street road reserve, unless otherwise approved by the City of Fremantle and Main Roads WA.
3. Prior to the issue of a building permit for the development hereby approved, Nos. 7 and 9 (Lots 1 and 2) Pritchard Street, O'Connor, 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.
4. Prior to the issue of a Building Permit for the development hereby approved, an amended landscaping plan, modified to provide a minimum of four (4) trees as per the shade tree requirements of LPP 3.8 O'Connor Interface, shall be submitted to and approved by the City of Fremantle. Prior to the occupation of the development hereby approved, the approved landscaping shall be completed in accordance with the approved plan 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.
5. Prior to the issue of a Building Permit, details of how the recommendations of part 5 of the Lloyd George Environmental Noise Assessment report (reference 19075097-01A) are to be implemented are to be submitted and approved, to the satisfaction of the City of Fremantle. These recommendations are to be implemented for the life of the development to the satisfaction of the City of Fremantle.
6. The South Street vehicle access is to be left-in only, as per Brown Falconer Drawing No.3295 Rev F, dated 9 July 2020, to the satisfaction of the City of Fremantle.
7. Prior to the issue of a Building Permit, final driveway designs (both entry and exit) are to include aprons/edge lines to reduce the driveway entry radius for general entering and exiting traffic, to the satisfaction of the City of Fremantle on the advice of Main Roads WA.
8. The ground levels on the South Street boundary must be maintained as existing, to the satisfaction of the City of Fremantle.
9. No earthworks are to encroach onto the South Street road reserve, to the satisfaction of the City of Fremantle.
10. Vegetation within the South Street road reserve must not be removed or trimmed to improve the visibility of the proposed advertising signs, to the satisfaction of the City of Fremantle.
11. Any proposed illumination of advertising signs must not exceed 300cd/sqm (candela per square metre) between sunset and sunrise, to the satisfaction of the City of Fremantle.

12. The sign must not flash, pulsate or chase and must not contain fluorescent, reflective or retro reflective colours or materials, to the satisfaction of the City of Fremantle.
13. Prior to the occupation of the development hereby approved, vehicle crossovers shall be either (where relevant) constructed, removed and the kerb and verge reinstated, and/or be modified 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, all car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.
15. Prior to the issue of a Demolition Permit and Building Permit a Demolition/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.
16. Prior to the issue of a Building Permit, a Traffic Management Plan addressing the management of traffic during the construction of the development being submitted to the satisfaction of the City of Fremantle in consultation with Main Roads and thereafter implemented throughout the construction of the development.
17. 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 required to submit an Application form to undertake works within the South Street road reserve prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website > Technical & Commercial > Working on Roads
- iii. 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.

**Details: outline of development application**

|                            |      |  |
|----------------------------|------|--|
| Insert Zoning              | MRS: | Industry   |
| TPS:                       |      | Industry (No. 7 Pritchard Street)<br>Commercial (No. 9 Pritchard Street) |
| Insert Use Class:          |      | Petrol Filling Station   |
| Insert Strategy Policy:    |      | n/a  |
| Insert Development Scheme: |      | Local Planning Scheme No. 4  |
| Insert Lot Size:           |      | 2,799m <sup>2</sup> (combined)   |
| Insert Existing Land Use:  |      | Showrooms and Warehouse  |

The application proposes the following:

- Complete demolition of all existing buildings
- Construction of a 24 hour, single storey Petrol Filling Station building (242m<sup>2</sup>) with associated fuel canopy and pumps
- Eight (8) car parking bays, including One (1) ACROD bay
- Landscaping
- Four (4) freestanding signs (3 small signs directing traffic to the relevant entry and exit points, 1 large internally illuminated pylon sign for fuel price display)
- One (1) internally illuminated fascia sign on the building, and four (4) internally illuminated fascia signs on the fuel canopy
- Crossover amendments and verge works

## **Background:**

The site comprises two lots, Nos 7 and 9 Pritchard Street, which are located on the north-western corner of Pritchard Street at the South Street intersection. The northernmost lot (No.7) is located within a site zoned Industrial under the City's Scheme, and the southernmost lot (No. 9) is located within a site zoned Commercial under the City's Scheme.

The two sites are improved by the existence of four large warehouse and/or showroom units (see Figure 1)

At its meeting held on 20 December 2019, the Metro South-West JDAP approved a similar application on the same site for Demolition of existing buildings, and the construction of a single storey Motor Vehicle Repair building (400m<sup>2</sup>) and a 24 hour Petrol Filling Station building (205m<sup>2</sup>) and associated fuel canopy and pumps. This development was valued at \$2.1 million, allowing the applicant to 'opt-in' to the DAP process. Officers supported this proposal subject to the operating hours of the Petrol Filling Station being limited to 6.00am to 10.00pm seven days per week in response to buffer zone requirements of the Draft State Planning Policy 4.1: Industrial Interface, which requires a 200m separation between a 24 hour service station and a sensitive land use, including residential land. The JDAP supported the 24 hour operation of the Petrol Filling Station on basis that restricting the operating hours was not considered appropriate given the context of the site. The subject site is zoned Industry and Commercial, situated within a Commercial and Industrial area and abuts South Street which is reserved Primary Regional Roads under the Metropolitan Region Scheme. They further noted that based on the technical information provided there were no specific nuisance impacts identified, which were not satisfactorily addressed in conditions, that would unreasonably impact on the amenity of surrounding residential properties.

The applicant has not given any specific reasons as to why this approval is not proposed to be acted on, in their new application for approval.

In April 2020, the WAPC granted conditional approval for the amalgamation of Nos. 7 and 9 (Lots 1 and 2) Pritchard Street. The lots have not been amalgamated at the time of writing this report.



**Figure 1:** Aerial and scheme composite

### Legislation and Policy:

City of Fremantle Local Planning Scheme No. 4 (LPS4):

- Clause 3.2.1 (f): Commercial zone objectives
- Clause 3.2.1 (g): Industry zone objectives
- Table 1: Zoning
- Clause 4.7: Vehicle parking
- Table 2: Vehicle parking
- Clause 4.7.3: Relaxation of parking requirements
- Clause 4.14: Demolition of buildings and structures
- Schedule 7: Local Planning Area 8 – O'Connor

### Legislation

*Planning and Development (Local Planning Schemes) Regulation 2015*

### State Government Policies

State Planning Policy 4.1: State Industrial Buffer Policy  
State Planning Policy 4.1: Industrial Interface (Draft)

### Local Policies

LPP 1.3: Public Notification of Planning Proposals  
LPP 2.14: Advertisement Policy  
LPP 3.8: Local Planning Area 8 – O'Connor

## Consultation:

### Public Consultation

The application was advertised to adjoining landowners and residents, including those lots in the residential zone directly south of South Street as per LPP 1.3. The application was advertised from 31 July 2020 to 18 August 2020 and one (1) late submission was received. The submission did not raise a specific objection to the proposal, rather included a statement that they hoped the proposed development would not diminish the safety of their property. The submission also queried the timeframes around the construction of the development.

In response to the submission, the suitability of the proposed land use is discussed further in this report. Regarding the timeframes for construction, although any approval will be valid for a period of four years, the applicant has indicated that they intend to complete construction of the development within two years of the approval.

### Consultation with other Agencies or Consultants

The application was referred to MRWA as it is located on South Street, which is a Category 3 main road. Main Roads have advised no objection to the application subject to a number of conditions regarding crossover design and signage lighting requirements. These conditions have been included in the recommendation.

## Planning Assessment:

### Local Planning Scheme

| Item                   | Requirement  | Proposal                  | Compliance  |
|------------------------|--|---------------------------|---|
| LPS4 – Land Use        | Petrol Filling Station ('D' use in a Commercial zone, 'P' use in an Industrial zone)   | Petrol Filling Station    | Supported – See Officer comment section of report |
| LPS4 – Vehicle Parking | 1:1 employee and 1:1 service bay (4)<br><br>1 delivery bay: service/storage area<br><br>TOTAL BAYS<br>3 car bays<br>1 service bay/<br>delivery bay | 8<br><br>1                | Complies  |
| LPP 3.8 - Landscaping  | 5% of site area (Minimum width of 1.5m)  | 7.1% (200m <sup>2</sup> ) | Complies  |

|  |  |   |   |
|--|--|---|---|
|  | 1 tree: 50m <sup>2</sup> landscaped area (4) | 2 | Not Supported – See Officer comment section of report |
|  | 1 shade tree: 4 car parking bays (2)         | 2 | Complies  |

SPP 4.1: Industrial Interface (Draft)

| <b>Item</b>   | <b>Requirement</b>             | <b>Proposal</b>                           | <b>Compliance</b>                                 |
|---|--------------------------------|---|---|
| Compliance with the EPA guidelines No. 3: Separation Distances Between Industrial and Sensitive Land Uses | 200m buffer to residential lot | 48 m from fuel canopy to residential zone | Supported – See Officer comment section of report |

**Officer Comments**

State Planning Policy 4.1: Industrial Interface (Draft)

The existing SPP 4.1: State Industrial Buffer Policy provides general advice for creating a buffer zone for prescribed premises and sets out considerations for industrial uses abutting sensitive land uses, including residential land uses.

The Draft Policy provides more comprehensive requirements, including reference to Environmental Protection Guidance Statement No. 3 Separation Distances Between Industrial and Sensitive Land Uses, which recommends the provision of a 200m buffer zone between sensitive land uses (i.e. residential uses) and any 24 hour service station. The recommended buffer zone between a service station operating during normal hours (i.e. Monday to Saturday 7.00am to 7.00pm) and sensitive land uses can be reduced to 50m.

Approximately 50m south of the subject site, separated by South Street is a residential zoned area accommodating Single house and Grouped dwelling developments.

As discussed in the background section of this report, the South-West Metro JDAP considered an almost identical application in December 2019. In the City's previous consideration of that proposal, Officers concluded, based on the distance between the subject site and the closest residential property being approximately only 50m away, the 24 hour operation of a Petrol Fuelling Station may adversely impact on the amenity of the residents on the southern side of South Street, and recommended that the hours of operation be reduced to between 6.00am and 10.00pm seven days a weeks. These hours took into account the nature and existing impacts of South Street, being a four lane road including a wide median strip.

The JDAP supported the 24 hour operation of the Petrol Filling Station on basis that restricting the operating hours was not considered appropriate given the context of the site. The subject site is zoned Industry and Commercial, situated within a Commercial and Industrial area and abuts South Street which is reserved Primary Regional Roads under the Metropolitan Region Scheme. They further noted that based on the technical information provided there were no specific nuisance impacts identified, which were not satisfactorily addressed in conditions, that would unreasonably impact on the amenity of surrounding residential properties.

In a similar manner to the previous proposed the applicant has provided the following details in regard to the potential impacts associated with the operation of the petrol filling station:

Noise

*The Environmental Noise Assessment confirms that noise generated by the proposed development will comply with the necessary noise requirements at all times (over a 24-hour period)*

Risk

*The site has been designed to ensure that it can obtain a Dangerous Goods and Handling Licence for the sale of fuel.*

Odour/Gaseous

*The dangerous goods assessment process includes the assessment of petrol vapours and odours.*

Light

*The final design of lighting will consider light spill from the retail building, fuel canopy and other external lights, with lights baffled and facing internally to ensure light spill is contained within the subject site.*

Although the number of proposed petrol pumps has increased by two, the development is essentially the same as the previous proposal, which was supported, having regard for the Draft SPP 4.1 Industrial Interface, by the South-West Metro JDAP. As the SPP is still a draft document a condition to reduce the hours of operation is not recommended in this instance.

Local Planning Scheme No. 4

*Land use*

A Petrol Filling Station is a 'D' use in a Commercial zone, and a 'P' use in an Industrial zone.

As the proposed Petrol Filling Station is across two zones and is a discretionary use within a Commercial zone, the use has been assessed against the objectives of the Commercial zone within LPS4, which are as follows:

- 3.2.1 (f) *Development within the commercial zone shall—*
- (i) provide for the development of offices and associated commercial and larger scale uses, including showrooms, and warehouses and uses requiring outdoor displays,*
  - (ii) ensure that development is not detrimental to the amenity of adjoining owners or residential properties in the locality, and*
  - (iii) to conserve places of heritage significance the subject of or affected by the development.*

The application has also been assessed against the *Matters to be considered* of the *Deemed provisions* and is considered to comply with all of the above for the following reasons:

- The immediately adjacent lots contain of large showrooms or industrial uses that are not considered sensitive. The proposed use would not unduly impact the existing adjoining uses.
- The site is located outside the O'Connor buffer area along the eastern side of Chamberlain Street which is located to protect existing residential properties located one block to the west.
- South Street sits between the subject site and the residential zone to the south. South Street is a major road that provides a wide separation distance and already impacts the existing residential zones through traffic noise and pollution, particularly during day time hours. The proposed use will have a negligible impact on noise and traffic during this time.

*LPP 2.14: Advertisement Policy*

The proposed signage complies with the City's policy for the following reasons:

- The pylon sign is located outside of the truncation area at the corner of South Street and Pritchard Street and will therefore not obstruct sightlines for vehicles.
- The small signs near the entrance and exit are for the purpose of directing traffic, not large format advertising signs.
- The total signage onsite presents no visual clutter and is consistent with the typical design of such fuel and repair stations.

*LPP 3.8: O'Connor Policy*

| <b>Item</b>             | <b>Requirement</b>                                 | <b>Proposal</b> | <b>Discretion</b> |
|-------------------------|--|-----------------|-------------------|
| LPP 3.8:<br>Landscaping | 5% of site area                                    | 7.1%            | Complies          |
|                         | 1 tree: 50m <sup>2</sup><br>landscaped area<br>(4) | 2               | 2                 |
|                         | 1 shade tree: 4<br>parking bays (2)                | 2               | Complies          |

As there are no specific site constraints that would prohibit the provision of the required number of trees, a condition requiring the development to comply with the landscaping component of Council Policy is recommended.

**Conclusion:**

In light of the above, it is recommended that the application be conditionally approved.

**PC2009 - 11 SPECIAL PLANNING PROVISIONS RELATING TO COVID-19 –  
DEVELOPMENT APPLICATIONS MADE UNDER PART 17 OF THE  
PLANNING AND DEVELOPMENT ACT 2005**

**Meeting date:** 2 September 2020  
**Responsible officer:** Director Strategic Planning and Projects  
**Decision making authority:** Committee  
**Agenda attachments:** Nil  
**Additional information:** Nil

## **SUMMARY**

The purpose of this report is to inform Council of special provisions relating to development applications which have recently been incorporated into the Planning and Development Act 2005. The Government has introduced these provisions as part of its response to the COVID-19 pandemic, and also as a way of accelerating the implementation of some of its broader Planning Reform proposals. Under these provisions applicants for development costing \$20 million or more (in the Perth metropolitan region) will have the option of submitting their application to the State's Department of Planning, Lands and Heritage for determination by the Western Australian Planning Commission rather than the application being dealt with through the existing local government/Development Assessment Panel process. This arrangement will operate for a temporary period of 18 months from July 2020.

This report recommends that Council adopt a local planning policy to guide the process for confirming submissions to be made by the City of Fremantle on applications to be determined by the WA Planning Commission which relate to sites within the City. The recommended policy specifies that a report by City officers should be presented to the Planning Committee or Council for endorsement of the submission to be made by the City. It is recommended that the draft policy be endorsed for the purposes of public consultation prior to final consideration for adoption by Council.

## **BACKGROUND**

In August 2019 the Minister for Planning launched the WA Government's 'Action Plan for Planning Reform', setting out a range of proposed initiatives for changes to the WA planning system aimed at addressing three fundamental goals:

1. Planning creates great places.
2. Planning is easier to understand and navigate.
3. Planning systems are consistent and efficient.

At the time of the launch an indicative delivery program for introduction of the proposed initiatives was set out. This was split into three phases over several years, with the first phase – involving legislative amendments – commencing in 2019-2020.

The onset of the COVID-19 pandemic has caused the WA Government to modify its previous planned approach to amending the *Planning and Development Act 2005* and subsidiary legislation. Stimulating large scale development in the short term is seen as a key component of economic recovery, and consequently the Government has fast-tracked legislative changes relating to the assessment and determination of development applications for large scale development ahead of other aspects of planning reform which require amendments to legislation.

On 7 July 2020 the *Planning and Development Amendment Act 2020* (the 2020 Act) received Royal Assent and on 8 July provisions in Part 2 of this Act commenced. These provisions are intended to provide an urgent response to the COVID-19 pandemic as it relates to planning and development. This part of the 2020 Act introduces new provisions into the *Planning and Development Act 2005* which can be summarised as follows:

- A definition of *significant development* which, in the case of development anywhere in the Perth metropolitan region, means any development (except for a warehouse) with an estimated cost of \$20 million or more.
- A person making an application for development approval for a significant development may choose to make the application to the Western Australian Planning Commission (WAPC) for determination rather than making the application through the local government/Development Assessment Panel process.
- Even if a development proposal does not meet the definition of a significant development, if the applicant notifies the Minister for Planning that they wish it to be determined by the WAPC and the Minister considers the application raises issues of major State or regional importance, the Premier on the Minister's recommendation may refer the application to the WAPC for determination.
- In assessing and determining applications of the above types, the WAPC must have due regard to:
  - the purpose and intent of the planning scheme applying in the locality of the proposed development;
  - the need to ensure orderly and proper planning and the preservation of amenity;
  - the need to facilitate development in response to the economic effects of COVID-19;
  - any relevant WAPC policies.

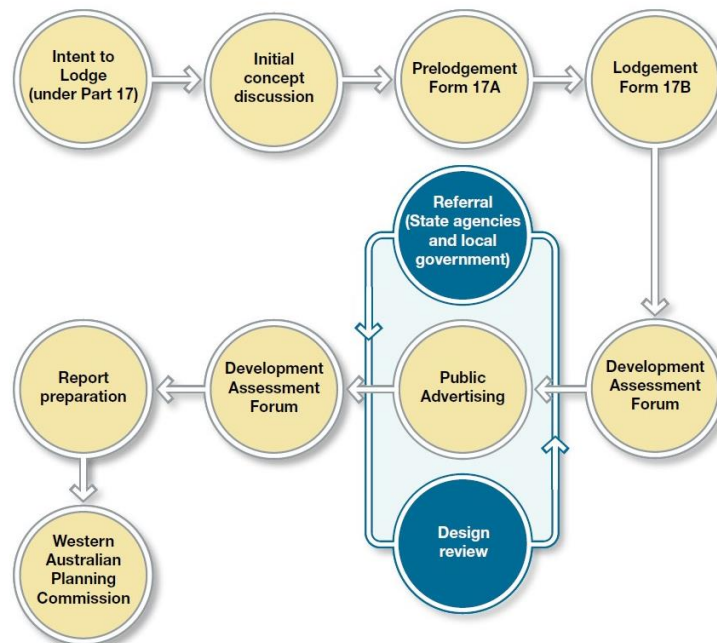
- Notwithstanding the above ‘due regard’ matters, the WAPC is not bound by any legal instrument that would ordinarily apply to consideration of a development application (e.g. the local planning scheme) and is not limited to planning considerations in determining the application – it may have regard to other matters affecting the public interest.
- The WAPC must give the local government to whose district a significant development application relates an opportunity to make submissions and have due regard to any submissions made.
- The WAPC must advertise the application and invite submissions from members of the public in a manner it considers appropriate and have due regard to any submissions made.
- Development approved by the WAPC under these provisions must substantially commence within 24 months of the date of approval. The period for commencing the development cannot be extended by the WAPC.
- The above provisions only apply during the COVID-19 recovery period – defined as 18 months from 8 July 2020.

The State’s Department of Planning, Lands and Heritage (DPLH) has established a new team of officers called the State Development Assessment Unit to receive and assess applications lodged under these provisions. This Unit will be responsible for undertaking pre and post-lodgement discussions with applicants, consultation with the public, the relevant local government and other State agencies, technical assessment of proposals and preparation of a report and recommendations to the WAPC.

The following flowchart illustrating the State Development Assessment Unit application process is taken from the DPLH website:

**Application process**

The State Development Assessment Unit application process is as follows:



**Figure 1:** The State Development Assessment Unit application process

**FINANCIAL IMPLICATIONS**

Fees for applications for significant development which are lodged with and determined by the WAPC will be paid to and retained by the DPLH, not the local government. The fee payable for an application submitted through this process will be the same as the maximum fee (local government fee and DAP fee combined) charged for a development costing \$21.5 million or more lodged with a local government and determined by a Development Assessment Panel (DAP).

**LEGAL IMPLICATIONS**

The legislative provisions discussed in this report identify the role the City of Fremantle as a local government would play in the assessment and determination of development applications by the WAPC. The City has a legal entitlement to be given opportunity to make submissions on such an application, and the WAPC must give due regard to any submissions the City makes.

**CONSULTATION**

Consultation on applications for significant development submitted to the DPLH/WAPC is the responsibility of the State Development Assessment Unit not the local government.

If the draft policy recommended in this report is endorsed by Council, it will be advertised for public comment for not less than 21 days in accordance with the procedures set out in clause 4 of the deemed provisions in schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the City of Fremantle Local Planning Policy 1.3 Public Notification of Planning Proposals. Following advertising the policy will be reported back to Council for consideration for final adoption.

## **OFFICER COMMENT**

The new COVID-19 related special provisions in the *Planning and Development Act 2005* mean that an applicant seeking approval for a development costing \$20 million or more now has a choice of two pathways for assessment and determination of the application:

1. The pre-existing pathway of lodging the application with the local government for determination by a Development Assessment Panel, based on consideration of a Responsible Authority Report prepared by the local government.
2. The new option of submitting the application to the DPLH State Development Assessment Unit for determination by the WAPC, based on a report prepared by the State Development Assessment Unit.

There is a reasonable likelihood that one or more development proposals for sites in the City of Fremantle which will need to be dealt with through either of these pathways will be lodged in the next few months. The City already has well-established processes for dealing with applications to be determined by the relevant Development Assessment Panel, including arrangements to enable the Council's views in addition to City officers' advice (as contained in the Responsible Authority report) to be considered when the DAP determines the application. Officers believe it would be helpful for equivalent arrangements to be considered and adopted by Council to guide the City's input to applications being dealt with by the WAPC.

### Proposed process for City of Fremantle submissions on significant applications

Given the likely scale and significance of development proposals to be dealt with under the new WAPC approval arrangements, officers consider it would be appropriate for the Council to approve submissions to be made by the City of Fremantle on such applications.

It is proposed to facilitate this by officers preparing a report on the proposed development, including a recommendation on the City's comments for submission to the WAPC, for consideration by elected members. Unlike the process for applications to be determined by a DAP, where the Responsible Authority Report prepared by officers cannot be altered by a resolution of Council (although any different views adopted by the elected member body are communicated to the DAP along with the officer RAR), for applications to be determined by the WAPC the comments submitted by the City can be determined by the Council. Accordingly, the recommended submission comments provided by officers will be able to be amended or substantially changed by the Council if elected members consider changes are appropriate, and the resolution of the Council will constitute the City's submission.

It is recommended that significant applications should generally be reported to the Planning Committee for determination of the City's submission comments, under the Committee's delegated authority from Council to exercise all powers relating to development applications under the *Planning and Development Act 2005*. The legislation does not prescribe a time period for local government submissions, however discussions with DPLH officers suggest that the period allowed will be up to 42 days from notification of the application. In most instances this should enable officers to prepare reports in accordance with agenda cycles for the Planning Committee. On occasions when this cannot be achieved, it is proposed (as currently occurs with reports on DAP applications) to present the report to either the Strategic Planning and Transport Committee (which has the same delegated powers as the Planning Committee) or alternatively to the Council at an Ordinary Meeting of Council, depending upon which meeting cycle best corresponds to the deadline for making a submission to the WAPC.

Officers propose to adopt a slightly different report format for applications of this type compared to the format used for DAP applications or applications determined by the City. Because the City will not be responsible for community engagement or consultation with other agencies these matters will not be addressed. Also, in the case of residential development proposals, it is not proposed that City officers will undertake detailed assessments against all elements of the Residential Design Codes, given the time-consuming nature of such assessments and the fact it would duplicate assessments that State Development Assessment Unit officers would be expected to carry out (along with consideration of other relevant State Planning Policies) as part of their overall assessment and reporting to the WAPC.

It is proposed that City officer reports should focus on the following matters:

- Brief description of the proposal and site context/area character.
- Planning assessment against relevant provisions of the Local Planning Scheme and local planning policies, and any other key planning considerations in a local context (e.g. heritage, design quality, other relevant Council strategic objectives).
- Any comments on relevant design matters, including the architectural and urban design merit of the proposal as advised by the City's Design Advisory Committee, in relation to the LPS4 CABE Principles of Good Design, SPP7.0 The Design of the Built Environment and specific LPS4 provisions relating to exceptional design quality.
- An assessment of the economic benefit of the proposal for Fremantle including an assessment against the vision of Council's Economic Development Strategy 2015 2020, any COVID-19 Recovery Action Plan and/or other economic benefit.
- A recommendation on comments to be submitted to the WAPC based on the City's planning assessment, including an overall comment on whether the City supports approval of the application or considers it should be refused, identifying general reasons for the City's position including the general nature of any recommended conditions of approval but not exact wording of conditions.

In relation to the architectural merit of a proposal, although it is understood that the State Development Assessment Unit process will include referral of applications to the State Design Review Panel, noting some of the proposals may be located on sites subject to the Amendment 49 criteria relating to a well-considered response to context and character and high design quality it is recommended that Officers seek input from the City's Design Advisory Committee in preparing reports for consideration by Council.

A specific matter for Council to note is that the WAPC must give due regard to the purpose and intent of the local planning scheme but is not bound by all provisions of the scheme. On this basis it is open to the Council to consider whether it might wish to adopt a similar approach in making submissions on a development proposal which the Council believes has planning merit but doesn't fully comply with all scheme provisions.

Officers consider there may be some limited circumstances where a proposal departs from requirements or standards in the scheme, and the matter is not one which can be dealt with under existing discretionary variation provisions of the scheme (e.g. variations to site or development standards), but support for the proposal could still be justified and the Council might want to advise the WAPC accordingly. In the interests of orderly and proper planning, officers consider this discretion should be limited to situations where the departure from a scheme requirement is still generally consistent with the intent of the provision of the scheme being departed from, and is not treated as unlimited license to set aside requirements of any part of the scheme.

If officers consider some departure from scheme provisions may be justified, this will be identified and discussed in the planning assessment section of reports to the Planning Committee, following identification and discussion of the scheme provisions in question and how they relate to the proposed development.

### Community engagement

Although responsibility for consulting with the public on significant applications to be determined by the WAPC is the responsibility of the State Development Assessment Unit and not the local government, officers consider it would be appropriate for the City to take some steps to draw the local community's attention to the existence of a significant development application, and opportunities to make a submission to the WAPC. Based on information currently available from the DPLH, officers understand that a public comment section will be established on the Department's website for the community to view and provide feedback on applications that are open for consultation. There is no prescribed timeframe for public consultation however it is expected applications will be advertised for a minimum of 28 days. Applicants are also required to install a sign on the site, with an illustration of the proposed development, which will remain in place for the duration of the consultation period.

Other than the sign on site, it is not clear at this stage how the DPLH proposes to make the local community aware of the existence of an application. Consequently, officers propose that the City should use some of its own community engagement channels to make the community aware of applications and the process for making comments on them. Details of how best to do this are still being considered but are likely to include providing some information on the My Say Freeo web page with links to the DPLH website, and directly notifying neighbouring property owners/occupiers (unless confirmation can be obtained that the DPLH will do this). In any notification material provided by the City it will be important to explain that the City is not the planning authority assessing and determining this type of application, and that community members need to make any submissions directly to the State Development Assessment Unit.

## **VOTING AND OTHER SPECIAL REQUIREMENTS**

Simple majority required.

## **OFFICER'S RECOMMENDATION**

- 1. Council endorse the draft Local Planning Policy 1.11 – Planning and Development Act 2005, Part 17 Development Application Submissions, as shown below for the purposes of consultation in accordance with the procedures set out in clause 4 of the deemed provisions in schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 and the City of Fremantle Local Planning Policy 1.3 Public Notification of Planning Proposals.**

### **CITY OF FREMANTLE**

#### **LOCAL PLANNING POLICY 1.11**

#### **PLANNING AND DEVELOPMENT ACT 2005, PART 17 DEVELOPMENT APPLICATION SUBMISSIONS**

**ADOPTION DATE:        ??/??/2020**

**AUTHORITY:        LOCAL PLANNING SCHEME NO.4 and/or PLANNING AND  
DEVELOPMENT (LOCAL PLANNING SCHEMES) REGULATIONS 2015**

### **STATUTORY BACKGROUND**

**On 7 July 2020 the *Planning and Development Amendment Act 2020* received Royal Assent and on 8 July provisions in Part 2 of this Act**

commenced. These provisions are intended to provide an urgent response to the COVID-19 pandemic as it relates to planning and development.

The Government has introduced these provisions as part of its response to the COVID-19 pandemic. Under these provisions (contained in Part 17 of the *Planning and Development Act 2005*) applicants for development costing \$20 million or more (in the Perth metropolitan region) have the option of submitting their application to the State's Department of Planning, Lands and Heritage for determination by the Western Australian Planning Commission rather than the application being dealt with through the existing local government/Development Assessment Panel process. This arrangement will operate for a temporary period of 18 months from July 2020.

## **PURPOSE**

The purpose of this Policy is to outline the approach to be taken in preparing and determining the content of submissions by the City of Fremantle to be made to the Western Australian Planning Commission (WAPC) in response to any development application submitted to the Commission for determination in accordance with Part 17 of the *Planning and Development Act 2005*.

## **POLICY**

1. All applications will be reported to the Council, or a Standing Committee of Council with delegated authority in relation to development applications, for consideration. Precedence will be given to reporting applications to the Planning Committee so long as this will enable the deadline for providing a submission to the WAPC to be met.
2. A report for Council's consideration will be prepared by City planning officers and will include the following information:
  - a) brief description of the proposal and site context/area character.
  - b) A planning assessment against relevant provisions of the Local Planning Scheme No. 4 (LPS4) and local planning policies, and any other key planning considerations in a local context (e.g. heritage, design quality, other relevant Council strategic objectives).
  - c) A comment on relevant design matters, including the architectural merit of the proposal as advised by the City's Design Advisory Committee, in relation to the LPS4 CABE Principles of Good Design, SPP7.0 The Design of the Built Environment and specific LPS4 provisions relating to exceptional design quality.
  - d) An assessment of the economic benefit of the proposal for Fremantle including an assessment against the vision of Council's

**Economic Development Strategy 2015-2020, any COVID-19 Recovery Action Plan and/or other economic benefit.**

- e) In circumstances where a proposal departs from requirements or standards in the local planning scheme, and the matter is not one which can be dealt with under existing discretionary variation provisions of the scheme (e.g. variations to site or development standards) but in the professional opinion of officers support for the proposal could still be justified, the report will identify the grounds on which discretion might be exercised to support the proposal. In the interests of orderly and proper planning, this discretion should be limited to situations where the departure from a scheme requirement is still generally consistent with the intent of the provision of the scheme being departed from, and is not treated as unlimited license to set aside requirements of any part of the scheme.
  - f) A recommendation including an overall comment on whether the City supports approval of the application or considers it should be refused, identifying general reasons for the City's position including the general nature of any recommended conditions of approval but not exact wording of conditions.
3. The resolution of the Council after consideration of the report presented by officers will constitute the City's submission to the WAPC.
2. The draft local planning policy in recommendation (1) above shall be used as interim guidance by the City of Fremantle in the event that a development application made under Part 17 of the *Planning and Development Act 2005* is submitted in relation to a location within the City prior to final adoption of the local planning policy by Council.

**PC2009 - 12 INFORMATION REPORT – SEPTEMBER 2020**

**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>   |
| DAP003/20   |
| <b>Site Address and Proposal</b>  |
| 84 Collick Street, Hilton– Two Storey development including Ten Multiple Dwellings (Aged and Dependent Persons Dwellings) and Hospital (Residential Aged Care - High Care Facility)   |
| <b>Planning Committee Consideration/Decision</b>  |
| <ul style="list-style-type: none"> <li>At its meeting held on 5 August 2020, the Council resolved to support the officer’s recommendation to approve the application subject to relevant conditions.</li> </ul>   |
| <b>Current Status</b>   |
| <ul style="list-style-type: none"> <li>At its meeting held on 14 August 2020, the Metro Inner-South Joint Development Assessment Panel approved the application in accordance with the officer recommendation with some minor alterations to a number of the conditions.</li> </ul> |

**OFFICER'S RECOMMENDATION**

**Council receive the following information reports for September 2020:**

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

### **10.3 Council decision**

Nil

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

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

### **12. Urgent business**

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

### **13. Late items**

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

### **14. Confidential business**

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

### **15. Closure**