Minutes

Planning Committee

Wednesday, 13 January 2021, 6.00pm

City of Fremantle

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PLANNING COMMITTEE

Minutes of the Planning Committee Meeting
held in the North Fremantle Community Hall
on **Wednesday, 13 January 2021** at 6.00 pm.

1. Official opening, welcome and acknowledgement

The Presiding Member declared the meeting open at 6.00 pm.

2.1. Attendance

Dr Brad Pettitt	Mayor
Cr Bryn Jones	Presiding Member/North Ward
Cr Geoff Graham	Deputy Presiding Member/Beaconsfield Ward
Cr Andrew Sullivan	Deputy Mayor/South Ward
Cr Jenny Archibald	East Ward
Cr Rachel Pemberton	City Ward – Arrived 6.06pm
Cr Frank Mofflin	Hilton Ward
Cr Sam Wainwright	Hilton Ward *(observing)*
Mr Paul Garbett	Director Strategic Planning and Projects
Ms Julia Kingsbury	Manager Development Approvals
Ms Kayla Goodchild	Meeting Support Officer

There were approximately 54 members of the public in attendance.

2.2. Apologies

Cr Su Groome

2.3. Leave of absence

Nil

3. Disclosures of interests

Cr Frank Mofflin declared a financial interest in item number PC2101-8. Cr Mofflin holds shares in BP company branded on service station.

4. Responses to previous questions taken on notice

Nil

5. Public question time

The following members of the public spoke in favour of the Officer's Recommendation for item PC2101-1:
Harvey Smith
Lucie Norman

The following members of the public spoke in favour of the Officer's Recommendation for item PC2101-2:
Michael Jorgensen
Paul Kotsoglo

The following members of the public spoke against the Officer's Recommendation for item PC2101-2:
Thomas Daubney
Ian Calvert
Deborah Calvert
Susan Foster
Ian McKay
Cameron Mead
Silvia Miller
Linda Delaney
Felicity Newman
Zenna Sparkes-Santos
Maud Martin
Ben Lawver
Emily Lapinski
Amanda Hodgson
Joanne Pearson

The following members of the public spoke in favour of the Officer's Recommendation for item PC2101-3:
Anne-Marie Marias
Ashely Davidson

The following members of the public spoke in favour of the Officer's Recommendation for item PC2101-4:
Kyle Hammond
Gianni Da Rui

The following member of the public spoke in favour of the Officer's Recommendation for item PC2101-6:
Roger Joyner

6. Petitions

A copy of a Petition including 2038 Signatures addressed to the Carcione Group from Hilton community members in regard to PC2101-2 was presented to the Planning Committee by Cr Frank Mofflin. The Petition makes a request to the Carcione Group to meet and consult with the Hilton community before moving forward with their proposed Supermarket Development at 285 and 297 South Street, Hilton. The Petition is noted by the Planning Committee.

7. Deputations

7.1 Special deputations

Nil

7.2 Presentations

Nil

8. Confirmation of minutes

COMMITTEE DECISION
(Officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Geoff Graham

The Planning Committee confirm the minutes of the Planning Committee meeting dated 2 December 2020

Carried: 6/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Frank Mofflin

9. Elected member communication

Nil

10. Reports and recommendations

10.1 Deferred Items

Cr Rachel Pemberton arrived at 6.06pm prior to consideration of the following item.

PC2101 - 1 KNUTSFORD STREET, NO. 6 (STRATA LOT 2) FREMANTLE - TWO STOREY SINGLE HOUSE (TG DA0180/20)

Meeting Date:	13 January 2021
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Committee
Agenda attachments:	1. Amended Development Plans
Additional information:	1. OCM Minutes from 28 October 2020 and Attachments

SUMMARY

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

At its meeting on 28 October 2020, Council resolved to refer the item to the next appropriate Planning Committee meeting (with delegated authority to determine the application) to allow the applicant to amend the plans to address the Planning Committee's concerns in relation to the amenity impacts resulting from the eastern boundary setback variations, overlooking to the north from the first floor balcony and the detailing of the front elevation, and request staff to endeavour to facilitate face to face discussions between the applicant and neighbours regarding amendments to the plans.

In response to the Council's referral, officers facilitated a face to face discussion between the applicant and neighbours on 13 November 2020. Subsequent to this meeting, the applicant submitted amended plans on 10 December 2020. The following report provides details of the proposed amendments, comments from consultation with the eastern neighbour and an updated assessment against the Local Planning Scheme 4, R-Code and Council Policy requirements.

In the view of officers, the proposed amendments adequately respond to the Council's concerns, or can be addressed via conditions, therefore the amended proposal is recommended for approval. Should the Council not be satisfied that the proposed amendments have addressed their concerns an updated suggested motion for refusal has been included in the officer comment.

The application as amended is recommended for conditional approval.

PROPOSAL

Detail

At its meeting on 28 October 2020, the Council referred the item to the next appropriate Planning Committee meeting to allow the applicant a final opportunity to amend the proposal to address the following concerns relating to:

- Amenity impacts resulting from the eastern boundary setback variations.
- Overlooking to the north from the first floor balcony.

- The detailing of the front elevation.

The Council also requested staff endeavour to facilitate a meeting between the applicant and neighbours to discuss the proposal.

On 13 November 2020, officers facilitated a meeting between the applicant (Architect), the landowners, the applicant's Town Planning representative, and the neighbouring landowner of 8 Knutsford Street and a representative on behalf of the same neighbours to discuss potential amendments to be made to the proposal. The meeting was informal, with the parties provided with an opportunity to explain how they view the proposal and its potential opportunities, constraints and potential impacts. The applicant had prepared a number of potential amendments to the plans that were discussed without prejudice in an attempt to resolve the Council and neighbours' concerns. At the conclusion of the meeting, officers invited the applicant to submit a final set of plans, including all final amendments they would be willing to make for Planning Committee's final consideration.

On 10 December 2020, the applicant submitted amended plans, including amendments to the eastern boundary setback and subsequent design modifications and the screening of the upper floor north facing balcony. A detailed list of the amendments is as follows (detailed by plan number):

Ground Floor Plan

- Eastern boundary wall reduced in length from 11.2m to 9m.
- Overall width of garage frontage reduced from 6.8m to 6.5m.
- Eastern setback of the first 1.7m of the garage increased to 1.13m.
- Eastern setback of the kitchen increased from 1.1m to 1.5m.
- The addition of a ventilation grille and high level window to the eastern elevation of the garage.

Upper Floor Plan

- Eastern setback of front verandah increased from 0.6m to 0.9m.
- Eastern setback of master bedroom increased from nil to 0.83m.
- Width of street facing door/window from master suite reduced from 7.8m to 5.2m.
- The number of west facing windows from master suite is reduced from two windows to one high level bathroom window only.

Site Plan, Roof Plan, Street (South), East, West and North Elevations

These plans have been updated to illustrate:

- The addition of 1.6m high horizontal louvred screen to the northern elevation of the upper level north facing balcony.
- The new building envelope (including changes to eastern setbacks)
- The changes to the length and heights of eastern boundary walls
- The modifications (deletion and addition) of openings to the elevations

In written support of the amended plans the applicant submitted the following comments:

- The garage store is of immense value to the owners and will allow bins to be stored inside the garage and not within the eastern setback area.

- The R-Codes contemplate a 9m boundary wall construction and the proposed boundary wall is sufficiently set back from the street and behind a gate to reduce its visibility from the street so that separation between the dwellings can be read.
- The eave overhang is designed to reduce heat load on the eastern wall of the property.
- The garage door will be a panel lift door, however a specific material has not been selected at this stage. It is proposed to provide the details of all finishes in accordance with Officers condition of approval.
- Further amendments may compromise the design and its integrity.

Amended 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 and Community

The City's Heritage Officers have reviewed the amended plans and have confirmed that the amendments do not affect their previous heritage advice in support of the proposal. They have also confirmed that they did not consider the amendments to be of a degree significant enough to necessitate referral of the application back to the DPLH Heritage Team for consideration.

The adjoining landowner of No. 8 Knutsford Street was provided a copy of the amended plans dated 10 December 2020 and provided the following response raising concerns with the amended plans (summarised):

- The length of the wall on the eastern boundary eats away at the separation between the houses that has been gained through the amendments to date.
- The proposed eaves (0.75m) are wider than normal and reduce sunlight between the dwellings and into western rooms of their home.
- The east facing ensuite window is marked to be obscured to 1.5m high but will this window be fixed or louvred.
- The plans still indicate removal of the current boundary limestone wall. The neighbour would like the plans to demonstrate the replacement of the side fence behind their gate to maintain security and safety for children/pets.
- Concerns in relation to fire separation between properties due to the introduction of the window into the garage wall and the inclusion of a vent in the garage storeroom adjacent to the parapet.
- Will bins be stored adjacent to the vent?
- The applicant has still not confirmed the external finishes of the banded blockwork.
- The gatehouse roof projects into the street.

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

- The revised setbacks and proposed finishes are discussed in the Officer Comment below.
- The applicant has advised that the eave overhang is important for reducing heat load on the eastern wall of the property. The depth of the eave is not considered to have a significant impact on the eastern property by way of access to light and ventilation.
- Dividing fences, particularly the erection of temporary fences during construction works, is a common issue that arises between neighbours. Any requirement to remove and/or erect a dividing fence is subject to a civil agreement between the relevant parties.
- The applicant will be required to obtain a building permit before any construction work can commence on site. This permit process will ensure the dwelling complies with relevant requirements of the Building Code of Australia including fire separation. There may be alternative options to comply with these requirements, therefore the proposed eastern setback of the garage is being considered for the purposes of this application in accordance with the requirements of the R-Codes and Council Policy.
- The applicant has advised that the ‘store’ area in the garage is proposed to house rubbish bins for the dwelling. It is noted that there is no specific requirement for bin storage other than being contained on site.
- A condition of approval requires the dwelling to be contained wholly within the boundaries of the subject site, including the proposed gatehouse.

OFFICER COMMENT

Statutory and policy assessment

The amended plans have been compared to the development plans considered by the Council at its meeting held on 28 October 2020.

The table below attempts to detail aspects of the proposal's compliance with the key requirements of the R-Codes with the latest amendments highlighted.

Element	Previous Plans	Current Proposal
Building height (external wall)	Atrium roof structure – 8.4m Wall height (east) – 7.1m	Unchanged
Primary street setback	Ground floor – 0.8-1.5m Upper floor – 2.6-3.5m	Unchanged
Boundary wall (east and west)	*East* Length – 11.1m (5.5m long upper floor portion) Height – 5m *West* Unchanged	*East* **Length – 9m** **Height – 2.1m** *West* Unchanged
Lot boundary setback (east, west and north)	*Kitchen (GF East)* 1.1m *Garage nib (GF East)* 0.8m *Verandah (UF East)* 0.7m *WIR/Master Bedroom (UF East)* *Nil* *Ensuite/Bed 2 (UF East)* *1.5m* *Living-Atrium (GF West)* 1m *Void-Verandah (UF West)* 1.1m	***Kitchen (GF East)*** **1.5m** *Garage nib (GF East)* Portion remains at 0.8m, **remainder set back to 1.1m** *Verandah (UF East)* **0.83m** *WIR/Master Bedroom (UF East)* ***0.83m*** *Ensuite/Bed 2 (UF East)* *Unchanged* *Living-Atrium (GF West)* Unchanged *Void-Verandah (UF West)* Unchanged
Open space	41.2%	**42.9%**
Vehicle sightlines	East – 1x1.5m West – 1.2x1.5m	Unchanged
Site works and retaining walls	Western boundary – 0.9m	Unchanged

Visual privacy (north, east)	*Front verandah (W)* 2.5m setback *Rear balcony (NE)* 3.5m setback *Atrium/Living (W)* 2.1m setback	*Front verandah (W)* Unchanged *Rear balcony (NE)* **Screening added to balcony to 1.6m high.** *Atrium/Living* Unchanged

With the exception of the screening addition of the 1.6m high horizontal screening to the northern elevation of the upper floor balcony, the proposed amendments do not alter the discretionary assessment for building height, setbacks, open space, vehicle sightlines, site works and visual privacy as detailed in the original officers assessment which can be viewed in Attachment 1 of the Additional Information. The screening addition to the upper floor balcony satisfies the deemed to comply requirements for visual privacy from the balcony to the northern neighbour.

Although the proposed amendments do not satisfy the deemed to comply requirements of the R-Codes, specifically relating to the eastern boundary setbacks, in the view of officers these amendments are considered to address the Council's concerns in relation to the amenity impacts on the eastern neighbour. The reduction in the length of the ground floor boundary wall and the introduction of a setback to the upper floor, removing the previously proposed two storey boundary wall, is considered to further minimise the visual bulk and sense of confinement impacts on the eastern neighbour and the streetscape.

With respect to the detailing of the proposed materials and finishes of the development including specifically the proposed garage door, it is noted that the applicant has not provided these elements and requests that they be finalised as a part of a building permit submission for the development. It is noted that it is a recommended condition of planning approval that the final details be confirmed to the satisfaction of the City of Fremantle, on the advice of the DPLH Heritage team.

If the Planning Committee is not satisfied that the amended plans satisfy their concerns an amended motion for refusal is provided as follows:

> REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two storey Single house at No. 6 (Strata Lot 2) Knutsford Street, Fremantle, as detailed on plans dated 10 December 2020, for the following reasons:
>
> 1. The boundary wall to the eastern boundary does not satisfy the discretionary criteria of Local Planning Policy 2.4 and the design principles of State Planning Policy 7.3 (Residential Design Codes of WA) as the boundary wall will result in undue building bulk and adverse access to light and ventilation impacts onto the neighbouring property.

2. The design of the front elevation, in particular the width, proportions and materials of the garage door and the limited setback of the garage from the street boundary, has a detrimental impact on the streetscape character of the part of the Ord Street Precinct Heritage Area within which the site is located, having regard to matters to be considered under clauses 67(l) and (n) of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.

CONCLUSION

Given the above, it is considered that the proposed amendments, particularly the introduction of screening and the increase in the eastern setbacks, adequately address the amenity impacts concerns raised by the Council in respect to the eastern and northern neighbours. Although final details of the front elevation have not been provided, the width of the garage has been further reduced and a condition requiring the submission of final details of the proposed materials, colours and finishes is considered suitable in this instance. As such, the development as amended is recommended for approval, subject to the conditions listed in the officer recommendation.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2101-1
(Officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Andrew Sullivan

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two storey Single house 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 10 December 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 and eaves, 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 including the garage door, 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, 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:

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

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

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,**
- **painted 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:

a) Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.
b) Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.
c) Roof insulation in accordance with the requirements of the Building Codes of Australia.

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

Advice Note(s):

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

ii) Fire separation for the proposed building works must comply with Part 3.7.1 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

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 or 9432 9999.

Carried: 7/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

10.2 Committee delegation

PC2101 - 4 ADELAIDE STREET, NO.28 (LOT 3), FREMANTLE – PROPOSED ALTERATIONS AND ADDITIONS TO EXISTING BUILDING (CS)

Meeting Date: 13 January 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Planning Committee
Agenda attachments:
1. Amended Development Plans

Additional information:
1. Site Photos
2. Applicants Heritage Impact Statement
3. Officers Heritage Assessment and photos

SUMMARY

Approval is sought for alterations and additions to the existing commercial building at 28 Adelaide Street, Fremantle for Shop and Office uses.

The proposal is referred to the Planning Committee (PC) due to the nature of the proposed works and the potential impact the works may have on the cultural heritage significance of the building.

The application is recommended for approval, subject to conditions to ensure the proposed works will not significantly impact on the original fabric of the building and its cultural heritage significance.

PROPOSAL

Detail

Approval is sought for alterations and additions to an existing heritage listed commercial premises at No.28 Adelaide Street, Fremantle. The proposed works include:

- Demolition of the existing rear extension;
- Construction of a two-storey rear extension including rear balcony;
- Repair of front façade, including removal of existing paint, removal of cement render (if present) and repair of lime render. The face brick will be repointed based on evidence of any original tuck pointing.
- Repair of the awning, including removal of paint and conservation of existing pressed tin and other decorative finishes before re-painting.
- New frameless ground floor shopfronts.
- New timber framed windows on the first floor of the Adelaide Street façade.
- Repair of ROW (western) façade, and creation of new window openings on ground and first floor;
- Roofing, gutters, flashing and downpipes to be replaced;
- Removal of existing internal partitions and walls to create open plan areas;
- Existing timber staircase to be partially dissembled and repositioned to create new staircase;
- Existing internal pressed tin ceilings to be restored and retained.

On 20 August 2020 the applicant submitted amended plans revising the proposal from a single storey rear addition to a two storey addition, including other internal modifications.

Following an assessment of the amended plans, the applicant submitted further amended plans in response to the City's heritage and planning comments. The final set of amended plans dated 16 November 2020 are the subject of this report.

The first floor is proposed to be used for Office space however, the applicant hasn't specifically stated the proposed use of the ground floor extension therefore an assessment has been carried out on the basis of an extension of the existing ground level Shop use.

Revised Development plans are included as attachment 1.

Site/application information

Date received:	14 July 2020
Owner name:	Silverleaf Investments Pty Ltd
Submitted by:	Meyer Shircore Architects
Scheme:	City Centre Zone
Heritage listing:	Individually Listed Category Level 1B
Existing land use:	Office/Shop (partly vacant)
Use class:	Office and Shop
Use permissibility:	'P' and 'P'

CONSULTATION

External referrals

Heritage Service (DPLH)
The application was referred to Heritage Services as the subject site is located opposite St John's Anglican Church which is State Registered Place. Heritage Services have advised that the proposal does not significantly impact on the identified cultural significance of St John's Anglican Church, Fremantle.

Fremantle Ports (FPA)
The site is located within the FPA Buffer Area 2, however the use is not a sensitive or residential use as per Local Planning Policy 2.3, therefore referral to the FPA is not required in this instance. Notwithstanding this, LPP2.3 requires the following design and construction features to be incorporated into any new or substantially altered development:

a) *Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.*
b) *Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.*
c) *Roof insulation in accordance with the requirements of the Building Codes of Australia.*

It is recommended that any approval be conditioned to comply with these requirements, with details of the construction features, including details to minimise the impact on any original heritage fabric, be submitted for approval prior to the issue of a Building Permit.

Community
The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015. The advertising period concluded on 28 October 2020, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment
The proposal has been assessed against the relevant provisions of LPS4, and relevant Council local planning policies. Relevant matters are discussed below.

Background
The subject site is located on the western side of Adelaide Street. The site has a land area of approximately 526m² and is currently occupied by a Heritage Listed commercial building, containing a Shop (newsagents) and vacant tenancy on the ground floor and vacant shop/office areas on the first floor. The site is zoned City Centre. The site is individually heritage listed Level 1B and located opposite a State Heritage Listed building (St John's Anglican Church),but is not located within a Heritage Area.

The existing building is a two storey commercial building, with awning with a modern single storey addition to the rear. Vehicle access is provided along a shared private ROW to the southern side of the property, with existing parking at the rear. The property has also had various internal and external minor alterations in addition to the rear extension.

Land Use
It is proposed to use the first floor level for Office use. The applicant hasn't specifically stated the proposed use of the ground floor extension therefore an assessment has been carried out on the basis of an extension of the existing ground level Shop use.

Local Planning Policy 1.7 Development Exempt from Approval under LPS4, currently exempts the following land uses in the City Centre Zone:

- Shop
- Office
- Consulting Room
- Child care premises
- Health Studio
- Medical Centre
- Restaurant (exemption applies to this site)
- Small Bar (exemption applies to this site)

As such, the proposed extension of the existing Shop and Office land uses are considered appropriate for this site and its location noting the uses will contribute to main objective of the City Centre zone to provide for a full range of shopping, office, administrative, social, recreation, entertainment and community services, consistent with the region-serving role of the centre.

It is noted that any subsequent fit-out for the ground floor level or alterations to the proposed fit-out for the first floor will be subject to a separate application for approval as the place is contained on the City's Heritage List.

Built Form
The subject site is located within Local Planning Area 1 – City Centre of the City's Local Planning Scheme No.4. Building height in this area is limited to a minimum of two storeys and maximum of four storeys, with a maximum wall height of 14m.

The existing building is two storeys, with the proposed rear extension also two storeys, to a maximum height of 10.7m. As such, the proposal complies with the permitted height of the Scheme.

There is no specific setback requirement from the rear or side boundaries, however regard for the potential impact on the amenity of adjoining residents (specially the adjoining Woodsons Apartments) should be considered. The single storey element at the western end proposes a nil boundary setback to the rear and side (north), with a 49m² balcony area above. The upper floor is setback 6m from the rear lot boundary, and the residential building to the rear.

Although the subject building is proposed to be used for Shop and Office uses, the proposed balcony, which provides a break out space adjacent to the first floor kitchenette, may adversely impact on the amenity of adjoining residential apartments by way of overlooking. Although it appears that the finished floor level of the balcony will be located below the top of the boundary wall of the adjoining property it is recommended that the balcony be setback a minimum of 1.5m from the rear boundary, to provide a separation of approximately 3m, and screening to prevent any direct overlooking. A condition requiring these alterations is included in the officers' recommendation.

Subject to the recommended alterations to the proposed balcony, the proposed additions are considered appropriate having regard for the Scheme requirements and its surrounding context.

Heritage
The property is included on the City's Heritage List (Level 1B) and is considered to be of exceptional cultural heritage significance in its own right within the context of Fremantle and its conservation is required. The City has recommended that this place be considered for entry in the Heritage Council of Western Australia's Register of Heritage Places.

The area of Adelaide Street is one of the earliest streets of Fremantle, appearing in the 1833 survey. The site of 28 Adelaide Street first showed a dwelling on the site in 1880. The construction date of the existing building is somewhere between 1889 to 1899.

Since its construction, one of the two original timber staircases has been removed, the original shopfronts removed, and a suspended ceiling added to the ground floor. In the 1980's, the outbuildings to the rear were removed and the existing rear additions constructed.

The building is a two storey rendered and parapeted roofed building divided into two bays with decorative stucco frieze between engaged pilasters. The construction is brick with a painted tuck pointed brick and render façade. The ground floor windows and awnings are not original. The upper floor windows are timber with rounded headed architraves of major windows flanked by minor windows. The windows on the southern part of the facade are authentic timber windows with the sashes to the northern windows being replacement aluminium. The original sections of the building are large rectangular plan spaces with a pressed tin metal ceiling, and suspended timber floor. The southern shop retains a timber staircase that was previously accessible from the rear of the building until the construction of the 1980's addition. The timber staircase in the northern shop was previously removed (date unknown).

<u>Heritage Impact of proposed works</u>

In support of the proposed works, the applicant submitted a Heritage Impact Statement prepared by Griffiths Architects which concludes that the works proposed are simple and will have a significant positive impact on the appearance and utility of the place and improve its marketability. Its improvement in the manner indicated will also have a positive impact on King Square and other buildings in the Adelaide Street streetscape.

Item	Description	Support/not supported
Rear addition	Demolition of existing later addition and construction of two storey rear addition, including balcony area.	These works are supported
Adelaide St Awning	The awning structure and stays will be retained. The roof, box gutter, fascias and soffit will be reclad. Although the present soffit is lined with pressed metal, it is clear that this is a replacement treatment. Roofing and downpipes will be replaced	These works are supported
Shopfronts	The present aluminium framed shopfronts are replaced with frameless glass shopfronts together with a new door to provide direct access from Adelaide Street to the first floor.	Not supported. See comment below.
Main Roof	Roofing is to be replaced along with gutters, flashings and downpipes	These works are supported
Adelaide Street façade	Paint will carefully be removed, and the underlying fabric conserved. The windows will be removed and replaced with new timber windows to match the original detail. The existing west windows will be used as a template. Bars will be removed.	These works are supported
Internal Partitions	All internal partitions are late additions and are to be removed, and fabric to which they are attached made good.	These works are supported
West Wall	To improve natural lighting, it is proposed to make a series of new windows along the right of way, in both the historic walls at both levels and the later additions	These works are supported.
Dividing Walls	The building comprises two premises at present. The proposal is to make a number of openings at both levels and in the historic part. Piers are to be retained as is normal practice. New openings are to be supported with steel portals. These works will allow the walls to be read in the floors and the brickwork carried over the portals. It will also allow the ceiling to remain undisturbed.	These works are supported.
Existing timber staircase	The timber staircase is currently buried at the back of the building and it is proposed to dissemble the bottom section, re-configure it to create a staircase out through a new opening in the wall onto the ROW	Not supported. See comments below.

Pressed Metal Ceilings	The existing pressed metal ceiling and cornices will be revealed, retained and conserved. There are some minor repairs to complete	These works are supported.

Generally, the proposed works are supported and the investment to conserve and reactivate the existing building, particularly given its location opposite to Kings Square, is welcomed. Given the cultural heritage significance of the building, having the highest level of local significance, the proposed works, and their impact on the original fabric of the building, needs to be carefully considered.

The external alterations to the original building, including the works to conserve the front and side facades is consistent with good heritage practices, including the proposed methodology to remove existing finishes and repair the original fabric based on investigations and relevant evidence. These works will have a positive impact on the heritage significance of the building.

The existing shopfronts are later additions and are not of any significance. Although there is no objection to the shopfronts being replaced, the design of any new shopfront should be a contemporary interpretation of the original or a typical early shop front which includes a recessed entry, fine metal framing and a low, solid upstand to the base of the large shop front windows. The proposed frameless shopfronts are inconsistent with these requirements.

The existing timber staircase was originally proposed to be removed, however in the latest set of amended plans the ground floor section of stair is proposed to be dismantled and reconstructed in a new position adjacent to the side wall of the new ground floor addition to the rear of the existing building. The applicant proposes to relocate the stair to reduce its impact on the usability of the ground floor.

The existing timber staircase, constructed in a 'L' position (as viewed in plan) is an original part of the heritage listed building and the only surviving staircase following the removal of a similar staircase on the opposite side of the building at some unknown stage. The stair is a finely crafted piece of carpentry with turned hardwood newel posts and balusters and substantial moulded timber handrails. The stair is intact and in very good condition.

The Burra Charter, 2013, regarded as the nationally accepted standard for heritage conservation practice in Australia, makes the following comment on relocation of significant building fabric:

> "*9.1 The physical location of a place is part of its cultural significance. A building, work or other element of a place should remain in its historical location. Relocation is generally unacceptable unless this is the sole practical means of ensuring its survival."*

Dismantling and modifying this staircase to suit a new location with concrete floors and a new configuration with a straight run rather than an 'L' shape will result in considerable change to the stair which will result in the loss of original fabric and the reduction of its heritage value. Removing the stair from its original location to the new section of the building will remove it from its historic context and will reduce the value of the stair as well as the value of the heritage listed building. Retaining the stair in its original location is the preferred option as it retains the heritage value of the place, interprets the history and original use of the building and allows for the possibility that its use could be reinstated sometime in the future.

Having regard for the above, although the proposed work to conserve the building and provide for additional Shop and Office uses is supported, the staircase alterations are considered to significantly affect the heritage significance of the building and this component of the proposal is not supported.

Based on the retention and conservation of the existing stair the proposed shopfront alterations could be supported as the existing shopfronts are not original and are likely to be altered further in the future at which time a more contemporary interpretation could be considered. It is recommended that any approval be conditioned to require the retention of the existing staircase in its current location and configuration.

CONCLUSION

The proposed additions and alterations are generally supported in accordance with relevant requirements.

The existing timber staircase which dates back to the construction of the building in the 1890's is in very good condition and the proposal to dismantle and reconfigure part of the stair is considered to have a significant detrimental impact on the significance of the building which has been identified as being of exceptional cultural heritage significance in its own right within the context of Fremantle. Therefore, on balance, the officer recommendation is to recommend approval of the proposal with the addition of a condition to ensure that the staircase remain in-situ, and unaltered, with the shopfronts accepted in the current design as a compromise.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

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

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones **Seconded: Cr Andrew Sullivan**

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions and Alterations to existing building at No. 28 (Lot 3) Adelaide Street, Fremantle, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans, dated 16 November 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. Notwithstanding condition 1, the proposal to dismantle and reposition the existing timber staircase does not form part of this approval. Prior to the issue of a Building Permit, plans are to be submitted illustrating the retention of the fabric, location and configuration of the existing timber staircase, to the satisfaction of the City of Fremantle.

3. Prior to the issue of a Building Permit, the balcony addition at the rear of the building is to be setback a minimum of 1.5m from the rear boundary and the north-west elevation of the balcony is to be screened with a permanently fixed screen to a minimum height of 1.8m above the finished floor level of the balcony and a minimum of 75% obscure. Prior to occupation of the development hereby approved, the approved screen is to be provided and maintained to the satisfaction of the City of Fremantle

4. Prior to the issue of a Building Permit, final details of the proposed conservation methodology for the repair and conservation of the front and side elevations of the building are to be submitted and approved to the satisfaction of the City of Fremantle.

5. Prior to the issue of a building permit for the development hereby approved, storm water disposal plans, details and calculations must be submitted for approval by the City of Fremantle and thereafter implemented, constructed and maintained to the satisfaction of the City of Fremantle.

6. 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:

a) Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or “double glazed” utilising laminated or toughened safety glass of a minimum thickness of 3mm.
b) Air conditioners shall provide internal centrally located ‘shut down’ points and associated procedures for emergency use.
c) Roof insulation in accordance with the requirements of the Building Codes of Australia.

Advice Note(s):

i) The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.

ii) 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.

iii) The applicant is advised that any signage may be subject to a separate application for planning approval.

AMENDMENT

Moved: Cr Geoff Graham **Seconded: Cr Andrew Sullivan**

Delete Condition 2, which reads as follows:

2. Notwithstanding condition 1, the proposal to dismantle and reposition the existing timber staircase does not form part of this approval. Prior to the issue of a Building Permit, plans are to be submitted illustrating the retention of the fabric, location and configuration of the existing timber staircase, to the satisfaction of the City of Fremantle.

And renumber remaining conditions.

Add the following condition 6, which reads as follows:

6. Prior to the issue of a Building Permit, final details of the proposed alterations to the staircase, including the methodology proposed to dismantle the lower section and details of any new materials and fixtures required to straighten the form of the stair, be submitted and approved to the satisfaction of the City of Fremantle.

Amendment carried: 7/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

COMMITTEE DECISION ITEM PC2101 4
(Amended officer's recommendation)

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions and Alterations to existing building at No. 28 (Lot 3) Adelaide Street, Fremantle, subject to the following conditions:

1. **This approval relates only to the development as indicated on the approved plans, dated 16 November 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 issue of a Building Permit, the balcony addition at the rear of the building is to be setback a minimum of 1.5m from the rear boundary and the north-west elevation of the balcony is to be screened with a permanently fixed screen to a minimum height of 1.8m above the finished floor level of the balcony and a minimum of 75% obscure. Prior to occupation of the development hereby approved, the approved screen is to be provided and maintained to the satisfaction of the City of Fremantle**

3. **Prior to the issue of a Building Permit, final details of the proposed conservation methodology for the repair and conservation of the front and side elevations of the building are to be submitted and approved to the satisfaction of the City of Fremantle.**

4. **Prior to the issue of a building permit for the development hereby approved, storm water disposal plans, details and calculations must be submitted for approval by the City of Fremantle and thereafter implemented, constructed and maintained to the satisfaction of the City of Fremantle.**

5. **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:**
   a) **Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or "double glazed" utilising laminated or toughened safety glass of a minimum thickness of 3mm.**
   b) **Air conditioners shall provide internal centrally located 'shut down' points and associated procedures for emergency use.**
   c) **Roof insulation in accordance with the requirements of the Building Codes of Australia.**

6. ***Prior to the issue of a Building Permit, final details of the proposed alterations to the staircase, including the methodology proposed to dismantle the lower section and details of any new materials and fixtures required to straighten the form of the stair, be submitted and approved to the satisfaction of the City of Fremantle.***

Advice Note(s):

i) The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of the subject site including any footing details of the development.

ii) 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.

iii) The applicant is advised that any signage may be subject to a separate application for planning approval.

Carried: 7/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

PC2101 - 6 FULLSTON WAY, NO.8 (LOT 85), BEACONSFIELD - TWO STOREY SINGLE HOUSE (JL DA0477/20)

Meeting Date: 13 January 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended Development Plans
Additional information: 1. Site Photos

SUMMARY

Approval is sought for a two storey Single house at 8 Fullston Way, Beaconsfield.

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

- **Primary Street setback**
- **Boundary walls (north and south)**
- **Lot boundary setback (north)**
- **Garage width**
- **Visual privacy (north)**
- **Overshadowing**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a two storey dwelling to an existing vacant lot at 8 Fullston Way, Beaconsfield. The proposed works include:

- Ground floor
  - Double garage.
  - Study.
  - Laundry and powder room.
  - Combined Kitchen, Lounge and Dining Room.
  - Rear outdoor living area
- Upper floor
  - Three bedrooms with ensuites.
  - Balcony

The applicant submitted amended plans on 13 November 2020 including the following:

- Increasing the primary street setback of the dwelling to align with the adjoining properties.
- Clarifying the extent of the proposed bin store.

Amended development plans are included as attachment 1.

Site/application information

Date received:	30 October 2020
Owner name:	R and G V Joyner
Submitted by:	Passivhaus Perth Pty Ltd
Scheme:	Residential R40
Heritage listing:	South Fremantle Heritage Area
Existing land use:	Vacant site
Use class:	Single house
Use permissibility:	P

CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the development sought to vary relevant statutory requirements applicable to the development. The advertising period concluded on 2 December 2020, and one (1) submission was received. The following issues were raised (summarised):

- The submitter was concerned with respect to the shade cast by the development over the adjoining property to the north in their bathroom and toilet, with these rooms becoming darker during the day. The submitter was also concerned with respect to the potential limited outlook from these rooms.

- The submitter was concerned with respect to the two storey boundary wall to the southern boundary and the potential impact it would have on sunlight and heat access in their central courtyard in winter. The submitter requested that consideration be given to setting back the upper floor portion of the building 1.5m or more from the southern boundary so that sunlight and ventilation access could be provided. The submitter was concerned that their courtyard would be blocked in with the majority of breezes to this courtyard being limited by surrounding construction.
- Concerns were raised in relation to the windows for bedrooms 1 and 3, and both bathrooms as the submitter was concerned that the proposed windows would result in overlooking issues. The submitter requested that consideration be given to making these windows both obscured and only operable so that they opened at the top of the window, to improve privacy.
- With respect to the proposed garage location, the submitter was concerned that as the proposed garage would directly adjoin the garage at the neighbouring property (6 Fullston) that this would contribute to garage dominance in the street, requesting that the garage be located to the other side of the lot.

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

- The upper floor windows of bedrooms 1 and 3 and the ensuites, have windows with a sill height of 1.6m above the finished floor level of each of these rooms and as such are deemed to be compliant with the visual privacy provisions of the R-Codes. Given the proposed sill height, these windows are permitted to be operable.
- Concerns raised in regard to the proposed garage door width, overshading, loss of ventilation and loss of light are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

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

- Primary Street setback
- Boundary walls (north and south)
- Lot boundary Setback (north)
- Garage width
- Visual privacy (north)
- Overshadowing

The above matters are discussed below.

Background
The subject site is located on the northern side of Fullston Way in Beaconsfield. The site has a land area of approximately 265m² and is currently vacant. The site is zoned Residential and has a density coding of R40. The site is not individually heritage listed but is located within the South Fremantle Heritage Area. The subject site is one of only a couple of vacant sites remaining in this pocket of single houses between Culver and Strang Streets.

A search of the property file has revealed no relevant history, with no proposals being made to develop the site until the subject application.

Primary Street setback

Element	Required	Proposed	Extend of Variation
Ground floor	7m	4m	3m
Upper floor	10m	7m	3m

The proposal is therefore required to be assessed against the following discretionary criteria of clause 1.2 of LPP2.9:

"1.2 Variations to the requirements of clause 1.1 above may be considered, at Council's discretion subject to the proposed development meeting at least one of the following criteria:

i. The proposed setback of the building is consistent with the setback of buildings of comparable height within the prevailing streetscape; or

ii. The proposed setback of the building does not result in a projecting element into an established streetscape vista by virtue of the road and/or lot layout in the locality or the topography of the land; or

iii. The proposed setback of the building will facilitate the retention of a mature, significant tree deemed by the Council to be worthy of retention (Refer also to LPP2.10 Landscaping of Development and Existing Vegetation on Development Sites); or

iv. Where there is no prevailing streetscape; or

v. Where the proposed development is on a lot directly adjoining a corner lot, Council will consider a reduced setback that considers the setback of the corner lot in addition to buildings in the prevailing streetscape."

The proposal is supported for the following reasons:

- It is consistent with existing setbacks within the prevailing streetscape, notably with Nos.4, 6, 10, 12, 14, 16 Fullston Way, which are all characterised by two storey dwellings with single plane façades, setback between 4m and 5m from Fullston Way. As such, the proposal is considered to satisfy discretionary criteria clause 1.2(i).

Boundary walls

Element	Requirement	Proposed	Extent of Variation
North	1.5m	Nil	1.5m
South	1.2m	Nil	1.2m

North

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

- The 10.5m ground floor boundary wall abuts the single storey boundary wall of the dwelling to the north and as such is not considered to result in the loss of access to daylight or direct sunlight owing to its location of the northern boundary. The remainder of the first floor is setback 1.7m to 2.5m, in a similar way to the adjoining property.
- The 10.5m upper floor boundary wall is positioned above the single storey boundary wall of the dwelling to the north (for the same length of the ground floor) located adjacent to the highlight/minor opening of the toilet and bathroom of the adjoining property. The openings to the stair and the bedroom of the adjacent property will not be obstructed by the upper floor boundary wall.
- The boundary wall is not considered to contribute to a sense of confinement or building bulk at it affects only a small portion of the boundary and partially abuts side access area and a single storey portion of boundary all associated with the northern adjoining dwelling.

Image 1: Existing southern elevation including the ground level boundary wall of adjoining property to the north.

- The boundary wall does not impact on any views of significance to the south-east from any of the openings of the adjoining property to the north.

South

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

- The 8.4m boundary wall has been designed to abut the existing two storey boundary wall of the adjoining dwelling to the south, as shown in the image below. The proposed boundary wall is of the same width and approximately 0.185m lower than the boundary wall of the adjacent dwelling.
-

  Image 2: Existing two storey boundary wall of adjoining property to the south.

- Given the proposed boundary wall is of approximately the same dimensions of the existing boundary wall of the adjoining property, the proposed wall is not considered to contribute to a sense of confinement or building bulk, or impact on any views of openings of the adjoining property. It is noted that the remainder of the proposed dwelling is setback in accordance with the minimum setback requirements of the R-Codes.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
North (Balcony Wall)	3m	2.5m	0.5m

The proposed upper floor balcony setback is considered to meet the design principles of the R-Codes and is not considered to detrimentally impact light or ventilation access to the subject site or the neighbouring property, nor to the perception of adverse building bulk or scale as the wall essentially relates to an open balcony. Any overlooking of the adjoining northern site impacts front setback area or walls which include no major openings.

Garage Width

Element	Requirement	Proposed	Extent of Variation
Width of garage and supporting structures	60% of lot frontage (6m)	72% of lot frontage (7.2m)	12% (1.2m)

The proposal is considered to meet the design principles of the R-Codes in the following ways:

- Visual connectivity between Fullston Way and the proposed dwelling is provided for by the location of proposed entry and upper floor balcony are visible from the street.
- The proposed location of the entry and upper floor balcony provide opportunities for casual surveillance of the street.
- Existing dwellings in Fullston Way are characterised by double garage doors, forming a prominent ground floor feature of all dwellings in the street. The width of the proposed garage structure is consistent with both the adjoining dwellings (Nos 6 and 10) which also are approximately 7m wide. As such the proposed garage will not adversely impact on the existing streetscape.

Visual Privacy (North)

Element	Requirement	Proposed	Extent of Variation
Balcony (north)	7.5m	2.5m	5m

The unscreened northern elevation of the balcony is considered to meet the design principles of the R-Codes for the following reasons:

- The balcony does not afford views towards existing openings or outdoor spaces of the adjoining northern property that are considered to be sensitive (void and stair area) or are screened (adjoining balcony).
- The primary view from the balcony is towards Fullston Way and the front setback areas of adjoining and adjacent properties which area visible from the street.

Overshadowing

Element	Requirement	Proposed	Extent of Variation
Shade cast over property to the south (min)	35% ~(92.6m$^{2)}$	38.4% (102m^2)	3.4% (9.4m^2)

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

- While the shadow does impact on major openings on the southern property, due to the orientation of the subject site, these openings remain clearly open to morning and afternoon light. The proposed dwelling is positioned in order to minimise the extent of shadow onto the primary rear outdoor living area (marked in yellow image below).

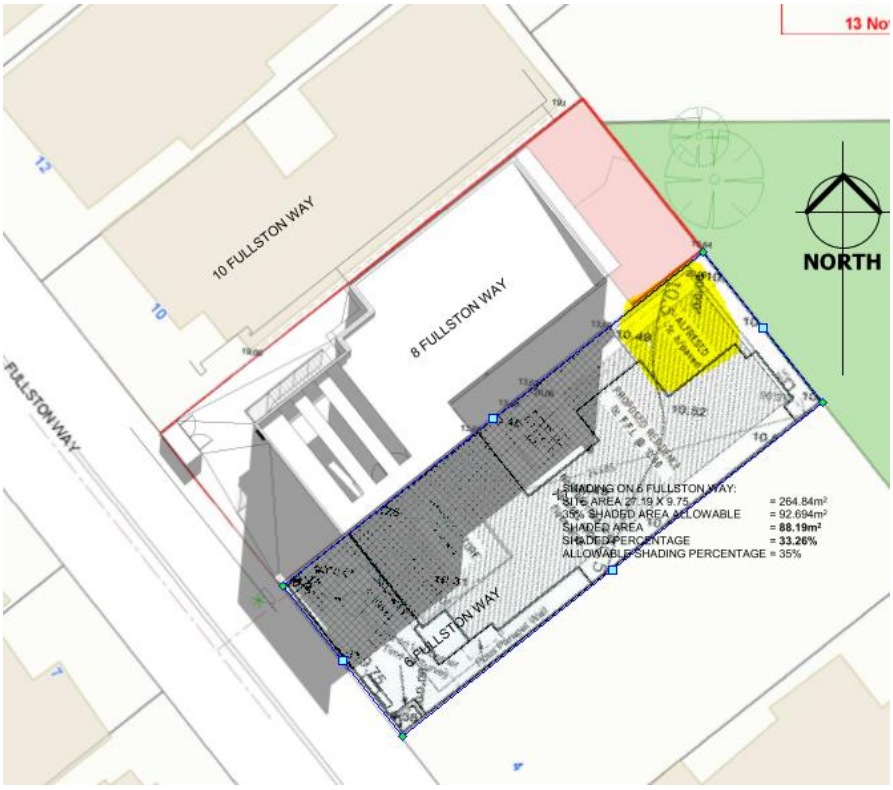

Image 3: Existing building footprint of adjoining dwelling and the extend of shade case by the proposed dwelling.

- Whilst some loss of light to the centrally located outdoor living area of the adjoining site will occur, the shadow does not extend up the face of the northern elevation of the adjoining dwelling enabling sunlight to penetrate the existing dining room and hall way windows of the ground floor of the southern adjoining dwelling.
- Ventilation is still accessible to the southern site's middle courtyard
- The shadow does not impact on solar collectors on the adjoining site;
- Given the orientation and narrowness of the lots in Fullston Way and the two-storey built form pattern, achieving compliance with the Deemed to comply criteria of the R-Codes is troublesome. The development is consistent with the pattern of development in Fullston Way. The result of the above is that openings which face side boundaries are affected by shadow from adjoining development while rear outdoor living areas and west facing openings remain open to light access.

Fence Height

Element	Requirement	Proposed	Extent of variation
Bin Store	Visually permeable above 1m	Solid up to 1.2m	200mm

The proposal is considered to meet the discretionary criteria of LPP2.8 – Fences Policy in the following ways:

- The two adjoining properties (being Nos 6 and 10) both feature portions of front fence that are of comparable height and limited visual permeability, therefore the proposed solid nature of the bin store is not considered to adversely impact on the streetscape.
- The bin store is well setback from the driveway and will therefore have no impact on vehicle sightlines to this or adjoining sites.

CONCLUSION

In accordance with the above assessment, the proposed dwelling is considered to satisfy the relevant development requirements applicable to the site and is therefore recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2101-6
(Officer's recommendation)

Moved: Cr Bryn Jones **Seconded: Cr Geoff Graham**

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Two storey Single house at No. 8 (Lot 85) Fullston Way, Beaconsfield, subject to the following condition(s):

1. **This approval relates only to the development as indicated on the approved plans, dated 13 November 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, the property driveway is to taper from garage to the street at a maximum rate of 1:5, and be a maximum width of 4.5 metres at the front property boundary, and thereafter maintained to the satisfaction of the City of Fremantle.**

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

5. **Prior to occupation/ use of the development hereby approved, the boundary wall located on the northern and southern boundaries shall be of a clean finish in any of the following materials:**
   - **coloured sand render,**
   - **face brick,**
   - **painted surface,**

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

6. **Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed to the City's specification and thereafter maintained to the satisfaction of the City of Fremantle. The City's crossover specifications can be found via the following link: https://www.fremantle.wa.gov.au/crossovers.**

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

Advice notes

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

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

iii. **Fire separation for the proposed building works must comply with Part 3.7 of the Building Code of Australia.**

Carried: 7/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

PC2101 - 2 SOUTH STREET, NO. 285 AND 297 (LOTS 500, 501 AND 80), HILTON – SINGLE STOREY SHOP, RESTAURANT AND LIQUOR STORE WITH BASEMENT (TG DAP007/20)

Meeting Date: 13 January 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1.Development plans
Additional information: 1. Site Plan Aerial
2. Schedule of Submissions
3. MRWA Referral Response
4.Site photos

SUMMARY

Approval is sought for the demolition of existing buildings and car parking at 285 South Street, Hilton and the construction of a single storey Shop, Restaurant and Liquor store building with basement car parking and services at 285 and 297 South Street, Hilton. Pedestrian access to the building is proposed to be provided from both South Street and Paget Street, with vehicle access to the basement car parking provided from Paget Street.

As the value of the proposal is $10 million, the application is to be 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 (Local Planning Scheme No. 4) and Local Planning Policies for:

- **Land use (Liquor store, Shop, Restaurant).**
- **On site vehicle parking.**
- **Minimum Building Height.**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the construction of a single storey with basement Shop (supermarket), Liquor Store, and Restaurant (Café) and associated landscaping, car parking areas, and signage to the subject sites.

The development comprises the following:

- One Shop tenancy (supermarket) with 3,123m^2 gross lettable area, with entries from South Street, Paget Street and the proposed basement.
- One Liquor store tenancy with frontage to and access from Paget Street with 189m^2 gross lettable area.

- One Restaurant (Café) tenancy with 37m^2 gross lettable area. The plans indicate additional seating in front of the tenancy.
- A 423m^2 lobby area providing for tenancy access and travelator access from the basement.
- A pedestrian access area to South Street comprising landscaping and street furniture.
- 132 parking bays provided in the basement accessed from Paget Street and 8 at grade parking bays to the rear of the building for staff.
- Services and bicycle parking provided in the basement.
- Indicative signage to all building facades. It is noted that further signage detail is recommended to be required as a condition of development approval.

The above areas note the gross lettable areas of the tenancies, which comprise the total area which can be leased by a tenant, in cases where net lettable area is noted, this calculation excludes areas on site such as common areas, thoroughfares, bathrooms and basements.

The application also indicates the removal of existing crossovers to South Street and Paget Street and the reconfiguration of existing on-street parking bays to Paget Street due to the removal of the northernmost crossover. These bay modifications will be subject to separate approvals as they are outside the boundaries of the subject sites.

On 8 December 2020, the applicant submitted amended plans for the development comprising the following changes:

- The addition of another bicycle parking rack on the site plan to align with the bicycle parking shown on the floorplan.
- The relocation of five embayed parking bays on Paget Street, two metres to the north to allow better sightlines from proposed access/egress point of development.
- Demonstration of a 2.0m wide painted median strip along Paget Street.
- An increased median width separating truck and customer access to 2.0m.
- The removal of vegetation on the median strip to ensure sightlines.
- The addition of a fully enclosed service yard to the west of the loading dock and east of staff parking.
- The modification of the notation on the site plan indicating tree retention.
- Modifications to the truck access ramp to include an alternative paving treatment to improve pedestrian legibility.
- Additional truck turning plans including swept path movements for delivery and service vehicles from South Street into Paget Street.
- Modifications to the overshadowing diagrams to address level differences between the subject site and adjoining properties.

Site/application information

Date received:	15 October 2020
Owner name:	Zianni Pty Ltd
Submitted by:	Planning Solutions
Scheme:	Local Centre (LPS4), Urban and Primary Regional Road Reserve (MRS)
Heritage listing:	Not Listed
Existing land use:	Shop
Use class:	Shop, Liquor Store, Restaurant
Use permissibility:	D, A, D

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones **Seconded: Cr Jenny Archibald**

The Planning Committee acting under delegation 1.1:

SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No.4, the Single Storey Shop, Restaurant and Liquor Store with basement car parking at Nos. 285 and 297 South Street (Lots 500, 501 and 80) Hilton, subject to the conditions outlined in the responsible authority report.

AMENDMENT

Moved: Cr Frank Mofflin **Seconded: Cr Rachel Pemberton**

Add part 2 to the officers recommendation, which reads as follows;

2. **Council requests that irrespective of the decision of the Metro Inner South Joint Development Assessment Panel in respect of the development referred to in (1) above, City officers engage with Main Roads WA to discuss an improved solution to traffic distribution and movements on South Street and intersecting roads through the Hilton Town Centre to address the underlying causes of vehicle/pedestrian safety issues and traffic congestion which are likely to be exacerbated by the proposed development, noting that:**
   - **Main Roads WA's current position of opposing any new vehicular access to the sites of 285 and 297 South Street directly from South Street will increase traffic movements at the South Street/Paget Street intersection and exacerbate existing problems with traffic movements at that intersection, rather than enabling the development to act as a catalyst for improvements.**
   - **The existing configuration of the non-signalised South Street/Paget Street intersection, including the prohibition of right turning movements out of Paget Street into South Street in an eastbound direction and a light controlled pedestrian crossing located a short distance east of the intersection rather than being aligned at the intersection, contribute to traffic and access issues and has been subject to complaints with respect to pedestrian and driver safety.**

Amendment carried: 7/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

The Planning Committee acting under delegation 1.1:

SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No.4, the Single Storey Shop, Restaurant and Liquor Store with basement car parking at Nos. 285 and 297 South Street (Lots 500, 501 and 80) Hilton, subject to the conditions outlined in the responsible authority report.

Lost: 0/7
Against
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

COMMITTEE DECISION ITEM PC2101-2

Moved: Cr Geoff Graham **Seconded: Cr Frank Mofflin**

Planning Committee:

1. DOES NOT Support the Officers Recommendation in the RAR and requests that the JDAP refuse the application for the following reasons:

- **The development is inconsistent with the intent of the Scheme to provide higher density, multi-storey, mixed use development including residential uses.**
- **The increase in traffic including in surrounding residential streets will affect the safety and amenity of the locality.**
- **The design of the building is not reflective of the desired character of the Hilton Town Centre.**
- **The development does not provide sufficient car parking as per the Scheme requirements.**
- **The overshadowing impact on the residential properties to the south is unacceptable.**

2. Council requests that irrespective of the decision of the Metro Inner South Joint Development Assessment Panel in respect of the development referred to in (1) above, City officers engage with Main Roads WA to discuss an improved solution to traffic distribution and movements on South Street and intersecting roads through the Hilton Town Centre to address the underlying causes of vehicle/pedestrian safety issues and traffic congestion which are likely to be exacerbated by the proposed development, noting that:

- **Main Roads WA's current position of opposing any new vehicular access to the sites of 285 and 297 South Street directly from South Street will increase traffic movements at the South Street/Paget Street intersection and exacerbate existing problems with traffic movements at that intersection, rather than enabling the development to act as a catalyst for improvements.**
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Carried: 7/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

Form 1 – Responsible Authority Report
(Regulation 12)

DAP Name:	Metro Inner South Joint Development Assessment Panel	
Local Government Area:	City of Fremantle	
Applicant:	Planning Solutions	
Owner:	Zianni Pty Ltd	
Value of Development:	$10 million ☒ Mandatory (Regulation 5) ☐ Opt In (Regulation 6)	
Responsible Authority:	City of Fremantle	
Authorising Officer:	Manager Development Approvals	
LG Reference:	DAP007/20	
DAP File No:	DAP/20/01880	
Application Received Date:	15 October 2020	
Report Due Date:	15 January 2020	
Application Statutory Process Timeframe:	90 Days	
Attachment(s):	1. Aerial Site Plan 2. Development plans and elevations 3. Schedule of submissions (summarised) 4. MRWA Referral Response 5. Committee Minutes 6. Site Photos	
Is the Responsible Authority Recommendation the same as the Officer Recommendation?	☐ Yes ☐ N/A	Complete Responsible Authority Recommendation section
	☐ No	Complete Responsible Authority and Officer Recommendation sections

Responsible Authority Recommendation

That the Metro Inner South Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/20/01880 is appropriate for consideration as a "Shop, Liquor Store and Restaurant" land uses and compatible with the objectives of the zoning table in accordance the City of Fremantle Local Planning Scheme No. 4;

2. **Approve** DAP Application reference DAP/20/01880 and accompanying plans (2809 04, 05, 06, 07, 08, 09 dated 8 December 2020) 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, subject to the following conditions:

Conditions

1. Pursuant to clause 26 of the Metropolitan Region Scheme, this approval is deemed to be an approval under clause 24(1) of the Metropolitan Region Scheme.

2. This approval relates only to the development as indicated on the approved plans dated 20 December 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.

3. This development approval does not relate to any works within the road reserve other than awnings for weather protection and signage.

4. Prior to lodging an application for a building permit, storm water disposal plans, details and calculations must be submitted for approval by the City of Fremantle and thereafter implemented, constructed and maintained to the satisfaction of the City of Fremantle.

5. Prior to the issue of a Building Permit for the development hereby approved, final details of the external materials, colours and finishes of the proposed development, including a physical sample board or materials is to be submitted and approved to the satisfaction of the City of Fremantle.

6. The windows to the northern and western facades facing South Street and Paget Street respectively are to remain clear to provide surveillance between the building and the roadway. The windows are to be kept clear of racking, shelving, signage for the life of the development, to the satisfaction of the City.

7. Prior to issue of a building permit of the development hereby approved, the owner is to submit a waste management plan for approval by the City, detailing at a minimum the following:
   - Estimated waste generation
   - Proposed storage of receptacles
   - Collection methodology for waste including collection timing
   - Additional management requirements to be implemented and maintained for the life of the development.
   - The use of any waste compactor on site.

   The Waste Management Plan must be implemented at all times to the satisfaction of the City of Fremantle.

8. Use of the Service Yard and Loading Dock including any deliveries to the subject site are not to occur outside of the hours of 7.00am to 7.00pm daily, to the satisfaction of the City of Fremantle.

9. Prior to the issue of a building permit, a Delivery Management Plan is to be submitted and approved to the satisfaction of the City of Fremantle, including the following:
   - Delivery timing limited to between 7.00am and 7.00pm,
   - Noise mitigation and management measures,
   - Types of vehicles and numbers,
   - Management for waiting delivery vehicles,

   The business shall operate in accordance with the approved delivery management plan thereafter. Any amendments to the management plan shall be submitted to, and approved by the City of Fremantle, prior to implementing the amended management plan.

10. Notwithstanding condition 1, this approval does not authorise the removal or modification of verge infrastructure and verge trees within the verge area.

11. Prior to the issue of a building permit for the development hereby approved, the owner/developer is to submit a verge landscaping plan and a modified street parking and pedestrian realm plan to the City of Fremantle for approval. The plan is to demonstrate the following:
   - Modified on street car parking bays in Paget Street.
   - Verge landscaping details.
   - The painting of a two (2) metre wide median to Paget Street.
   - Pavement marking to the vehicle crossover.

   The works shown on the approved plan shall be installed at the cost of the applicant/owner prior to the occupation of the development, to the satisfaction of the City of Fremantle.

12. Prior to the issue of a Building Permit for the development hereby approved, details of how the recommendations contained in the Acoustic Report (Ref: 20055508-01A), prepared by Lloyd George Acoustics, dated 2 October 2020 are to be implemented are to be submitted to the satisfaction of the City of Fremantle.

13. Prior to the issue of a Building Permit for the development hereby approved, an outdoor lighting plan must be submitted and approved by the City of Fremantle. The outdoor lighting is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties, to the satisfaction of the City of Fremantle.

14. Prior to the issue of a Building Permit for the development hereby approved, No. 285 and 297 (Lots 500 and 80 respectively) South Street 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.

15. 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.

16. Prior to the occupation of the development hereby approved, any redundant crossovers shall be removed and the verge and kerbing reinstated to the City's specifications, at the expense of the applicant and to the satisfaction of the City of Fremantle.

17. Prior to the issue of a Building Permit for the development hereby approved, the applicant is to submit, and have approved to the satisfaction of the City of Fremantle, a detailed parking plan design which complies with the Australian Standard AS/NZS 2890 and AS/NZS 1428, including parking bays, loading bays, aisle widths, circulation areas, driveway/s and points of ingress and egress.

18. 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.

19. Prior to the issue of a Building Permit for the development hereby approved, a plan detailing the provision of eleven (11) Class 2 and seven (7) Class 3 (as defined in Local Planning Scheme No. 4) bicycle racks shall be provided, to the satisfaction of the City of Fremantle. Prior to occupation of the development hereby approved, the required bicycle racks must be installed in accordance with the approved plan and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.

20. Prior to the issue of a Building Permit for the development hereby approved, two (2) male and (2) female end of trip facilities, or four (4) unisex end of trip facilities shall be provided, to the satisfaction of the City of Fremantle. Prior to occupation of the development the approved end of trip facilities must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.

21. Prior to the issue of a Building Permit for the development hereby approved, eleven (11), lockers shall be provided, to the satisfaction of the City of Fremantle. The facilities must thereafter be retained for the life of the development to the satisfaction of the City of Fremantle.

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

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

24. Prior to the issue of a Building Permit for the development hereby approved , all piped, ducted and wired services, air conditioners, hot water systems, water storage tanks, service meters and bin storage areas must be located to minimise any visual and noise impact on the occupants of nearby properties and screened from view from the street. Design plans for the location, materials and construction for screening of any proposed external building plant must be submitted to and approved by the City of Fremantle.

25. Prior to occupation/ use of the development hereby approved, the boundary walls located on the eastern and southern boundaries shall be of a clean finish in any of the following materials:
    - coloured sand render,
    - face brick,
    - painted surface,

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

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

27. Prior to the issue of a Building Permit for the development hereby approved, fencing and works shall be truncated or reduced to 0.75m height within 1.5m of vehicle access points and street corners in order to provide adequate sight lines and thereafter maintained to the satisfaction of the City of Fremantle.

28. Prior to the issue of a building permit, the applicant/owner is to submit a copy of documentation from the Green Building Council of Australia or a suitably qualified professional stating how the development will achieve a Green Star rating of at least 4 Stars or equivalent, to the satisfaction of the City of Fremantle.

29. Prior to the issue of a building permit, the applicant is to submit a signage strategy detailing signage location, size, and illumination of any signage for the development for the approval of the City of Fremantle. Signage is to be maintained in accordance with the approved signage strategy to the satisfaction of the City of Fremantle for the life of the development.

30. Prior to the occupation/ or issue of a building permit for the development hereby approved, the owner shall contribute a monetary amount equal in value to one percent of the estimated development cost, as indicated on the Form of Application for Planning Approval, to the City of Fremantle for development of public art works and/or heritage works to enhance the public realm in accordance with LPP 2.19: Contributions for Public Art and/or Heritage Works and to the satisfaction of the City of Fremantle. Based on the estimated cost of the development being $10 million the contribution to be made is $100,000.

31. Prior to the issue of a Building Permit or Demolition Permit for the development hereby approved, a Construction/Demolition Management Plan shall be submitted and approved, to the satisfaction of the City of Fremantle addressing, but not limited to, the following matters:
    a) 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.
    n) Dilapidation survey within road reserve.

    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.

32. No development or car parking other than landscaping and pedestrian paving shall be permitted on the land required for future road purposes, as depicted on the enclosed extract of Main Roads drawing number 06310012.

33. Any signage, awning, fixture or structure that encroaches within the Primary Regional Road reservation must be removable and not impact the structural integrity of the building.

34. The applicant shall upon receipt of a notice from Main Roads, remove any signage, awning or structure that encroaches within the Primary Regional Road reservation at their own expense.

35. No earthworks shall encroach onto the South Street Road Reserve.

36. Stormwater discharge (if any) shall not exceed pre-development discharge to the South Street Road Reserve or the widened road reservation.

37. No waste collection is permitted from the South Street Road Reserve or widened road reservation.

38. The landowner/applicant shall make good any damage to the existing verge vegetation within the road reserve.

39. 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

1. 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.

2. 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.

3. The applicant is advised that additional information in relation to the City's waste management requirements can be found here: https://www.fremantle.wa.gov.au/residents/waste-and-recycling

4. The applicant/owner is advised that the premises must comply with the Environmental Protection (Noise) Regulations 1997.

5. 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.

6. The existing trees within the road reserve, shown on the approved plans shall be protected through the implementation of a Tree Protection Zone for protection during construction. Additional information with regard to the tree protection zone requirements can be found here: https://www.fremantle.wa.gov.au/residents/trees-and-verges.

7. The applicant is advised that the proposed works indicated outside of the lot boundaries of the subject site do not form part of this approval. Should the applicant wish to undertake these works separate approval is required from the City. Queries relating to these works should be directed to the City's Technical Officer, Parks and Landscape via info@fremantle.wa.gov.au or 9432 9999.

8. 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 or 9432 9999.

9. The applicant is advised that any additional signage may be subject to a separate application for planning approval.

10. In relation to the condition relating to the public art contribution, the applicant is advised that Council may waive the requirement for the public art/heritage work contribution in

accordance with clause 6 of LPP 2.19 where the development incorporates public art in the development to the same value as that specified in the condition that is located in a position clearly visible to the general public on the site of the development. Should artwork be incorporated in the development a public art strategy for the site must be submitted to and approved prior to the issue of a Building Permit, to the satisfaction of the City of Fremantle. Please contact the City's Public Arts Coordinator on 9432 9999 for further information on this process. Prior to occupation of the development, the approved artwork must be installed and thereafter maintained to the satisfaction of the City of Fremantle. In determining the appropriateness and artistic merit of the public art, council shall seek relevant professional advice.

11. For further conformation relating to the process and staging to ensure compliance with this planning condition please, refer to for the 'Developers handbook' for percentage for public arts process - https://www.fremantle.wa.gov.au/sites/default/files/City%20of%20Fremantle%20Percent%20for%20Art%20Guidelines%20Sep%202015.pdf

12. All existing 'Hilton Town Centre' street landscaping, including planting, furniture, walls, structures and signs are to be protected during construction and any damage occurred to be rectified by the developer at their cost, with City of Fremantle Park Maintenance staff overseeing and approving. Any of the 'Hilton Town Centre' landscaping within the lot boundary that the developer does not wish to retain the developer is to carefully remove, at their cost and notify the City of Fremantle Parks department to collect.

13. The applicant is advised that any queries in relation to conditions 32-39 and advice notes 15-17 should be directed to Main Roads WA.

14. Further to the conditions relating to awnings and signage projecting into the Primary Regional Road Reservation it is noted that the proposed awning is partially located over land reserved in the Metropolitan Region Scheme. This land will be required for road purposes sometime in the future. Any structures encroaching within the Primary Regional Road Reservation must be non-permanent and capable of removal.

15. Any services infrastructure or roadside furniture that requires relocation as a result of the development works will be at the applicant's cost.

16. The applicant is required to submit an application form to undertake works within the road reserve prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website >Technical & Commercial>Working on Roads.

17. The upgrading/widening of Highway is not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability for the information provided.

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme - Zone/Reserve	Urban and Primary Regional Road Reserve
Local Planning Scheme	Local Planning Scheme No. 4
Local Planning Scheme - Zone/Reserve	Local Centre
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan - Land Use Designation	N/A
Use Class and permissibility:	Shop (D), Liquor Store (A), Restaurant (D)
Lot Size:	No. 285 South Street: Lot 500 - 4568m^2 and Lot 501 – 222m^2 No. 297 South Street: 1115m^2 Total: 5905m^2
Existing Land Use:	No. 285 South Street: Shop (Supermarket) No. 297 South Street: Vacant Land
State Heritage Register	No
Local Heritage	☒ N/A ☐ Heritage List ☐ Heritage Area
Design Review	☐ N/A ☒ Local Design Review Panel ☐ State Design Review Panel ☐ Other
Bushfire Prone Area	No
Swan River Trust Area	No

Proposal:

Approval is sought for the construction of a single storey with basement Shop (supermarket), Liquor Store, and Restaurant (Café) and associated landscaping, car parking areas, and signage to the subject sites.

The development comprises the following:

- One Shop tenancy (supermarket) with 3,123m^2 gross lettable area, with entries from South Street, Paget Street and the proposed basement.
- One Liquor store tenancy with frontage to and access from Paget Street with 189m^2 gross lettable area.
- One Restaurant (Café) tenancy with 37m^2 gross lettable area. The plans indicate additional seating in front of the tenancy.

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- A pedestrian access area to South Street comprising landscaping and street furniture.
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The application also indicates the removal of existing crossovers to South Street and Paget Street and the reconfiguration of existing on-street parking bays to Paget Street due to the removal of the northernmost crossover. These bay modifications will be subject to separate approvals as they are outside the boundaries of the subject sites.

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- An increased median width separating truck and customer access to 2.0m.
- The removal of vegetation on the median strip to ensure sightlines.
- The addition of a fully enclosed service yard to the west of the loading dock and east of staff parking.
- The modification of the notation on the site plan indicating tree retention.
- Modifications to the truck access ramp to include an alternative paving treatment to improve pedestrian legibility.
- Additional truck turning plans including swept path movements for delivery and service vehicles from South Street into Paget Street.
- Modifications to the overshadowing diagrams to address level differences between the subject site and adjoining properties.

Proposed Land Use	Shop, Restaurant, Liquor Store
Proposed Net Lettable Area	Shop: 2285m^2 Liquor Store: 171m^2 Restaurant (Café): 37m^2 Total: 2493m^2
Proposed No. Storeys	One storey plus basement
Proposed No. Dwellings	Nil

Background:

The subject site comprises three lots across 285 (Lots 500 and 501) and 297 (Lot 80) South Street, with a total area of approximately 5905m^2. The site is bounded by South Street to the north, Paget Street to the west, Residential zoned properties to the south and Local Centre zoned properties to the east and south east. No. 297 South Street is currently vacant cleared land, while No. 285 South Street is occupied by an existing single storey Shop (IGA Supermarket) building with associated at grade car parking. The site is not individually heritage listed, nor is it located within a heritage area. The northern portion of the subject site is reserved as a Primary Regional Road under the Metropolitan Region Scheme. The site slopes approximately two metres from north to south.

The subject sites sit within a Local Centre zone and form part of Local Planning Scheme No. 4 Scheme sub area 7.3.1, which provides for additional development potential for lots within or adjacent to the Hilton local centre. There are no recent development applications relating to the site, however it is noted that the building which previously occupied No. 297 South Street was demolished in approximately 2017.

Legislation and Policy:

Legislation

Planning and Development (Local Planning Scheme Regulations) 2015
Local Planning Scheme No. 4

State Government Policies

SPP 5.2 – Activity Centres
SPP 5.4: Road and Rail Noise
SPP 7: Design of the Built Environment
SPP 7.3: Residential Design Codes Volume 1 and 2

Local Policies

LPP1.3: Public Notification of Planning Proposals
LPP 1.9: Design Advisory Committee and Principles of Design
LPP 1.10: Construction Sites
LPP 2.10: Landscaping of Development and Existing Vegetation On Development Sites
LPP 2.13: Sustainable Buildings Design Requirements
LPP 2.19: Contributions for Public Art and/or Heritage Works
LPP 3.17: Hilton Local Centre (South Street, Hilton)

Consultation:

Public Consultation

The application was advertised for a period of 14 days, ending on 17 November 2020, letters were sent to owners and occupiers adjoining and adjacent to the subject site, advertising signage was placed on the site and the application was advertised on the City's website.

At close of advertising 170 submissions were received, including those received up to a week after the end of the formal consultation period. It is noted that approximately 20 submissions have been received further to this timeframe, which have been noted, however they did not raise additional concerns. A schedule of a summary of all the submissions received is attached, however the following common concerns were raised in relation to the proposal.

Issue Raised	**Officer comments**
Concern over loss of current IGA operator from the local area and the use of the site by a national supermarket chain.	The applicant has not specified the final intended tenant of the supermarket tenancy on site. The individual tenant of a property is not able to be controlled through the development approval process, only the individual land use (Shop) which already operates from the subject site.
Traffic safety	Refer to traffic discussion.
Increased vehicle movements Increased overnight traffic movements and associated noise	Refer to traffic discussion. The applicant has confirmed that the site would only be open in accordance with the hours permitted under the Retail Trading Act, which does not currently permit 24 hour trading for a business of this nature. In accordance with the recommended conditions of development approval, deliveries to the site would only be permitted to be undertaken between 7am and 7pm to comply with relevant noise legislation.
Impact of demolition on locality with respect to noise and dust.	Any demolition on site will need to be undertaken in accordance with relevant legislation to limit dust and noise impacts.
Lack of landscaping	The proposed development is not subject to landscaping requirements which require a specific portion of the site to be landscaped for development seeking consideration against the higher available development standards for the site under the local planning scheme. These higher residential density and built form outcomes are not sought in this instance. Notwithstanding the above, the landscape quality of the proposal has been assessed in accordance with SPP7.0 Design of the Built Environment. As specific details of the proposed landscaping has not been submitted, it is recommended that a final comprehensive landscaping plan be submitted to the City for approval prior to the issue of a Building Permit.
Blank walls to eastern site boundary	While it is acknowledged that the development presents a blank wall panel finish to the eastern site boundary, the extent of the proposed wall ensures that future development

	of the adjoining property will not unduly impact on the subject site. The wall is of a size commensurate to the development potential of the adjoining site. The applicant may consider modifications or painting to the wall to provide for an appropriate interim finish. Refer to boundary wall comments in officer comment section.
Design of development – Hilton area and lack of articulation	With respect to the design of the development not reflecting the requirements of the Hilton Garden Suburb policy, it is noted that the subject site is not located within the Hilton heritage area and is not subject to specific requirements in this regard. The application was reviewed by the City's Design Advisory Committee and the applicant made modifications to the proposed design in response to their comments as discussed in the relevant section below. The final submission has also been assessed against SPP7.0 Design of the Built Environment. The applicant made modifications to the plans to introduce additional articulation to the northern façade of the building.
Light pollution	It is a recommended condition of development approval that the applicant provide a lighting plan to ensure that the impact of any night-time lighting is appropriately managed.
Liquor Store inclusion in development.	Refer to land use discussion below.
24 hours of operation	While the applicant requests an unrestricted approval for the development with respect to hours of operation, it is noted that public opening hours will remain restricted by the Retail Trading Hours Act to those set by the State Government. The applicant proposes that the store would be open to the public on site in accordance with the requirements of the trading hours act, but on site operations to undertake stock replenishment, baking etc may take place on site 24 hours. The applicant's noise report demonstrates that on site operations can be appropriately managed to comply with relevant noise legislation (with the possible exception of certain types of delivery vehicle noise during night-time hours – see officer comment above on the issue of overnight traffic movements and noise). The applicant seeks an approval without a restriction on hours of operation outside of the existing Retail Trading Hours Act to allow for any future changes to the opening hours permitted under this act. This would avoid the need for the applicant/operator to also seek further Council

	approval to operate under the Act should these hours change.
Lack of accessible bicycle parking	The application generally complies with the requirement to provide class 3 bicycle parking (open racks), with a one bay shortfall which can be addressed through the recommended conditions of approval. Ongoing provision of these bays is able to be enforced by the recommended conditions, if the proposed bays are to be removed to facilitate road widening.
Construction concerns	It is a recommended condition of approval that a construction management plan be provided to ensure that the construction phase of the development can be appropriately managed to the satisfaction of the City of Fremantle.
Lack of residential component	While it is noted that the development does not take advantage of development potential under the local planning scheme which would permit the development of upper floor residential use, this is not able to be made mandatory as a part of the development of the site.
Overshadowing	Refer to discussion below.
Lack of sustainability initiatives	In accordance with LPP 2.13, it is a recommended condition of approval that the development satisfy minimum green star requirements (4 stars or equivalent) to the satisfaction of the City.
Signage size	The indicative signage is compliant with the requirements of LPP 2.14 – Advertisements, a condition of approval is recommended requiring the provision of a final signage strategy for the development.
Waste collection, noise impact on surrounding residences.	The proposal is supported by a preliminary waste management plan, which indicates the appropriate collection and removal of waste. It is a recommended condition of approval that a final WMP be provided to the satisfaction of the City and adhered to on an ongoing basis. The final WMP will also need to address the use of any compactor on site. The applicant has confirmed that all waste collection would take place between 7am and 7pm and the use of the service yard for bin storage would be in accordance with the recommendations and measures listed in the Environmental Noise Impact Assessment, and this is enforced through a recommended condition of approval. The applicant has specified the location of the proposed service yard at the rear of the building on the updated plans, this location has been reviewed by the City's Waste team.
On site acoustic privacy and protection for the development	There is no specific requirement to protect non-noise sensitive uses from traffic noise under the relevant State Planning Policy, the applicant noted in response that the

from noise from South Street.	café would operate similarly to other cafes fronting onto South Street.
Increased Pedestrian movements and potential safety issues on South Street	It is a recommended condition of development approval that the applicant make appropriate modifications to the Paget Street pedestrian realm, on the advice of the City to accommodate the increased number of vehicles entering and exiting the site. It is also considered that the development may be a catalyst for future improvements to the pedestrian realm surrounding the development.
Impact on future development of adjoining properties	The City is not readily able to consider the impact of a development upon potential future development which may or may not take place.
Vehicle sightlines	It is a recommended condition of approval that walls adjacent to the vehicle access points to the site be set back or truncated in order to provide for vehicle sightlines.
Truck turntable noise	The applicant advises that the turntable was considered in the submitted noise impact assessment but not assessed, noting that the turntables are generally quiet systems and that their noise consultant has not had to measure or model turntables previously. It is a recommended condition of development approval that the recommendations of the Lloyd George acoustic report be adhered to with respect to general delivery noise, and a condition of development is also recommended with respect to the control of onsite deliveries. The applicant is to be advised of their obligations under the Environmental Health (Noise) Regulations 1997 and should any modifications to the turntable be required to ensure compliance with these requirements this can be enforced through compliance action.
Presentation of acoustic protection walls to adjoining residential properties.	The proposal includes an acoustic fence to the southern portion of the site in order to maintain acoustic protection for neighbouring residential properties. This wall is discussed further in the officer comment section below.
Competition with existing businesses, including cafes, restaurants and shops	The development approval process is not able to legislate against competition between businesses, but rather the appropriateness of a particular land use in a particular zone. In this regard, the proposed land uses are considered appropriate as discussed in the land use section of the report below.
The development may negatively impact property values in the immediate locality.	Due to the scope of matters to be considered in the calculation of property values for a locality, the impact of any individual development on these values is not readily able to be assessed on a case by case basis through the development application process, and in any event is not a

	matter that can lawfully be taken into consideration in determining a development application.
Basement antisocial activity	The applicant advised that the access to the basement would be restricted outside trading hours.

Referrals/consultation with Government/Service Agencies

Main Roads Western Australia (MRWA)
The application was referred to MRWA on 20 October 2020 as the subject site is partially affected by and adjoins the Primary Regional Road reservation for South Street. Main Roads provided the following comment on the proposal:

Main Roads has no objections subject to the following conditions being imposed:
Conditions

1. *Pursuant to Section 129BA of the Transfer of Land Act 1893 (as amended) a restrictive covenant preventing vehicular access onto South Street being lodged on the certificates of title of the proposed development at the full expense of the landowner/applicant. The covenant is to prevent access, to the benefit of Main Roads WA as shown on the attached plan dated 1 December 2020 and the covenant is to specify:*

   "No vehicular access is permitted to and from South Street"
2. *No development or car parking other than landscaping and pedestrian paving shall be permitted on the land required for future road purposes, as depicted on the enclosed extract of Main Roads drawing number 06310012.*
3. *Any signage, awning, fixture or structure that encroaches within the Primary Regional Road reservation must be removable and not impact the structural integrity of the building.*
4. *The applicant shall upon receipt of a notice from Main Roads, remove any signage, awning or structure that encroaches within the Primary Regional Road reservation at their own expense.*
5. *No earthworks shall encroach onto the South Street Road Reserve.*
6. *Stormwater discharge (if any) shall not exceed pre-development discharge to the South Street Road Reserve or the widened road reservation.*
7. *No waste collection is permitted from the South Street Road Reserve or widened road reservation.*
8. *Redundant vehicle crossover(s) to be removed and kerbing, verge and footpath (where relevant) reinstated with grass or landscaping to the satisfaction of the City of Fremantle and the specifications of the local government.*
9. *The landowner/applicant shall make good any damage to the existing verge vegetation within the road reserve.*

Advice

i) Further to conditions 2-4 it is noted that the proposed awning is partially located over land reserved in the Metropolitan Region Scheme. This land will be required for road purposes sometime in the future. Any structures encroaching within the Primary Regional Road Reservation must be non-permanent and capable of removal.

ii) Any services infrastructure or roadside furniture that requires relocation as a result of the development works will be at the applicant's cost.

iii) The applicant is required to submit an application form to undertake works within the road reserve prior to undertaking any works within the road reserve. Application forms and supporting information about the procedure can be found on the Main Roads website >Technical & Commercial>Working on Roads.

iv) The upgrading/widening of Highway is not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability for the information provided.

It is considered appropriate to include the above matters as conditions and advice notes in the recommendation, with the exception of Condition 1, requiring a restrictive covenant on the titles of the subject lot prohibiting access to and from the lots from South Street. No access is proposed for South Street, with all vehicle access being proposed via Paget Street. It is also noted that Lot 80 is currently a separate freehold lot, which if it was developed individually would only be able to obtain access from South Street. Although it is currently proposed to be amalgamated with the Lot 500, should the current proposed development not proceed there is no certainty that the lots would be amalgamated and accordingly it is not considered necessary or appropriate to impose the condition in this instance. Officers are satisfied that the recommendation, with the exclusion of suggested condition 1 of Main Roads advice, remains consistent with their advice overall.

Design Advisory Committee (DAC) Advice

In accordance with Clause 78A(6)(b), an application that proposes a building with a building height of 11m or greater in any zone other than the Residential or Industrial zones must first be referred to the City's Design Advisory Committee for comment. As the proposed building is only approximately 7m in height, the application is not required to be referred to the City's DAC prior to the JDAP making a decision. Notwithstanding this, given the Local Centre location of the subject site and significance of the proposed development in its local context the proponent was encouraged to engage with the City's DAC prior to submission of an application.

In guiding the design advice provided by the DAC, LPS4 specifies principles of good design commonly referred to as the CABE Design Principles. These principles are similar to the design principles contained in SPP7.0 Design of the Built Environment.

As such, the proposal was considered by the City's DAC on 8 June 2020 prior to the formal lodgement of the development application. The complete extract of the Design Advisory Committee Meeting minutes is provided below:

DAC Comments on the proposals response to the CABE Design Principles:

CHARACTER (A place with its own identity)

- *The area is ready for rejuvenation and this proposal is viewed as a positive contributor.*
- *It is important to note that the site does have an immediate interface with residential properties to the south and the proposed scale and massing results in an undue level of impact which needs to be addressed.*

- *While the proposed glazing to South Street is a significant improvement over the existing condition, the long straight line of glazing needs further consideration in terms of cueing the entrance and providing a more nuanced street edge.*

CONTINUITY AND ENCLOSURE (A place where public and private spaces are clearly distinguished)

- *The development has the potential to make a positive contribution to the South Street streetscape, but this is heavily dependent on MRWA requirements and the road reservation space.*

QUALITY OF PUBLIC REALM (A place with well-designed, high quality public spaces)

- *The South Street public realm is a key outcome for this development,*
- *Attention and review of the large glazing components on South Street need work,*
- *Through the proposed upgrade of the South Street edge, the café on the corner, and well-defined street entrances, the project has the potential to create a new public realm focal point for the precinct.*

EASE OF MOVEMENT (A place that is easy to get to and move through)

- *The corner café is a positive land use addition but it could be bigger, more visually prominent on its exposed corner location, and engage more with the surrounding external spaces through the provision of seating and shade,*
- *The entrance and exit movements as outlined by the applicant are typical for a Shopping Centre but further detail is needed, particularly to the South Street lobby,*
- *Possibility of aligning the zebra crossing and key pedestrian movements to this site need to be reviewed and capitalised upon,*

LEGIBILITY, ADAPTABILITY, DIVERSITY (A place that is easy to navigate, a place that can change, a place with variety and choice, is easy to navigate)

- *It's disappointing that the proposed redevelopment does not meet the potential of the site to include upper floor residential uses. This is considered a lost opportunity,*
- *The corner café seems to be missing a level of attention and detail. Key opportunity to be a draw card to the centre and focal point for legibility*

OVERALL DESIGN QUALITY AND FUNCTIONALITY

- *Roof form and its rationale for way finding is not convincing,*
- *The corner café and its prominence in the streetscape treatment could be a key feature to the development*

APPROPRIATENESS OF MATERIALS AND FINISHES

- *More detail needed in order to provide comments, particularly to the shimmering material proposed and the ground level activation of both South and Paget Streets*

WHAT ARE THE STRENGTHS

- *Basement car parking is a good outcome for the site,*
- *Key design principles for a Shopping centre are in place,*
- *Has the potential to be a well activated shopping centre but some refinement to high level of glazing and materials is vital.*

HOW CAN THE PROPOSAL BE IMPROVED

- *Further refinement of the extensive glazing to South Street needs work,*
- *Weather protection in the form of awnings etc. to shop entrances to be explored,*
- *The building bulk impacts on the south eastern neighbour and needs review as a 6.7m high wall to this area will have detrimental impacts,*
- *Café size and visual prominence should be enhanced to enable this element of the development to become more of a focal point,*
- *Provision of short term parking needs to be introduced for this development.*
- *The interface of the rear service area and basement carpark needs work to improve the impact on the neighbouring residential properties. 3m high sound attenuation wall could have shadow impacts on these properties.*

RECOMMENDATION

The Design Advisory Committee encourages the applicant to respond to the comments above and develop the proposal for future consideration

Following these comments, the applicant submitted the formal development application and made modification to the plans in response to the comments raised by the DAC including increasing the building setbacks from the southern site boundary. The applicant provided the following responses to matters raised by the DAC.

DAC Comment	Applicant Response
The area is ready for rejuvenation and this proposal is viewed as a positive contributor.	The proposed development will contribute positively to the Hilton local centre and rejuvenate the subject site.
It is important to note that the site does have an immediate interface with residential properties to the south and the proposed scale and massing results in an undue level of impact which needs to be addressed.	The scale and massing of the proposed development fronting the residential properties at the southern lot boundary have been reduced. The supermarket is approximately setback a minimum of 4.39m from the southern boundary to mitigate the perceived impacts of scale and massing.

While the proposed glazing to South Street is a significant improvement over the existing condition, the long straight line of glazing needs further consideration in terms of cueing the entrance and providing a more nuanced street edge.	The glazing fronting South Street has been reduced using distinct façade treatments and elements to focus the glazing towards the main entry. This reflects and differentiates the built form within the South Street streetscape further highlighting the corner and entry statement as the remaining glazing contributes to the sense of activation/movement at the corner feature and entrance.
The corner café is a positive land use addition but it could be bigger, more visually prominent on its exposed corner location, and engage more with the surrounding external spaces through the provision of seating and shade,	The 9.5m high sloped roof features come to a peak on either side of the 6.8m high café creating a juxtaposing roof form that accentuates the visual prominence of the café. Additionally, the use of varying materials also helps to differentiate the café.
The entrance and exit movements as outlined by the applicant are typical for a Shopping Centre but further detail is needed, particularly to the South Street lobby,	The ground floor lobby contains escalators providing access from the basement car parking area to the shopping centre. This provides a level of activity and movement that is projected to the Paget Street and South Street through the use of visibly permeable material.
Possibility of aligning the zebra crossing and key pedestrian movements to this site need to be reviewed and capitalised upon,	The pedestrian crossing on South Street aligns with the pedestrian plaza within the South Street road reserve.
The corner café seems to be missing a level of attention and detail. Key opportunity to be a draw card to the centre and focal point for legibility	The corner café contains large bi-fold glazed doors along the entire extent of the tenancies South Street and Paget Street frontage. The bi-fold doors can be opened to allow the café to seamlessly integrate into the adjoining pedestrian plaza further contribute to activating the South Street frontage.
The corner café and its prominence in the streetscape treatment could be a key feature to the development	The juxtaposing heights of the café and the roof form features as well as the varied materials, clearly delineate and café from the rest of the development providing with a sense of visual interest and prominence from the streetscape.
Further refinement of the extensive glazing to South Street needs work,	The glazing to the south street frontage has been reduced and concentrated around the entrance to the shopping centre.
Weather protection in the form of awnings etc. to shop entrances to be explored,	The existing trees will be retained in the pedestrian plaza to ensure an adequate level of shade is provided. Furthermore, the roof features extend outwards from the building to provide an awning effect.

The building bulk impacts on the south eastern neighbour and needs review as a 6.7m high wall to this area will have detrimental impacts,	The building bulk has been setback a minimum of 4.39m from the south eastern neighbour. This will reduce the perceived amenity impact on the adjoining property.
Provision of short term parking needs to be introduced for this development.	Short term parking is available in the basement parking area. Additionally, five on-street parking bays are available adjacent to the subject site on the Paget Street frontage.
The interface of the rear service area and basement carpark needs work to improve the impact on the neighbouring residential properties. 3m high sound attenuation wall could have shadow impacts on these properties.	The interface of the with the adjoining residential properties to the south of the subject site is an improvement on the existing car parking and bins storage area currently on the subject site. The overshadowing diagrams provided in Appendix 2 demonstrates that the shadowing cast by the sound attenuation wall affects 13% and 13.2% of 4 & 4A Paget Street respectively. This is more than 11% less than the overshadowing permissible under the R-Codes.

The matters raised by the DAC are considered to be appropriately addressed in accordance with the amended plans submitted by the applicant upon lodgement of the development application. The applicant has increased the setback of the development from the south eastern property boundary and modifications have been made to the streetscape appearance of the development on the advice of the DAC. It is a recommended condition of approval that the final materials for the development be submitted to the City prior to the commencement of development on site to ensure that the development provides for a high standard of material construction.

It is noted that in the future should the South Street road widening take place the awning over the South Street Primary Road Reserve may be required to be removed from the development however as this widening is not in Main Roads current forward works plan and may be subject to modification, it is considered appropriate to provide for pedestrian protection in the interim.

As the application did not qualify for further consideration of the DAC in accordance with the City's Local Planning Policy 1.9 – Design Advisory Committee and Principles of Design, the application was not referred back to the DAC following lodgement of the application.

The applicant provided an indicative internal layout plan for the premises at the City's request to ensure that the activation and visibility of the streetscape from inside the building and vice versa afforded by the windows to the Paget Street and South Street facades would be maintained through the occupation of the development. The indicative floor plan indicates that the development could occupy the site and provide for appropriate activation through these windows by placing the site checkouts to the northern portion of the supermarket. It is a recommended condition of approval that the facades remain clear and unobstructed (e.g. no internal shop shelving to be placed immediately inside the windows) to ensure on-going interaction between the building and the street.

Planning Assessment:

The proposal has been assessed against all the relevant legislative requirements of the Scheme, State and Local Planning Policies outlined in the Legislation and Policy section of this report.

The application has also been assessed against clause 67 Matters to be Considered of the Planning and Development (Local Planning Schemes) Regulations 2015. It is important to note the introductory part of clause 67 which reads as follows: '*In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application –'*

In other words, not all matters listed in clause 67 will be relevant (or relevant to an equal degree) in the assessment and determination of every development application. In this section of this report, City officers have discussed all of the matters considered to be relevant to this application and have given due weight (not necessarily equal weight) to each of these considerations in their assessment and recommendation on the application.

The following matters have been identified as key considerations for the determination of this application:

1. Land use-related considerations (Shop, Restaurant, Liquor Store)
2. Vehicle Parking and End of Trip Facilities
3. Traffic
4. Building height
5. Delivery management
6. Hilton Local Centre Policy

These matters are outlined and discussed below.

SPP 4.2 – Activity Centres

Although zoned 'Local Centre' under the City's local planning scheme, the size and function of the Hilton centre more closely corresponds to the Neighbourhood Centre category in the hierarchy of activity centres contained in SPP 4.2. The SPP describes the main role/function of a Neighbourhood Centre as: 'provide for daily and weekly household shopping needs, community facilities and a small range of other convenience services'. The SPP also notes that typical retail types present in a Neighbourhood Centre are supermarkets, personal services and convenience shops. The proposed development, comprising a small shopping centre of three tenancies with a combined net

lettable area (NLA) of just under 2500 sq m, is considered to be commensurate with the intended scale and function of a Neighbourhood Centre under this State Planning Policy. The SPP states that a Retail Sustainability Assessment (a methodology to assess the potential economic and related effects of a significant retail expansion on the network of activity centres in a locality) is only required for a neighbourhood centre in cases where an expansion by more than 3000 sqm NLA of shop-retail floorspace is proposed. The subject application proposes just under 2500 sqm NLA in the new development which represents a net increase of approx. 1000 sqm NLA in the centre as a whole when the retail NLA of the existing IGA supermarket proposed to be demolished is taken into account. Accordingly, a Retail Sustainability Assessment was not required to be prepared to accompany the subject application.

Other Planning Considerations
The current site has been identified as an area suitable for higher density residential/mixed use development. The Scheme incentivises a scale of development that is greater than that proposed in this application, where meeting certain criteria permits bonus height and residential density for the site. Although it is disappointing and a missed opportunity that the proposal does not incorporate any upper floor areas that might be capable of accommodating some residential uses, the proposal is considered to satisfy the minimum development requirements for the site and provide land uses (Shop and Café) that are a welcomed investment in the Local Centre. These uses, in combination with existing uses in the centre may help to encourage further development in the area that might take up the incentives offered in the Scheme to maximise development yield including new residential units.

Land use

Provision	Requirement	Proposal	Assessment
Local Planning Scheme No. 4 Use Class Table	Land use Shop: D Liquor Store: A Restaurant (Café): D	Proposed, Shop, Liquor Store and Restaurant	Supported – See officer comments

In accordance with the requirements of Local Planning Scheme No. 4, the development proposes discretionary land uses. In considering discretionary uses the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

(a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area

(m) The compatibility of the development with its setting including the relationship of the development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development

(n) The amenity of the locality including the following:
- *(i) Environmental impacts of the development*
- *(ii) The character of the locality*
- *(iii) Social impacts of the development*

(y) Any submissions received on the application.

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

Shop (D Use)
A Shop land use is considered to be consistent with the existing and future character of the Hilton Local Centre area. The impacts of the operation of the proposed use can be appropriately managed through the recommended conditions of approval in controlling delivery management, noise impacts and the impact of lighting and signage on the amenity of adjoining properties and the locality. The proposed Supermarket will contribute to the available range of services in the Hilton Local Centre and the use is supported, subject to conditions.

It is noted that the hours of operation for the use will generally be controlled by the requirements of the Retail Trading Hours Act.

Liquor Store (A Use)
The proposed liquor store is considered appropriate in accordance with the objectives of the Local Centre zoning, to contribute to the range of services and shops available in the Hilton Local Centre and provide for weekly and convenience retailing.

Concern has been raised in regard to the hours of operation given the potential sale of alcohol to vulnerable members of the community, however as noted by the applicant, hours of opening to the public on site will be limited by the requirements of the Retail Trading Hours Act and by the Department of Racing, Gaming and Liquor (Liquor Licence), and sales on site are not proposed to be available 24 hours.

In this instance the proposed hours of operation are considered appropriate in the context of the business location in the Hilton Local Centre. It is noted that the individual liquor license application process with the issuing authority considers both the social impact of a license, as well as the density of licenses in a locality.

Restaurant – Café (D Use)
A Restaurant land use, in providing for a small scale café to the site corner, is considered appropriate and consistent with the current uses in operation in the locality and the intended future character of the Centre. As with the proposed Shop use, the impacts of the operation of this use can be appropriately managed through the recommended conditions of development approval and is supported, subject to these conditions.

Vehicle parking and end of trip facilities
Car Parking

Item	Required	Provided	Extent of Variation
Shopping Centre (2493m^2 NLA)	1 bay/16m^2 NLA for a shopping centre of 0-5000m^2 GLA Total: 155.8 (156) bays	140 bays (132 in basement and 8 staff parking bays at ground level)	16 bays

The above car parking calculation has been undertaken in accordance with table 2 in Local Planning Scheme No. 4 which provides for a combined parking calculation for shopping centres which contain a variety of uses.

The applicant's justification for the proposal submitted with the application puts forward a parking assessment which is undertaken in accordance with cl. 4.7.1 (b) of Local Planning Scheme No. 4:

Where the floor area occupied by an existing use is increased, the parking requirement will be calculated on the basis of the floor area of the extension only or the area subject to the change of use of the site provided the existing number of car spaces is not reduced.

It is considered that the above criteria applies in cases where an existing building is being extended, allowing an existing approved car parking provision to be carried over for an extension to a building. In this case as the development comprises the full demolition of the building and all existing parking bays and a new construction, it is considered that a 'clean sheet' calculation of parking for the use assessing the building as proposed is most appropriate.

The proposed 16 bay parking shortfall is supported in accordance with Local Planning Scheme No. 4.7.3 - Relaxation of Parking Requirements for the following reasons:

(i) the availability of car parking in the locality including street parking,
- Additional street parking is provided in the immediate vicinity of the development and available for short visits to the centre.

(ii) the availability of public transport in the locality
- The site is well serviced by public transport services travelling along South Street throughout the day.

(iii) any reduction in car parking demand due to the sharing of car spaces by multiple uses, either because of variation of car parking demand over time or because of efficiencies gained from the consolidation of shared car parking spaces,
- It is considered that there will generally be reciprocal use of the available bays on site between the three individual tenancies (Café, Liquor Store and Supermarket) and visitors to the site parking in the basement will visit one or more of these tenancies in a visit to the centre.

It is considered that in the context of a development of this size, a shortfall of 16 car parking bays is minor and able to be absorbed by the overall development without detriment to the immediate locality. On this basis and in accordance with the above considerations, this aspect of the development is supported.

Bicycle Parking

Item	Required	Provided	Extent of Variation
Bike Racks	Class 1: 1 per 300 m^2 GLA = 11.16 (12) Class 3: 1 per 500 m^2 GLA = 6.6 (7)	Class 2: 11 bays Class 3: 6 bays	Class 1: 12 racks Class 3: 1 rack

It is considered that the requirement to provide class 1 parking bays is appropriately addressed through the provision of a combined class 2 bicycle parking area in the basement, it is considered that generally long term bicycle parking will be used by employees working at the site and the provision of individual self contained bicycle racks would be unnecessary. In this regard, it is considered that the provision of a commensurate number of class 2 racks is appropriate to be addressed through a condition of approval.

The applicant has chosen to round down their calculations with respect to the provison of class 3 bicycle racks. A condition of approval to ensure that these racks are provided in accordance with the full Local Planning Scheme No. 4 bike rack requirements is recommended. The condition of approval with respect to the provision of class 3 bike racks will ensure ongoing compliance should the proposed racks need to be removed to facilitate South Street road widening. The development complies with respect to the proposed provision of end of trip facilities, but it is considered appropriate to recommend a condition of approval to ensure ongoing compliance in the provision of these facilities.

Local Planning Policy 3.17

The subject site is located in the Hilton Local Centre area, a locality where additional development potential is afforded to sites and development in the locality which meet certain criteria listed in Local Planning Scheme No. 4 and Local Planning Policy 3.17. The proposed development does not seek this additional development potential and so the development is assessed only against the general provisions applicable to the locality and the general design criteria for development in this area.

Provision	Requirement	Proposal	Assessment
Local Planning Scheme No. 4 sub area 7.3.1 General provisions	a) Clause 4.2.5 of this scheme does not apply to this sub area	a) N/A	a) N/A
	b) In this sub area, a minimum building height of 7 metres applies where new non-residential development is proposed.	b) See building height discussion below.	b) See building height discussion below.
	c) In this sub area, all new non-residential buildings in Area 1 shall incorporate	c) The proposed development provides windows and doors to the ground floor access	c) Complies.

	an activated street frontage to the primary street which incorporates windows and doors at the ground floor and windows to the first floor level. d) Clause 7.2 of Local Planning Area – Hilton does not apply. e) The base density code of R20 applies, however, approval will be granted to development(s) proposed at the higher bonus densities, as set out below, where the development proposal achieves the corresponding design criteria	points on South Street and Paget Street. d) Noted, this criteria is not relevant to the development as proposed. e) Noted, this criteria is not relevant to the development as proposed.	d) Noted. e) Noted.
LPP 3.17 Design criteria – Development Context	• Site design must be responsive to neighbouring sites, the existing context and neighbouring public realm resulting in a positive contribution to the neighbourhood. • Development must be sensitive to the interface with residential lots. Particular care should be taken in the treatment of interfaces to residential properties outside the centre where these are developed for	See overshadowing and boundary wall discussion below.	See overshadowing and boundary wall discussion below.

	single residential purposes to limit impact and building bulk and overshadowing.		
LPP 3.17 Design Criteria – Site planning, orientation, setbacks	• Building orientation must consider the site, the street and neighbouring buildings to maximise amenity, including architectural form to the street, solar access and visual privacy	• The proposed design of the development is considered to appropriately provide for interface with the public streets and adjoining properties, further discussion is provided with respect to the proposed noise walls and shade cast by the development below.	• Refer to boundary walls and overshadowing discussion below.
	• Where possible, orientation of buildings should also consider and provide surveillance of internal roads proposed as part of the redevelopment.	• No internal roads are proposed as a part of this development. The access ramp is provided with sufficient passive surveillance from the street and will likely be subject to CCTV surveillance by the occupier of the building.	• Complies
	• Where level changes occur on sites, ensure floor levels and entrances to buildings appropriately interface with the ground plane.	• The proposed development generally follows the slope of the subject site with respect to access to the building.	• Complies
	• New development proposals should consider the interim opportunities for the South Street road reserve setback to create an amenable interface and interim use of the land through use of	• The development proposes the interim landscaping of the road reserve setback to provide for an improved	• Complies

	soft landscaping, pedestrian connections, awnings and moveable or temporary furnishings (subject to the approval of Main Roads WA and / or WAPC). • The setback of buildings to, and their interface with, Carrington Street should consider the provision of sufficient space and its treatment to accommodate pedestrian demand and comfortable visitor entry.	pedestrian environment. • The development does not relate to Carrington Street.	• N/A
LPP 3.17 Design Criteria – Architectural expression and articulation	• The South Street ground level building facades of retail and commercial tenancies shall be designed to address the street via entries and windows to create interest and a sense of activity within the building. • In buildings over 4 storeys, the design composition should include a legible but harmonious base (boundary, setback, lower levels), middle (main façade) and top (roof/parapet/upper level) in the façade. • Continuous horizontal and vertical building	• As proposed, the development provides windows and entries to both frontages. • The development is single storey. • The development seeks to break up continuous facades	• Complies. • Complies. • Complies.

	elements shall be broken into smaller components through architectural features, materials textures and/or building breaks to maintain a built form rhythm and grain evocative of traditional town centre character. • Internalised habitable rooms, including bedrooms, will not be permitted. • At least 60% of apartments shall be naturally cross ventilated.	through the use of varied architectural components. • No residential component is proposed. • As above.	• N/A • N/A
LPP 3.17 Design Criteria – Corners (Buildings)	• Buildings on corners shall address both street frontages and include strong architectural expression to both facades. The ground floor shall provide surveillance and an active edge to the corner return. • Blank walls to corner frontages will not be permitted.	• The development provides for surveillance of, and access to and from both the South Street and Paget Street frontages. • The development provides for active frontages to the street corner boundaries.	• Complies. • Complies
LPP 3.17 Design Criteria – Landscape design and public domain interface	• Consider the interim opportunities for land in the Metropolitan Regional Scheme Primary Regional Road reserve setback to benefit the areas' building	• The applicant proposes modifications and improvements to the pedestrian realm of the Primary Regional Road reserve, in providing for additional landscaping and	• Complies.

	and streetscape responses. Where possible, a coordinated approach with adjoining properties should be achieved. • Pedestrian experience should be considered in the design of the public domain interface through the use of elements such as footpaths, awnings, lighting, seating, and landscaping which can contribute to improving weather protection, safety and comfort. • Development shall maximise opportunities to introduce deep planting zones for the protection of trees. Retention of existing trees is encouraged.	weather protection in this area. • The final landscaping plan for the development is to be submitted to the satisfaction of the City for approval, should approval, should the development be approved.	• With respect to the extent of the proposed awning over the South Street Road Reserve, it is noted that it is a requirement that this element be removable and non-structural due to the potential impact of road widening. The extent of this element is considered appropriate considering these limitations. • Existing trees in the road reserve are to be retained and protected through the development process. A final landscaping plan is to be submitted for the review and approval of the City.
LPP 3.17 Design Criteria – Vehicle parking and access	• Where possible, vehicle access shall be taken from the rear of the site. • Where car parking is provided underground or in a building, car park access shall be integrated with the	• Vehicle access taken from rear of site on Paget Street. • Vehicle access has been proposed to the rear of the building, in a dedicated	• Complies. • The development does not include an upper floor, and it is considered that an enclosed

	building's overall facade. • Car parking and access must also address other design and layout criteria specified in the scheme and other council policies.	ramped access area. • The car parking layout has been reviewed and supported by the City's Engineers.	vehicle access way close to the property boundary with the adjoining residential properties would unduly impose on the amenity of these sites. • It is a recommended condition of development approval that the final parking layout be designed so as to meet the Australian Standards requirements in accordance with Local Planning Scheme No. 4.
LPP 3.17 Design Criteria -	• Waste management and storage designs shall minimise the impact on adjoining residences, and be screened from view • Bin stores and heavy vehicle manoeuvring areas should be located away from the boundaries of	• The development proposes a screened service yard to the rear of the building between staff parking and the loading bay.	• The development is to be subject to the provision of a final waste management plan confirming collection times, however the location of the waste storage area has been reviewed by the City's Waste Services team and is supported. • Refer to comments in relation to the impact of noise below.

	residential zoned properties and / or the interface treated to mitigate noise impacts. Provision of an acoustic assessment demonstrating capacity to comply with the Environmental Protection (Noise) Regulations 1997 may be required as a pre-requisite to approval. • Building mechanical services including plant and service equipment shall be integrated into the roof design and/or not be visible above the roof line of the building facade from the public realm.	• The applicant proposes the installation of a noise protection wall to the southern site boundaries (and rear boundary of 3 Lee Avenue) to protect adjoining existing residential development from the impacts of the truck turning circle, deliveries and waste collections. • Screening of building plant and equipment can be enforced by a condition of development approval.	• It is a recommended condition of development approval that building plant and equipment be appropriately screened so as to manage its visual impact and contribute to noise protection.

Building Height

Item	Required	Provided	Shortfall
Building Height	Local Planning Scheme No. 4 - Local Planning Area 7, Sub area 7.3.1 general provisions & Local Planning Policy 3.17: A minimum building height of 7 metres applies where new non-residential development is proposed.	~6.8m (café tenancy)	0.2m

The proposed variation to the listed minimum building height for portions of the building is considered worthy of support on the basis that this element of the development is relatively minor, comprising approximately 10.6% of the overall façade and the development otherwise provides for a minimum 7 metre building height across the development, especially fronting South Street.

In accordance with Local Planning Scheme No. 4 cl. 4.8.2(a), the proposed variation to the above requirement is supported on the basis that the variation to minimum building height is minor and not considered to be detrimental to the amenity of adjoining properties or the locality generally. The overall building generally satisfies the minimum 7m building height requirement and the minor reduction to this height at the corner area is considered to contribute to the design of the building and reflect comments made by the City's DAC.

Overshadowing

The applicant supported their initial application with an updated plan indicating the degree to which the development cast shade over adjoining properties in the morning, afternoon and at midday on 21 June, being the day on which the shade cast by development is greatest. The submitted plan indicates the following with respect to the shade cast over these properties at midday:

- 4 Paget Street – 18.6% shade cast
- 4b Paget Street – 29.1% shade cast
- 3a Lee Avenue – 8.3% shade cast

While the subject site is not subject to the requirements of the Residential Design Codes with respect to overshadowing, these requirements are considered to be an appropriate guide as to the acceptability of this aspect of the development, as the affected adjoining properties are currently used for residential purposes.

With respect to the shade cast over 4 and 4b Paget Street, as they are coded R60, a maximum of 50% of the site could be shaded as deemed-to-comply, and 3a Lee Avenue can be shaded up to 25% at its base coding of R20. It is noted that this site is afforded additional development potential up to R160/AC1 under the Scheme sub area requirements, development at this standard could generally be shaded up to 50%, however the development remains compliant with the lower base coding of R20 which permits up to 25% shade cast.

In response to concerns raised by the City's DAC in relation to the development, the building was set back further from the south eastern corner boundary of the site. This resulted in a reduction in the shade cast by the development, especially over 3a Lee Avenue prior to the lodgement of the application.

Boundary Walls
The proposed development does not have specific boundary setback requirements, with the majority of setback requirements applicable in the area relating to larger developments taking advantage of the development potential afforded to the lot. However in considering the proposal, LPP 3.17 is clear in that the interface of the development with adjoining lots is to be considered through the development application process. In this regard, consideration is given both to the acoustic wall to the southern and eastern property boundaries, and the side wall of the development facing the eastern boundary of the site.

Acoustic wall
The development includes an acoustic wall that wraps around the rear services area of the development, providing for noise protection to adjoining properties used for residential purposes. The wall begins at 2.4m high at the western site boundary, increasing to 3.2m high surrounding the proposed truck bay. The extent of development on the property boundary and the proposed interface with the neighbouring property is considered appropriate for the following reasons:

- It is noted that the wall will provide for noise mitigation for adjoining properties and assist in the development satisfying its obligations under the *Environmental Health (Noise) Regulations 1997.*
- The development limits the degree to which the adjoining property is overshadowed commensurate to the applicable R-Code for these properties as discussed above in the overshadowing section.
- In accordance with the recommended conditions of development approval, the wall is to be finished to a clean and appropriate standard to the satisfaction of the City.
- The wall permits for visual privacy protection between the subject site and adjoining properties in limiting overlooking.

Eastern boundary wall
The building is proposed to be built up to the eastern property boundary, with the development set off the southern boundary of current Lot 80 (297 South Street) by ~4.4m, the development comprises a 5.8m high wall which gradually increases in height to approximately 7.9m high. The extent of development on the property boundary and the proposed interface with the neighbouring property is considered appropriate for the following reasons:

- With respect to shade cast by the development, especially at midwinter, this will predominantly fall over the subject site.
- The wall adjoins a property currently not used for residential purposes (childcare centre) and the wall generally abuts the side setback of the existing building.
- The development limits the degree to which the adjoining property is overshadowed commensurate to the applicable R-Code for these properties as discussed above in the overshadowing section.

- In accordance with the recommended conditions of development approval, the wall is to be finished to a clean and appropriate standard to the satisfaction of the City.
- The wall can be constructed against in any future development for the adjoining property, creating a consolidated development facing South Street.

On the basis of the above considerations, the interface of the development with adjoining lots is supported with respect to proposed walls on property boundaries.

Managing the Impact of Noise
The development application has been supported by an environmental noise assessment prepared by Lloyd George Acoustics which has been reviewed by the City's Environmental Health Officers. This report found that the development could generally comply with the relevant noise protection legislation, finding the following (summarised):

- The noise levels expected on the site are generally compliant for all day time operating scenarios, however some matters such as large refrigerated truck deliveries and small truck deliveries to the rear loading yard are anticipated to exceed the recommended standards.
- The report recommends that the delivery yard be predominantly used during daytime hours (7am to 7pm Monday to Saturday) to ensure compliance and to use the area outside this time additional finishes to the delivery area and management strategies such as turning off vehicles will be necessary.
- The report also recommended the noise attenuation measures for carpark ventilation systems and construction strategies for the carpark to limit the impact of noise.

It a recommended condition of development approval that the applicant submit for approval a final delivery management plan, to be adhered to for the life of the development, unless modified with the agreement of the City of Fremantle, to ensure that the impact of delivery noise can be appropriately managed. Per the submitted noise report, deliveries outside daytime hours could exceed relevant standards, in the absence of additional detail of operational practices to achieve compliance with the relevant noise regulations. The applicant has advised that the site is not intended to operate as a home delivery dispatch site for potential supermarket occupants of the site.

It is acknowledged that the impact of noise is experienced differently for different receivers, and that compliance with the standards of the *Environmental Health (Noise) Regulations 1997* does not necessarily mean that no noise will be experienced by surrounding landowners. It is however considered that based on the noise assessment submitted by the applicant, the impact of noise from the development can be appropriately managed provided the recommendations of this report are included in the development. Accordingly conditions of approval are proposed to ensure that the matters recommended in this report are included in the overall development. The applicant is also advised of their obligation to comply with the *Environmental Health (Noise) Regulations 1997.*

Delivery management
The application is recommended to be subject to a condition of approval requiring the provision of a final delivery management plan to the satisfaction of the City of Fremantle in order to appropriately manage the impact of delivery access to the subject site.

The applicant's Environmental Noise Impact Assessment recommends that deliveries be undertaken primarily between 7am and 7pm to appropriately comply with the *Environmental Protection (Noise) Regulations 1997.* The report also recommends that the loading dock be furnished in an appropriate way in order to mitigate the noise from this area, including the following:

- Store management to manage staff to ensure proper handling techniques for pallets and jack lift operation;
- Lining of known impact areas with suitable rubber impact matting;
- Smoothing of trafficable areas for wheeled equipment (e.g. Bins and trolleys); and
- Securing of metal grates or using plastic grates;
- Scheduling of delivery trucks to avoid trucks waiting to enter loading bay as well as to arrive within daytime hours;
- Turning off engines and refrigeration units during night hours and where practicable at all times.

As limited details have been provided about the type (including the potential for home deliveries and customer collection), number and frequency of deliveries to and from the supermarket as part of this application, Officers are unable to assess the potential impacts from the use of the loading dock and service yard. As such, a condition is recommended to limit the use of the service yard and loading dock including all deliveries to between 7am and 7pm to limit the impact of delivery noise on adjoining properties. The City may be able to consider deliveries outside these hours for the site in the future, once it is confirmed that the recommendations of the noise impact report have been included in the development and it can be demonstrated that deliveries can be undertaken in accordance with the noise regulations. These modifications to delivery times would need to be made through a further application.

The applicant has advised that generally deliveries will be timed so as to avoid delivery queuing for the subject site, and considering the proposed layout of the development and proximity to adjoining residential properties it is considered important that deliveries be managed such that delivery vehicles do not stack on the access ramp or in Paget Street.

Traffic
The Paget Street and South Street intersection is noted to contribute to current traffic and access issues and has been subject to complaints with respect to pedestrian and driver safety. The City has undertaken some traffic calming works to the pedestrian realm of South Street in consultation with Main Roads. South Street itself is controlled by Main Roads, so any works require their cooperation. MRWA's comments on the proposed development indicate that any road widening or works to alter South Street are not in their current forward works schedule.

Access to Paget Street from South Street is currently permitted from the eastbound lanes, however turning right out of Paget Street to head eastbound is not permitted. Currently vehicles turning into Paget Street from South Street eastbound can result in the blocking of the right hand lane as they wait for westbound traffic to clear. Multiple submissions in relation to the proposal raised concerns that due to the restrictions on the Paget Street South Street intersection, increased vehicle traffic from the larger supermarket and associated tenancies may result in an exacerbation of traffic safety issues at this intersection and also result in increased traffic in Paget Street and other streets in the Hilton locality as drivers seek to avoid the Paget/South Street intersection.

The proposed development application was submitted with a traffic impact assessment prepared by Riley Consulting which found the following (summarised):

- The proposed development will result in increased local traffic demands, however traffic patterns will remain similar as the proposed development is an expansion of an existing land use.
- The analysis of the local road and intersection impacts of the development found sufficient capacity to accommodate the proposed development. Local intersections were shown to operate within an appropriate level of service with the proposed development.
- The development provided sufficient on site parking to accommodate the proposed use.

The City's Engineering team have reviewed the development and the supporting traffic report and have agreed with the conclusion that the development will not significantly impact the local road network. While the development will increase the number of vehicles utilising the South/Paget Street intersection, as well as Paget Street southbound, the road is able to accommodate this traffic increase without the service (in terms of safe, relatively uncongested people and vehicle movement) provided by the road being impacted.

With respect to the above, it has been recommended that modifications be made to the Paget Street pedestrian environment in order to ensure that the impact of the development on this area is appropriately addressed to ensure that pedestrian safety is prioritised. As noted in the traffic report, there is to be an approximate 9.5% increase to southbound traffic on Paget Street as a result of the proposed development. Generally a projected increase of 10% is a trigger for further investigation of modifications to the roadway to mitigate the impact of traffic movements. In this instance, the City's Engineering team have recommended modification to the Paget Street pedestrian environment to allow for increased safety for pedestrians in light of the increased traffic movements. In accordance with these comments, the applicant submitted amended plans demonstrating the provision of modifications to the Paget Street pedestrian environment including the addition of a painted median.

The applicant has contended that there is no connection between the requested improvements to the Paget Street environment and the proposed development as the site already has a supermarket on site and the increase to vehicle movements through this area is not sufficient to necessitate these changes. However City officers consider that due to the increase in the scale of operations on site and the associated increase in vehicle movements into and out of the subject site, there is a direct connection between the development and these improvements. Accordingly, it is a recommended condition of approval that these works be undertaken by the applicant to the satisfaction of the City prior to the occupation of the development.

These works, although located outside of the subject site boundaries, are considered to be necessary to support the operation of the development as proposed, and the recommended condition of approval is necessary, reasonable and enforceable as the works would be on land (the Paget St road reserve) under the City's control.

Notwithstanding the above conclusion that the existing road network has sufficient capacity to safely accommodate the proposed increase in traffic as a result of the development, the potential impact on the amenity of nearby residents from the potential increase in traffic through the streets to the south of the site has also been considered. It is acknowledged that a proportion of the traffic is likely to seek routes south along Paget Street and connecting residential streets in an effort to ultimately travel east along South Street, presumably in a manner similar to what might occur on site today. Noting the increase in the size of the proposed supermarket, and an assumed proportionate increase in traffic volumes including a percentage of total traffic movements that could use Paget Street south of the site, it is acknowledged that the proposal may result in a reduced level of amenity to that currently experienced in nearby streets. However, it is difficult to predict and ascertain with any accuracy what that degree of increased impact may be. Given the proposal's general compliance with the relevant requirements of LPS4 and State and Council planning policies, officers do not consider the potential for increased traffic though the residential streets near to the development site to warrant a sufficient reason to refuse the development on residential amenity impact grounds. However, officers do acknowledge that forming a view on this issue does involve a degree of subjective judgement.

Conclusion:

In accordance with the above considerations, the development is considered to provide for a high quality shopping centre in the Hilton locality that is generally well designed for the future users of the site with respect to siting, layout, access, parking availability and the interface with the Street.

It is considered that the development has the potential to catalyse future development to other lots in the immediate locality which will take advantage of the increased development potential permitted under Local Planning Scheme No. 4 and the proposal is recommended to be approved, subject to conditions.

PC2101 – 3 HIGH STREET, NO.39 (LOT 62), FREMANTLE – PARTIAL CHANGE OF USE TO TAVERN AND ALTERATIONS TO EXISTING BUILDING - (JL DA0314/20)

Meeting Date: 13 January 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1: Development Plans
Additional information: 1: Site Photos
2: Acoustic Report
3: Waste Management Plan
4: Business Management Plan

SUMMARY

Approval is sought for a partial change of use to Tavern and internal alterations to the existing Tavern, known as 'The Orient Hotel' at No.39 High Street, Fremantle.

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

- **Car parking**
- **Land use.**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a partial change of use of the ground floor and a storeroom within the basement of the existing building to Tavern at the subject site commonly known as 'The Orient Hotel'. The 137m^2 area, the subject of the change of use, was previously used as the reception and dining area of the upper floor Backpackers which has ceased to operate.

No change of use or physical works are proposed to the upper floor of the existing building nor are any works or alterations proposed to the existing ground level outdoor dining areas.

The applicant advised the City that the proposed rooms are to be used for private functions and not typical tavern floor area.

Opening hours are proposed between 6.00 am and 12.00pm Sunday to Thursday and 6.00am and 1.00am the following day, Friday and Saturday. These hours are the same as the existing Tavern Liquor Licence for the Orient Hotel.

The application includes the proposed physical works:

- New carpet and overlaid timber flooring (similar to existing Orient Bar areas) to patron areas and vinyl to the bar area
- New internal painting of existing painted surfaces throughout
- New timber horizontal blind window treatments
- Upgrading electrical services and light fittings
- New bar and power supply
- The existing gas fireplace will be activated.

On 19 November 2020 the applicant submitted the following information in response to Officers request for further information:

- Response to the submissions received during the consultation period,
- An acoustic report prepared by a suitably qualified Noise Consultant that details recommendations required to ensure the premises can comply with the Environmental (Noise) Regulations 1997,
- A Waste Management Plan.
- A Business Management Plan.

Development plans are included as attachment 1. The acoustic report, waste management plan and Business Management Plan are included in the additional information attachment of this report.

Site/application information

Date received:	14 August 2020
Owner name:	Tattarang Pty Ltd
Submitted by:	Norda Architects
Scheme:	City Centre
Heritage listing:	State Registered - West End Conservation Area
Existing land use:	Hotel
Use class:	Tavern
Use permissibility:	A

CONSULTATION

External referrals

State Heritage Office (DPLH)

The subject site is located within the West End Conservation Area which is included on the State Heritage Register. As such the application was referred to SHO for comment. The SHO advise that they support the proposal subject to the following conditions:

1. *New carpet and other floor coverings are not to be adhered to original timber floors.*

2. *The new shelving partitions/cabinetry within the arched openings are to be largely freestanding or fixed to the secondary partition behind, to avoid fixings within any original fabric.*

It is recommended that these conditions be included in any approval.

Fremantle Ports (FPA)

The application was referred to FPA as the subject site is located within Fremantle Port Buffer Area 2. The FPA advised that they have no objection to the proposal.

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 under the City's scheme and policies. The advertising period concluded on 9 November 2020, and five (5) submissions were received. The following issues were raised (summarised):

- Use of the Henry Street entrance would cause future noise impacts on nearby residential properties
- Future outdoor dining areas/alfresco areas along Henry Street is a major concern creating noise impacts on nearby residential properties,
- Strongly object to the use of the eastern side of the building for anything which increases noise, traffic, [pedestrian or vehicle], drunken behaviour, yelling and fighting. It is not consistent with a residential area of which Henry Street is.
- Increased numbers of patronage ultimately will result in increase in rubbish and kitchen waste in the rear laneway,
- Concerned about live music played and noise generated.
- Object subject to seeing how the owners of the tavern plan on handling security and anti-social behaviour.

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

- *Waste management*
  The existing facilities are proposed to be increased from
  Existing Waste Management - one 1100 litre wheeled all-waste commercial bin stored in the rear service area which is collected at the street verge 3 time a week.
  New Waste Management - New 1100 litre lockable wheeled commercial bin for general and green waste. 3 new 240 litre bins for packaged product waste (ie glass, cans and cardboard/paper) to support recycling. Collection will change to 'on demand'. Contract was recently signed with U Can Recycling and starts shortly.

The proponent also submitted a Waste Management Plan (refer to additional information attachment 3) illustrating the ability of storing these bins onsite at the rear of site, whilst not blocking the existing access way for the immediate western property.

- *Noise concerns* - An acoustic assessment report prepared by Acoustic Engineering Solutions. The findings confirm that the premises can comply with the Environmental Protection (Noise) Regulations 1997, providing windows on Henry Street and the rear southern elevation are closed at all times.
- *Henry Street Door Use* – Access via the existing Henry Street doorway is proposed however it is to predominantly be an exit door and provide the option to use it as an entry when the space is used for private functions or major events like grand final day, Fremantle Community Festivals, etc. Private functions are mainly family orientated occasions like birthdays and weddings. The entry provides direct access to the proposed new areas without having to go through other existing bar areas, especially where the patrons include children. Use of this door will be managed like the entry off High street where there will be security attendance for any days and evenings where the risk of antisocial behaviour is anticipated. Currently on the High Street entry, this is from Wednesday to Sunday evenings and major events.
- *Internal Doors* - these doors will be accessible during business hours to provide access to toilets, alternative access and exit routes and for servicing the spaces e.g. for food services.
- There is no proposal to use the Henry Street (level) verandahs as an alfresco area and or a licensed area. The consumption of alcohol will be prohibited in all areas other than those licenced by the Department of Racing, Gaming and Liquor.
- The 'Orient Hotel' has no access rights to the upper floors and external verandahs of the building and is required to install physical access restrictions by Liquor Licensing to prevent access via the existing internal stairs.
- The proposal does seek to promote positive 'activation' of the Henry Street side of the Orient Hotel because the current 'non-activation' does create a place for itinerants and anti-social behaviour not associated with the Orient - because no one is responsible for it. Reactivating the Henry Street entry as a 'passive' secondary entry is seen as a way to change this situation for the better.
- The Proprietor has run the 'Orient' business for the last 14 years with few reports and or complaints in relation to noise and anti-social behaviour related to his business operations. Generally, if there are any issues with antisocial behaviour, they tend to relate to persons who are refused service by the Orient due to arriving at the premises in a pre-intoxicated state. In other words, had become intoxicated and refused service elsewhere.
- The Orient take very seriously their responsibilities under the strict RSA obligations they must comply with. They refuse service to any intoxicated person or persons acting in an unacceptable manner for the safety and enjoyment of other patrons and their staff.
- The Orient seeks to be a good neighbour. We feel it is important to understand that there is a limit to which any business can be held responsible for persons who refuse to willingly and peacefully accept being given notice to leave the premises. Once a person is beyond the immediate boundaries of the property, Orient staff do not have any legal authority to take action in public spaces. It is with some frustration that when police or the like are notified, the response is rarely

prompt. Also, disruptive persons and behaviour can often relate to persons who have no connection with The Orient, albeit the impression may be otherwise.

The remaining comments are addressed in the Officer Comment section below.

OFFICER COMMENT

Statutory and policy assessment
The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. In this particular application the areas outlined below do not meet the scheme or policy provisions and require discretion:

- Land use
- Car parking

The above matters are discussed below.

Background
The subject site is located on the corner of High Street and Henry Street, Fremantle. The site is occupied by a three-storey building known historically as the Orient Hotel.

The site has an extensive planning background and summary of this is as follows:

- DA0473/09 - Re-Roofing
- DA0124/12 - Retrospective Approval for Signage Additions
- DA0401/15 - Internal alterations and restoration works
- DA0274/17 - Retrospective approval for external fixture and air- conditioning unit additions and alterations
- DA0114/18 – Retrospective approval for partial change of Use from Hotel to Tavern; and,
- DA0306/20 – Repairs and maintenance works

A search of current Liquor Licences approved by the Department of Racing, Gaming and Liquor confirms that the premises currently operates under a Tavern Liquor Licence.

In recent years the City has received multiple complaints (Noise, rubbish, antisocial behaviour etc) regarding the site, however it is noted that the majority of the complaints related to backpacker's business associated with the upper floors of the existing building onsite. This use has ceased on site and the upper floor area is currently vacant. Future use of the upper floor area of the building does not form any part of this application

Heritage
The subject site is located within the West End Conservation Area which is included on the State Heritage Register. The subject site is also individually listed as a Level 1a on the City's Heritage List. The application has been reviewed by the State Heritage Office and the City's heritage officers who support the application subject to two conditions.

The proposed development relates to the ground floor and a small room within the existing basement area of the subject site. The application does not include any significant alterations to the existing fabric of the building. In summary the use includes the reinstatement of bar facilities and services within the two ground floor rooms.

In accordance with Council Policy LPP3.21 - West End Heritage Area Policy, it is considered that the applicant is proposing suitable, respectful changes to the building to accommodate a use which is compatible with the original historic use of the site and helps activate High Street promoting this street as a high pedestrian focused space whilst maintaining the original use of site which also is outlined in cl2.1 – objectives and 2.2 – Design guidance criteria.

Land Use
A Tavern use is listed as an 'A' use within the City Centre zone. This means that the use is not permitted unless Council has exercised its discretion in accordance with the matters to be considered in the Planning and Development (Local Planning Scheme) Regulations 2015 (Regulations) and has advertised the proposal accordingly.

Although the subject premise is currently approved for 'Tavern' use, the proposed additional floor area could be viewed as an increase in the intensity of the existing use on the subject site.

As such, officers have assessed the proposal in regard to the following matters of cl 67 of the Planning and Development (Local Planning Scheme) Regulations 2015:

a) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area

c) The amenity of the locality including the following:
i. Environmental impacts of the development
ii. The character of the locality

Social impacts of the development
(y) Any submissions received on the application.

The current amenity of the locality generally is influenced by the existence of mixed land uses including licensed venues, educational buildings, shops, offices, and residences in an inner-city context with a significant heritage character.

It is understood that the existing premises has been subject to an array of previous complaints regarding noise, the use of the laneway and the presence of rubbish in relation to the existing premises and antisocial activity. The noise complaints have primarily been in relation to guests and visitors of the vacated backpacker's accommodation on the upper floors of this building. The majority of concerns received for this application relate to the Henry Street interface.

The applicant has submitted an acoustic report prepared by a qualified consultant which has been reviewed by the City. The report states the development is capable of complying with the Environmental Protection (Noise) Regulations 1997, providing the ground floor windows on Henry Street and the rear accessway to the two rooms always remain closed.

The applicant argues that reactivating the Henry Street entry as a 'passive' secondary entry to the premise is a way to positively change antisocial behaviours as a higher level of passive surveillance along Henry Street would be resulting. Additionally, the applicant states in the business management plan (see additional information attachment 4) that security guards are employed in the venue from Wednesday to Sunday from 20:00 to closing on a weekly basis. In addition to this the applicant has confirmed that they would

agree to closing of the Henry Street entrance from 8pm, using this only as an emergency exit until close. This will ensure that all patron movements after 8pm would be via the High Street entrance preventing any direct impact to nearby Henry Street residents during the later parts of the evening trade.

Therefore, taking into consideration that:

- the acoustic report findings show compliance with the Environmental Noise (Acoustic) Regulations 1997 requirements, and
- A condition is to be imposed ensuring all windows of these two rooms to be closed during opening periods of the Tavern, and
- That the doorway onto Henry Street will be more of a secondary access point onsite for booked function goers, (not primarily accessed by the general public bar occupants) and will be closed (utilised for fire escape purposes only) from 8pm til close, and
- that security guards will be onsite during Wednesday to Sunday from 8pm to close to enforce these restrictions,

the overall amenity impact created by the two additional rooms for Tavern use is considered to be acceptable and can be appropriately managed.

The proposal is considered to be consistent with the established character of the locality consistent with the objectives of the City Centre zone to provide a range of commercial, entertainment, recreational uses that provide services for the region as well as residential land use. Subject to appropriate management provisions relating to the use of the additional floor space, the proposal is considered to be compatible with the existing surrounding land uses and is recommended for approval.

The proposed additional use of the two existing rooms for the current Tavern use is supported for the following reasons, having regard to the matters to be considered in the Regulations and the Local Planning Scheme objectives for the City Centre zone:

- The additional floor area and conversion of a Hotel use to a Tavern use is not only considered comparable but overall an appropriate use which will attract visitors and local residents to the City Centre. The existing Tavern has different peak times (i.e. evening) than the surrounding commercial uses (Offices/ Shops, cafes etc) of this portion of the CBD which are predominantly active during the day. This could assist in providing beneficial activation of this part of the city centre into the evening periods.
- Patron numbers and hours of operation will be restricted by the Department of Racing Gaming and Liquor.
- The proposed works to enable the development of the Tavern have been assessed and supported against relevant statutory planning provisions for built form, furthermore the works have been assessed by the Department of Heritage which support the works.
- The site is well serviced by public transport and public car parks in the area.
- There is a dedicated loading bay at the front of the site (20m east on High Street) which ensures that street bays or verge space is not obstructed during deliveries for the Tavern.
- The applicant has provided an acoustic report that demonstrates the site is capable of adhering to the relevant noise regulations. However, conditions are to

be imposed ensuring all window openings on the Henry Street and south elevation of the two room are closed during opening hours.

Having regard for the above, the proposed use is considered suitable for the subject site and this area of the City Centre.

Late Night Venues (DBU6)
In accordance with the general provisions of policy DBU6 (late night entertainment venues serving alcohol), it is considered the local area is well serviced by public streets and Taxi ranks to allow for safe transport to and from the site without significantly disrupting through traffic. The adjoining footpaths and streets are well lit to allow for adequate safety for patrons late at night, including those travelling to the train station.

Car parking
In accordance with Table 2 of LPS4, the car parking requirements are calculated for the area the subject of this application and not the entire premises.

Element	Requirement	Proposed	Extent of Variation
Existing Hotel (137m^2 patron area)	1:2.5m^2 public bar	Nil	28 bays
Tavern (137m^2 patron area)	1:2.5m^2 public bar	Nil	28 bays

Bike parking

Element	Requirement	Proposed	Extent of Variation
Existing Use (137m^2 patron area)	class 1: 1 per 100 m^2 lounge and beer garden = 1 class 3: 1 per 100 m^2 lounge and beer garden = 1	1 x Class 1 1 x Class 3	1 x Class 1 1 x Class 3
Tavern (137m^2 patron area)	class 1: 1 per 100 m^2 lounge and beer garden = 1 class 3: 1 per 100 m^2 lounge and beer garden = 1	1 x Class 1 1 x Class 3	1 x Class 1 1 x Class 3

Council has the ability to waive the vehicle parking requirements in certain circumstances, in accordance with Clause 4.7.3.1 of LPS4. The variation to car parking is supported for the following reasons:

- Short term public parking is available on surrounding streets for visitors to the Tavern.
- The site, being within the City Centre, is well serviced by high frequency bus routes, and is in close proximity to the Fremantle Train and Bus Station.
- The proposal includes the retention of significant heritage buildings on site which limits the opportunity to make space for on-site car parking.
- It is considered that the peak operating times for the Tavern will have limited conflict with the peak operating times for surrounding Office uses reducing the competition between uses for car bays in the immediate area.

- The existing building (and previous land uses) does not have any on-site car parking and the existing Hotel use results in the same shortfall of onsite parking.

In addition to the above, clause 12 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015, provides the ability for Council to vary scheme requirements where compliance might be detrimental to the heritage conservation of the building or locality. In order to create car parking that met the Australian Standards on this site, an element of demolition would need to be proposed. It is considered that this would be contradictory to the objectives of facilitating heritage conservation or enhancing heritage values of the Heritage Listed building and the West End.

In addition to the car parking requirements above, Clause 4.7.3.3 allows Council to waive the class 1 bicycle rack requirements where the application is for a minor change of use. It is considered that the change in land use is not significant and that the bicycle rack requirement should be waived.

Clause 4.7.3.4 allows Council to waive the class 3 bicycle rack requirements. There are numerous public cycle facilities located within the public open space / road reserve immediately around the site, in close proximity to the duel-use path. These existing cycle facilities are considered sufficient to support the proposed change of use.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people working in Fremantle
- Increase the number of visitors to Fremantle
- Increase in commercial and retail development within 800m of Fremantle train station

Alcohol Management (SG50)

- The immediate City Centre area includes an appropriate mix of non-residential land uses, including existing Restaurants and future Retail and Office tenancies.
- Potential impacts of the proposed Tavern can be appropriately managed to minimise the impact on the amenity of nearby residential uses.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones **Seconded: Cr Rachel Pemberton**

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, partial change of use to Tavern and internal alterations to existing building at No.39 (Lot 62) High Street, Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 14 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 issue of a building permit for the development hereby approved, the owner is to submit a final waste management plan for approval detailing the storage and management of the waste generated by the development to be implemented and maintained for the life of the development to the satisfaction of the City of Fremantle.

3. Prior to the issue of a building permit, a Business Management Plan is to be submitted and approved to the satisfaction of the City of Fremantle, including the following:
   - Delivery Management;
   - Opening hours for the business;
   - Management measures of conditions 4 and 5; and
   - The maximum number of employees for the business.

   The business shall operate in accordance with the approved business management plan thereafter. Any amendments to the management plan shall be submitted to, and approved by the City of Fremantle, prior to implementing the amended management plan.

4. The ground floor windows to Henry Street and the rear Right of Way on the southern and western elevations ground floor shall be closed during opening hours of the Tavern to the satisfaction of the City of Fremantle.

5. The entrance/ exit door to Henry Street shall be closed for use for general access/egress purposes from 8.00pm until closing time daily and shall only be used for fire escape purposes after 8.00pm daily, to the satisfaction of the City of Fremantle.

6. Prior to the issue of a building permit for the development hereby approved, amended plans shall be submitted to the satisfaction of the City, detailing how:
   a) New carpet and other floor coverings are not to be adhered to original timber Floors, and

b) The new shelving partitions/cabinetry within the arched openings are to be largely freestanding or fixed to the secondary partition behind, to avoid fixings within any original fabric.

The development shall be implemented in accordance with the amended plans and maintained for the life of the development to the satisfaction of the City of Fremantle

7. The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Should the works subsequently be removed, any damage shall be rectified to the satisfaction of the City of Fremantle.

Advice Note(s):

i. If construction works involve the emission of noise above the assigned levels in the Environmental Protection (Noise) Regulations 1997, they should only occur on Monday to Saturday between 7.00 am and 7.00 pm (excluding public holidays). In instances where such construction work needs to be performed outside these hours, an *Application for Approval of a Noise Management Plan* must be submitted to the City of Fremantle Environmental Health Services for approval at least 7 days before construction can commence.
Note: Construction work includes, but is not limited to, Hammering, Bricklaying, Roofing, use of Power Tools and radios etc.

ii. Design and install all mechanical service systems, including air-conditioners, pool filter motors, gym weight equipment, amplified music, kitchen exhaust ducts and refrigeration motors, etc. to prevent noise levels from exceeding the relevant assigned levels as set out in the Environmental Protection (Noise) Regulations 1997 (as amended). It is advised to seek the services of a competent acoustic consultant to assist the applicant to address the potential noise impacts on noise sensitive receivers.

iii. The proponent must:
- Make application to Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the *Health (Public Buildings) Regulations 1992*;
- Once construction has been completed, make application to Environmental Health Services via Form 2 - Application for a public building certificate; And
- Once construction has been completed, complete and submit Form 5 - Certificate of Electrical Compliance for a Public Building to Environmental Health Services.

Note that Section 1 does not apply to or in relation to building work, as defined in the *Building Act 2011* section 3, for which a building permit is required under that Act. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.

AMENDMENT

Moved: Cr Andrew Sullivan **Seconded: Cr Rachel Pemberton**

Amend condition 5 to read as follows;

5. The entrance/ exit door to Henry Street shall be closed to patrons of the tavern for access/egress purposes from 8.00pm Sunday to Thursday and 10pm Friday and Saturday until closing time daily and shall only be used for fire escape purposes after 8.00pm Sunday to Thursday and 10pm Friday and Saturday, to the satisfaction of the City of Fremantle.

Amendment carried: 6/1

For
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Frank Mofflin

Against
Cr Jenny Archibald

COMMITTEE DECISION ITEM PC2101-3
(Amended officer's recommendation)

Planning committee acting under delegation 1.1:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, partial change of use to Tavern and internal alterations to existing building at No.39 (Lot 62) High Street, Fremantle, subject to the following condition(s):

1. **This approval relates only to the development as indicated on the approved plans, dated 14 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 issue of a building permit for the development hereby approved, the owner is to submit a final waste management plan for approval detailing the storage and management of the waste generated by the development to be implemented and maintained for the life of the development to the satisfaction of the City of Fremantle.**

3. **Prior to the issue of a building permit, a Business Management Plan is to be submitted and approved to the satisfaction of the City of Fremantle, including the following:**
   - **Delivery Management;**
   - **Opening hours for the business;**
   - **Management measures of conditions 4 and 5; and**
   - **The maximum number of employees for the business.**

The business shall operate in accordance with the approved business management plan thereafter. Any amendments to the management plan shall be submitted to, and approved by the City of Fremantle, prior to implementing the amended management plan.

4. **The ground floor windows to Henry Street and the rear Right of Way on the southern and western elevations ground floor shall be closed during opening hours of the Tavern to the satisfaction of the City of Fremantle.**

5. ***The entrance/ exit door to Henry Street shall be closed to patrons of the tavern for access/egress purposes from 8.00pm Sunday to Thursday and 10pm Friday and Saturday until closing time daily and shall only be used for fire escape purposes after 8.00pm Sunday to Thursday and 10pm Friday and Saturday, to the satisfaction of the City of Fremantle.***

6. **Prior to the issue of a building permit for the development hereby approved, amended plans shall be submitted to the satisfaction of the City, detailing how:**
   a) **New carpet and other floor coverings are not to be adhered to original timber Floors, and**
   b) **The new shelving partitions/cabinetry within the arched openings are to be largely freestanding or fixed to the secondary partition behind, to avoid fixings within any original fabric.**

   The development shall be implemented in accordance with the amended plans and maintained for the life of the development to the satisfaction of the City of Fremantle

7. **The works hereby approved shall be undertaken in a manner which does not irreparably damage any original or significant fabric of the building. Should the works subsequently be removed, any damage shall be rectified to the satisfaction of the City of Fremantle.**

Advice Note(s):

i. **If construction works involve the emission of noise above the assigned levels in the Environmental Protection (Noise) Regulations 1997, they should only occur on Monday to Saturday between 7.00 am and 7.00 pm (excluding public holidays). In instances where such construction work needs to be performed outside these hours, an *Application for Approval of a Noise Management Plan* must be submitted to the City of Fremantle Environmental Health Services for approval at least 7 days before construction can commence.**
   Note: Construction work includes, but is not limited to, Hammering, Bricklaying, Roofing, use of Power Tools and radios etc.

ii. **Design and install all mechanical service systems, including air-conditioners, pool filter motors, gym weight equipment, amplified music, kitchen exhaust ducts and refrigeration motors, etc. to prevent noise levels from exceeding the relevant assigned levels as set out in the Environmental Protection (Noise) Regulations 1997 (as**

amended). It is advised to seek the services of a competent acoustic consultant to assist the applicant to address the potential noise impacts on noise sensitive receivers.

iii. The proponent must:

- **Make application to Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the *Health (Public Buildings) Regulations 1992*;**
- **Once construction has been completed, make application to Environmental Health Services via Form 2 - Application for a public building certificate; And**
- **Once construction has been completed, complete and submit Form 5 - Certificate of Electrical Compliance for a Public Building to Environmental Health Services.**

Note that Section 1 does not apply to or in relation to building work, as defined in the *Building Act 2011* section 3, for which a building permit is required under that Act. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.

Carried: 7/0

Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

PC2101 - 7 CANTONMENT STREET NO. 28 (LOT 1), FREMANTLE AND ELDER PLACE NO. 20 (LOT 800), FREMANTLE – PROPOSED AMENDMENT TO 6 STOREY MIXED USE DEVELOPMENT (JK)

Meeting Date: 13 January 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Development Plans
Additional information: 1. Previous Determination Notice Dated 9 April 2020

SUMMARY

Approval is sought to delete condition 28 of the Metro South-West (former) JDAP's decision dated 9 April 2020 for the demolition of the existing structures on site and the construction of a six storey, plus basement, mixed use development containing Shop, Liquor Store, Office, Childcare, Public Car Park, Restaurant, Civic (Police Station) and Hotel uses at 28 Cantonment and 20 Elder Place, Fremantle which required the basement level to be setback 3.65m from the Queen Street boundary.

The applicant proposes to delete this condition and seek approval for a revised basement plan which retains the original below-ground nil lot boundary setback from Queen Street, however, reduces the height of the basement ceiling providing a one metre separation between the footpath surface level and the basement ceiling. The reduced ceiling height is proposed to provide an area to enable servicing and an expansion of the footpath should these occur in the future. The corner of the basement has also been amended to provide a truncation at the Queen Street and Cantonment Street intersection.

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 application is recommended for approval.

PROPOSAL

Detail

Approval is sought to delete condition 28 of the Metro South-West (former) JDAP's decision dated 9 April 2020 for the demolition of the existing structures on site and the construction of a six storey, plus basement, mixed use development containing Shop, Liquor Store, Office, Childcare, Public Car Park, Restaurant, Civic (Police Station) and Hotel uses at 28 Cantonment Street and 20 Elder Place, Fremantle.

Condition 28 of the approval required the following:

> *Prior to the issue of a Building Permit, the proposed basement level is to be setback a minimum of 3.65m from the Queen Street boundary, to the satisfaction of the City of Fremantle.*

Condition 28 was added by the Panel at its meeting to comply with the scheme requirement for a 3.65m setback along Queen Street for any building, structure or use.

The applicant proposes to delete this condition and seek approval for a revised basement plan which retains the original nil lot boundary setback from Queen Street, however, reduces the height of the basement ceiling providing a one metre separation between the footpath surface level and the basement ceiling. The reduced ceiling height is proposed to provide an area to enable servicing and an expansion of the footpath should these occur in the future. The corner of the basement has also been amended to provide a truncation at the Queen Street and Cantonment Street intersection.

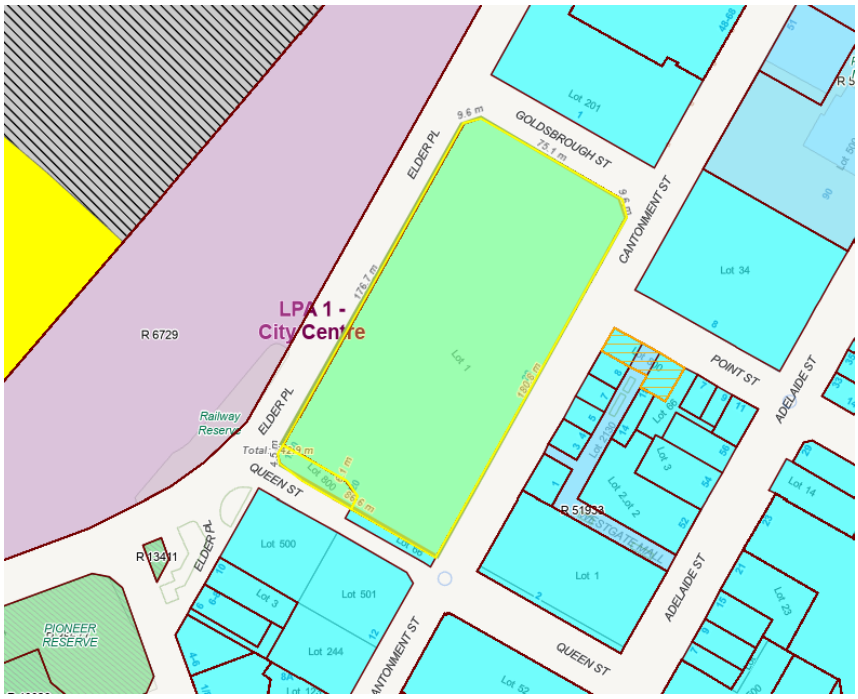
The applicant has advised that the required 3.65m setback to Queen Street (Condition 28) will result in a number of concerns for the developer including the following:

1. The setback will reduce the number of car parking bays within the basement from 178 bays to 151 bays. The loss of 27 bays affects the agreement between the landowner and the tenant (Coles) for the provision of a certain number of car parking bays for the development. The landowner is concerned that any requirement to renegotiate the agreement with the tenant will jeopardise the future of a Coles supermarket on the subject site.
2. The reduction in bays also creates a statutory issue as the condition implies further discretion for car parking which has not been granted.

Development plans are included as attachment 1.

Site/application information

Date received:	1 December 2020
Owner name:	Silverleaf Investment
Submitted by:	PTS Town Planning
Scheme:	City Centre
Heritage listing:	Not Listed



COMMITTEE DECISION ITEM PC2101-7
(Officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Geoff Graham

Planning Committee:

SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No.4, the variations to previous planning approval for DAP003/19 (6 Storey Mixed use Development) at Cantonment Street No. 28 (Lot 1), Fremantle and Elder Place No. 20 (Lot 800), Fremantle, subject to the conditions outlined in the responsible authority report.

Carried: 6/1

For
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

Against
Cr Andrew Sullivan

Form 2 – Responsible Authority Report
(Regulation 17)

DAP Name:	Metro Inner South	
Local Government Area:	City of Fremantle	
Proposed Amendments:	Proposed Amendments to 6 Storey Mixed Use Development	
Applicant:	PTS Town Planning	
Owner:	Silverleaf Investments	
Value of Amendment:	Nil	
Responsible Authority:	City of Fremantle	
Authorising Officer:	Manager Development Approvals	
LG Reference:	DAPV004/20	
DAP File No:	DAP/19/01688	
Date of Original DAP decision:	7 April 2020	
Application Received Date:	1 December 2020	
Application Statutory Process Timeframe:	60 Days	
Attachment(s):	7. Amended Basement Plan and Sections 8. Previous Determination Notice Dated 9 April 2020	
Is the Responsible Authority Recommendation the same as the Officer Recommendation?	☐ Yes ☒ N/A	Complete Responsible Authority Recommendation section
	☐ No	Complete Responsible Authority and Officer Recommendation sections

Responsible Authority Recommendation

That the Metro Inner South resolves to:

1. **Accept** that the DAP Application reference DAP/19/01688 as detailed on the DAP Form 2 dated 26 November 2020 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;

2. **Approve** DAP Application reference DAP/19/01688 and accompanying plans SK020 Woolstores Basement Plan Rev 1 and SK020 Woolstores Sections A and D in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of City of Fremantle Local Planning Scheme No. 4, for the proposed amendment to the approved 6 Storey Mixed Use Development at 29 (Lot 1) Cantonment Street and 20 (Lot 800) Elder Place, Fremantle subject to the following conditions:

Amended Conditions

A. Delete Condition 28.

B. Amend Condition 1 to read as follows:

1. This approval relates only to the development as indicated on the approved Site Plan (0), Ground Floor Plan (2), First Floor Plan (3), Second Floor Plan (4), Third Floor Plan (5), Hotel Fourth, Fifth and Roof Plan (6), Overshadowing Diagram (7), West and South elevations (8), North and East elevations (9) dated 17 March 2020 and SK020 Woolstores Basement Plan Rev 1 and SK020 Woolstores Sections A and D dated 1 December 2020. It does not relate to any other development on this lot and must substantially commence within 5 years from the date of the original decision letter.

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme Zone/Reserve	Central City Area
Local Planning Scheme	Local Planning Scheme No. 4
Local Planning Scheme Zone/Reserve	City Centre
Structure Plan/Precinct Plan	N/A
Structure Plan/Precinct Plan Land Use Designation	N/A
Use Class (proposed) and permissibility:	Shop, Liquor Store, Office, Childcare Premises, Public Car Park Restaurant, Civic Use (Police Station) and Hotel.
Lot Size:	16,100m²
Net Lettable Area (NLA):	N/A
Number of Dwellings:	N/A
Existing Land Use:	Shop and Public Car Park
State Heritage Register	No
Local Heritage	☒ N/A ☐ Heritage List ☐ Heritage Area
Design Review	☒ N/A ☐ Local Design Review Panel ☐ State Design Review Panel ☐ Other
Bushfire Prone Area	No
Swan River Trust Area	No

Proposal:

Approval is sought to delete condition 28 of the Metro South-West (former) JDAP's decision dated 9 April 2020 for the demolition of the existing structures on site and the construction of a six storey, plus basement, mixed use development containing Shop, Liquor Store, Office, Childcare, Public Car Park, Restaurant, Civic (Police Station) and Hotel uses at 28 Cantonment Street and 20 Elder Place, Fremantle.

Condition 28 of the approval required the following:

> *Prior to the issue of a Building Permit, the proposed basement level is to be setback a minimum of 3.65m from the Queen Street boundary, to the satisfaction of the City of Fremantle.*

Condition 28 was added by the Panel at its meeting to comply with the scheme requirement for a 3.65m setback along Queen Street for any building, structure or use.

The applicant proposes to delete this condition and seek approval for a revised basement plan which retains the original below-ground nil lot boundary setback from Queen Street, however, reduces the height of the basement ceiling providing a one metre separation between the footpath surface level and the basement ceiling. The reduced ceiling height is proposed to provide an area to enable servicing and an expansion of the footpath should these occur in the future. The corner of the basement has also been amended to provide a truncation at the Queen Street and Cantonment Street intersection.

The applicant has advised that the required 3.65m setback to Queen Street (Condition 28) will result in a number of concerns for the developer including the following:

1. The setback will reduce the number of car parking bays within the basement from 178 bays to 151 bays. The loss of 27 bays affects the agreement between the landowner and the tenant (Coles) for the provision of a certain number of car parking bays for the development. The landowner is concerned that any requirement to renegotiate the agreement with the tenant will jeopardise the future of a Coles supermarket on the subject site.
2. The reduction in bays also creates a statutory issue as the condition implies further discretion for car parking which has not been granted.

Background:

The subject site is bound by Elder Place (west), Queen Street (south), Goldsbrough Street (north) and Cantonment Street (east). The site is 16,100m^2 and is zoned City Centre under Local Planning Scheme No. 4. The site is not heritage listed, nor is it located within a prescribed heritage area. However, the site is located directly adjacent to state registered properties including the Elders Woolstores at No.1 Goldsborough Street and the Fremantle Train Station building.

The subject lots are currently occupied by six single storey shop units, a single storey Shopping Centre and a two storey Public Carpark to the north of the site.

The subject site is identified as a key strategic site in the City Centre zone, due to its size and its proximity to Victoria Quay, Fremantle Train Station and the Queen Street axis leading to Kings Square. The site is also subject to the provisions of Scheme Amendment no. 49 which modified the development standards relating to 12 sites within the inner east end of the City Centre.

Most recently, the former Metro South-West JDAP's granted planning approval at its meeting held on 7 April 2020 for the demolition of the existing structures on site and the construction of a six storey, plus basement, mixed use development containing Shop, Liquor Store, Office, Childcare, Public Car Park, Restaurant, Civic (Police Station) and Hotel uses. The JDAP's approval was consistent with the Officer's recommendation with the addition of a new condition 28, which read as follows:

> *Prior to the issue of a Building Permit, the proposed basement level is to be setback a minimum of 3.65m from the Queen Street boundary, to the satisfaction of the City of Fremantle.*

Condition 28 was added to comply with the scheme requirement for a 3.65m setback along Queen Street for any building, structure or use.

See Attachment 2 for copy of the Decision Notice dated 9 April 2020.

Legislation and Policy:

Legislation

- Planning and Development (Development Assessment Panels) Regulations 2011- Regulation 17 – Amendment or cancellation of development approval by DAP
- Planning and Development (Local Planning Schemes) Regulations 2015 - Clause 67 – Matters to be considered by Local Government

Local Government Policies

- LPP1.1 - Amendment and Extension to the Term of Planning Approval

Consultation:

Community Consultation

The application was not required to be advertised in accordance with the provisions with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015 and Council's Local Planning Policy *LPP1.3 - Public Notification of Planning Proposals* (LPP1.3) as the development is considered to be substantially the same as the approved development and the proposed modifications do not introduce any new discretions to Scheme or Policy requirements that were not previously advertised for public comment as part of the original application. It is noted that in response to public consultation on the original application, 46 submissions were received with 24 submissions supporting the proposal and 22 submissions raising an objection or concern in regard to the proposal. Of the objections/concerns, no public comment was made in regard to the design, location or setback of the basement level.

Referrals/consultation with Government/Service Agencies

The original application was referred to the Heritage Council of WA, the Fremantle Port Authority, the Department of Water and Environmental Regulations and the Department of Transport for comment. It was not considered necessary to refer the application back to these agencies for comment. Any condition and advice notes recommended by these agencies are not proposed to be amended as part of this application.

Design Advisory Committee

The original application was referred to the City's Design Advisory Committee on several occasions and the final submission of amended plans were considered to appropriately address the DAC's comments or could be dealt with as conditions of approval. It is noted that the City's DAC did not make any specific comment about the setback of the basement level nor is the application proposing to alter any of the design related conditions of the original approval. As such, it was not considered necessary to refer the application back to the DAC for comment.

Planning Assessment:

LPP1.1 – Amendment and Extension to the Term of Planning Approval

In accordance with Regulation 17 of the Planning and Development (Development Assessment Panel) Regulations 2011, an owner can apply to amend a development application, provided the changes do not substantially alter the development approved.

In addition to the DAP Regulations, the City's Local Planning Policy 1.1 - Amendment and Extension to the Term of Planning Approval sets out relevant requirements for consideration when reviewing a variation application. These requirements are as follows:

> *In determining whether to allow the amendment of a planning approval, Council will consider whether the nature and extent of the proposal amendment is such that the use or development the subject of the planning approval:*
>
> *(a) Remains, in substance, the same; or*
> *(b) Is changed so a new and different use or development is proposed.*

It is considered that the proposed amendments, being the proposed changes to the basement level does not alter the approved development in a way which would be significantly different to the development as approved by the JDAP in April 2020. The development does not introduce any new variations as the nil setback to the basement and the provision of onsite car parking were considered as part of the original application. As such, the application is considered appropriate for consideration in accordance with regulation 17 of the Planning and Development (Development Assessment Panels) Regulations 2011.

The proposal has been considered in accordance with the relevant requirements of LPS4 and Council Policy. A review of these requirements is as follows.

Setbacks

The subject site is located within Local Planning Area 1 – City Centre (sub area 1.3.2) of Schedule 8 of LPS4. Within this sub area 1.3.2, the subject site is 'Site 1'. The following setbacks are prescribed in LPS4 for Site 1 for Queen Street:

Frontage		Required	Proposed	Variation
Queen Street	Minimum street setback - Basement - Ground and above	 3.65m 3.65m	 Nil ≥3.65m	 3.65m Nil
	Maximum street setback up to building heights 10m	5.65m	6m	0.35m

In accordance with LPS4, Council may vary the prescribed setbacks where it is satisfied that the design outcome will be improved.

It is also noted that LPS4 includes a requirement to transfer the setback area along Queen Street to the City, at no cost, where a development exceeds 24.5m in height. The purpose of the transfer is to facilitate any future road widening of Queen Street.

As detailed in the original proposal, the basement of the development was proposed to be located within 3.65m of the ground floor setback area. The prescribed setback was not imposed by Officers as the development did not exceed 24.5m in height, therefore no requirement to transfer the setback area was applicable under the LPS4 requirements. At that time it was considered that should the site be redeveloped in the future at a greater height, the ground level setback could be transferred to the City to enable the Queen Street footpath to be widened. Any new title for the site could take the form of a three dimensional title with a portion of the site extending under any future road reserve. The JDAP took a different view to officers, presumably to ensure that the land could be transferred to the City's without any limitations should a later stage of the site be developed at a greater height.

The current application proposes to maintain the original below-ground nil Queen Street setback however, the proposed basement plan includes a new 3.65m by 3.65m truncation at the Queen and Cantonment Street intersection and an area free of any structure to a depth of 1m below ground level. This is proposed as a compromise to reduce the impact on the number of parking bays within the basement level and provide an area that may be capable of accommodating services and/or tree root intrusion should Queen Street be widened and/or upgraded in the future.

The upgrade of Queen Street is recognised as a project to help facilitate a 'transformational move' to attract new residents, businesses and visitors within a rejuvenated city heart as part of 'Freo 2029' which was prepared to support the future planning of Fremantle. 'Freo 2029' envisages Queen Street becoming a shopping boulevard between the Fremantle Station and Kings Square that completes a network of shopping streets including Market, High and Adelaide Street. The plan anticipates a design that features wide tree lined footpaths leading to a new city square in front of the railway station. As no detailed design for Queen Street has been prepared to date, the exact design of the pedestrian environment of any future upgraded Queen Street is unknown. As such, the proposed amendments have been considered having regard to the possible upgrades which may occur to Queen Street including the potential for a wider footpath, on-street parking bays, street trees and other street furniture. Consideration has also been given to the potential for new services to installed below footpath/ground level. Based on the advice received from the City's Urban Design, Infrastructure and Parks officers, the proposed basement design is not considered to detrimentally prejudice future plans for Queen Street should they occur at a later stage. As such, it is recommended that condition 28 be deleted and condition 1 of the original approval be modified to include the revised basement plan.

Car Parking

The original proposal included the provision of 566 car parking bays, of which 132 bays were proposed to be allocated to the Civic (Police Station) use and the remaining 434 bays were for new and existing public car parking. In accordance with LPS4 a total of 1,048 car parking bays are required for the Hotel (238), Office (7), Shop (483), Restaurant (59), Childcare (25) and Civic (236) uses.

Although the subject site is ideally located adjacent to the Fremantle Train and Bus Station, LPS4 excludes the consideration of street parking and the availability of public transport in the locality for this sub area when considering whether it is appropriate or not to reduce or waive the amount of car parking required. The Officer's original assessment, having regard for the provision of 434 onsite public car parking bays, considered that the provision of the public car parking bays would help offset the requirement of dedicated bays for each of the individual land uses as the public bays would be of reciprocal use to all the proposed land uses. As such, the proposal was not considered to result in an adverse impact upon the amenity of the immediate locality and was supported.

In regard to the applicant's comments that the required setback would reduce the number of car parking bays and as such create a statutory issue given the current condition implies approval has been granted for discretion beyond that considered in the original application, Officers note that the original application effectively waived all car parking for all the proposed land uses with the exception of the Civic (Police Station) use as none of the public car parking bays will be for the exclusive use of tenants or customers to the development. As such, Officers do not agree that condition 28 results in a further discretionary assessment against the car parking provisions of LPS4.

Conclusion:

Having regard for the above, the application to delete condition 28 of the current approval, which required a 3.65m setback of the basement level from Queen Street, is supported on the basis of the amended basement plan which incorporates a truncation at the Queen and Cantonment Street intersection and a depth of one metre free of structure below ground level within 3.65m of Queen Street. The amended design of the basement is not considered to detrimentally impact on the locality or the ability to improve the pedestrian environment along Queen Street in the future.

PC2101 - 5 ELLEN STREET, NO. 59 (LOT 6) FREMANTLE, GROUPED DWELLING ADDITION TO EXISTING VETERINARY HOSPITAL (JCL DA0473/20)

Meeting Date: 13 January 2021
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Agenda attachments: 1. Amended development plans
Additional information: 1. Site photos

SUMMARY

Approval is sought for a Grouped dwelling addition to the existing site at No. 59 Ellen Street, Fremantle. The site currently accommodates a single storey Veterinary Hospital.

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 Residential Design Codes (R-Codes) and Local Planning Policies. These discretionary assessments include the following:

- **Boundary wall (west)**
- **Site works (fill)**
- **Setback of retaining wall (west)**
- **Visual privacy (west)**

The application is recommended for conditional approval.

PROPOSAL

Background and detail of proposal

Approval is sought for the construction of a Grouped dwelling at No. 59 Ellen Street, Fremantle which contains an existing single storey Veterinary Hospital building. .

The proposed works include:

- Provision of fill and retaining to a portion of the site to the western lot boundary; and,
- Construction of a single storey dwelling containing two bedrooms and two bathrooms.

The applicant submitted amended plans on 23 November 2020 including a floor plan of the existing Veterinary Hospital. Further plans were submitted on 16 December 2020 providing detail of the location of the car bays on the site servicing the existing Veterinary Hospital.

No changes are proposed to the existing Veterinary Hospital building and its associated car parking.

Development plans are included as attachment 1.

Site/application information

Date received:	29 October 2020
Owner name:	Hall Property (Aust) Pty Ltd
Submitted by:	Summit Homes Group
Scheme:	Residential R35
Heritage listing:	Individually Listed - Level 2
Existing land use:	Veterinary Hospital
Use class:	Veterinary Hospital and Grouped dwelling
Use permissibility:	P and D

CONSULTATION

External referrals

Nil required.

Internal Heritage referral
The application was referred to the City's Heritage Department for review as it is a Level 2 Listed Place. It is advised that the proposal is considered to not dominate the existing building and is consistent with its appearance, though doesn't mimic it. Further, it is considered that the Grouped dwelling is setback sufficiently from the Ellen and Ord Street frontages and is thereby supported.

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. The advertising period concluded on 27 November 2020, and two (2) submissions were received. The following issues were raised (summarised):

- Term 'Ancillary dwelling' is inaccurate as the use of the premises is not residential;
- Development is too large (plot ratio area exceeds 70m^2);
- Boundary wall posing building bulk impacts and blocking morning light to patio and house;
- Site works/retaining proposed causes base of development to begin approximately 1.5m above our patio area causing building bulk, privacy and amenity issues;
- Development should be lowered and moved to south of site;
- Location of development, particularly the deck, is too close to our entertaining area which causes privacy and noise concerns. Proposed screening is too low to protect privacy, however, adds bulk;
- Concerned about impact on our property by site works; request that a dilapidation report be prepared and provided prior to development occurring.

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

- Since advertising finished, it was determined that the proposal is a Grouped dwelling, rather than an Ancillary dwelling as it was deemed that the Veterinary Hospital was the current land use, rather than a Single house with a Home Business, which was the case prior to the approval of the Scheme Amendment;
- Since the dwelling is no longer considered an 'Ancillary dwelling', the plot ratio limitation no longer applies. It is noted that open space is compliant for the development;
- Elements including the site works, retaining wall, boundary wall, visual privacy, and general amenity impacts are all discussed in the body of the report and are considered supportable.
- It is noted that noise isn't considered a relevant planning consideration in this instance, as the proposal is for a small-scale residential development. Nonetheless, it is considered that noise will be suitably mitigated by the presence of a 1.6m high screening device. Further, the ground level of the neighbours outdoor living area is located approximately 1.6m below the floor level of the proposed deck and has significant roof covering;
- The proponent may opt to prepare a dilapidation report in preparation of future works.

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 application, the areas outlined below do not meet the Deemed-to-comply or policy provisions and need to be assessed under the Design principles:

- Boundary wall (west)
- Site works (fill)
- Setback of retaining wall (west)
- Visual privacy (west)

The above matters are discussed below.

Background

The subject site is located on the south-eastern side of Ellen Street at its intersection with Ord Street. The site is comprised of two lots under the same address, and has a combined land area of approximately 1,684m² and currently contains a Veterinary Hospital with a covered parking area and pergola. The site is zoned Residential and has a density coding of R35. The site is individually heritage listed, however is not located in a Heritage Area.

The site contains a varied topography, with a slope to the west and terracing separating the front parking and garden areas from the existing rear hardstand area currently used for parking and vehicle movements, where the development is proposed.

On 2 October 2019, the City granted planning approval for a Home Business (Veterinary Hospital) at the Single house at the subject site.

On 5 May 2020, Scheme Amendment 81 was included in the *Government Gazette, WA*. The Scheme Amendment permitted for additional uses at the site, inclusive of a Veterinary Clinic, Veterinary Hospital, Consulting Rooms, or a Medical Centre on the condition that a maximum of 10 animals be kept on site overnight and are to be supervised at all times by a vet or nurse.

Since the Scheme Amendment was approved, the premises has been allowed to operate as a Veterinary Hospital without requiring planning approval, as the on-site parking provision complies the requirement for a Veterinary Hospital (see development plan for further detail of location of car bays).

Land Use

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

(b) The aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area

(m) The compatibility of the development with its setting including the relationship of the development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development

(n) The amenity of the locality including the following:

(iv) Environmental impacts of the development

(v) The character of the locality

(vi) Social impacts of the development

(y) Any submissions received on the application.

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

- The proposed use can be considered in the 'Residential' zone;
- As discussed in the body of the report, it is considered that the development is suitably located on the site, and has an on-balance acceptable impact on neighbouring properties with respect to height, bulk, scale, orientation, and its overall appearance;
- The current amenity and character of the locality is considered to constitute low density residences in proximity to a large park and educational establishments in a transitional area near to an active road (Ord Street);
- It is considered that the proposal poses no adverse environmental impacts;
- The proposal is considered consistent with the character of the locality as described above, as it is low rise, isn't prominent when viewed from the street, and is considered consistent with the heritage values of the existing building on-site; and,
- The Officers response to the submissions have been provided in the body of the report.

Boundary wall

Element	Requirement	Provided	Extent of Variation
Boundary wall (west)	1m	Nil	1m

The boundary wall, whilst abutting the length of the western neighbours existing boundary wall, has a greater height than the neighbours wall, thereby posing a variation due to the height difference.

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

- The proposed boundary wall does not result in a loss of access to daylight or direct sunlight owing to its location on the western boundary and its setback to the existing dwelling contained on the adjoining site. This wall abuts a section of ground floor boundary wall at the western neighbour's site, with a portion of the proposed boundary wall facing an upper floor wall with no major openings affected (see second photo below);
- The boundary wall is not considered to contribute to a sense of confinement or building bulk as it affects a small portion of the boundary and the rest of the development is sufficiently setback from this boundary where it abuts sensitive areas; and,
- The boundary wall does not impact on any views of significance or existing significant vegetation.

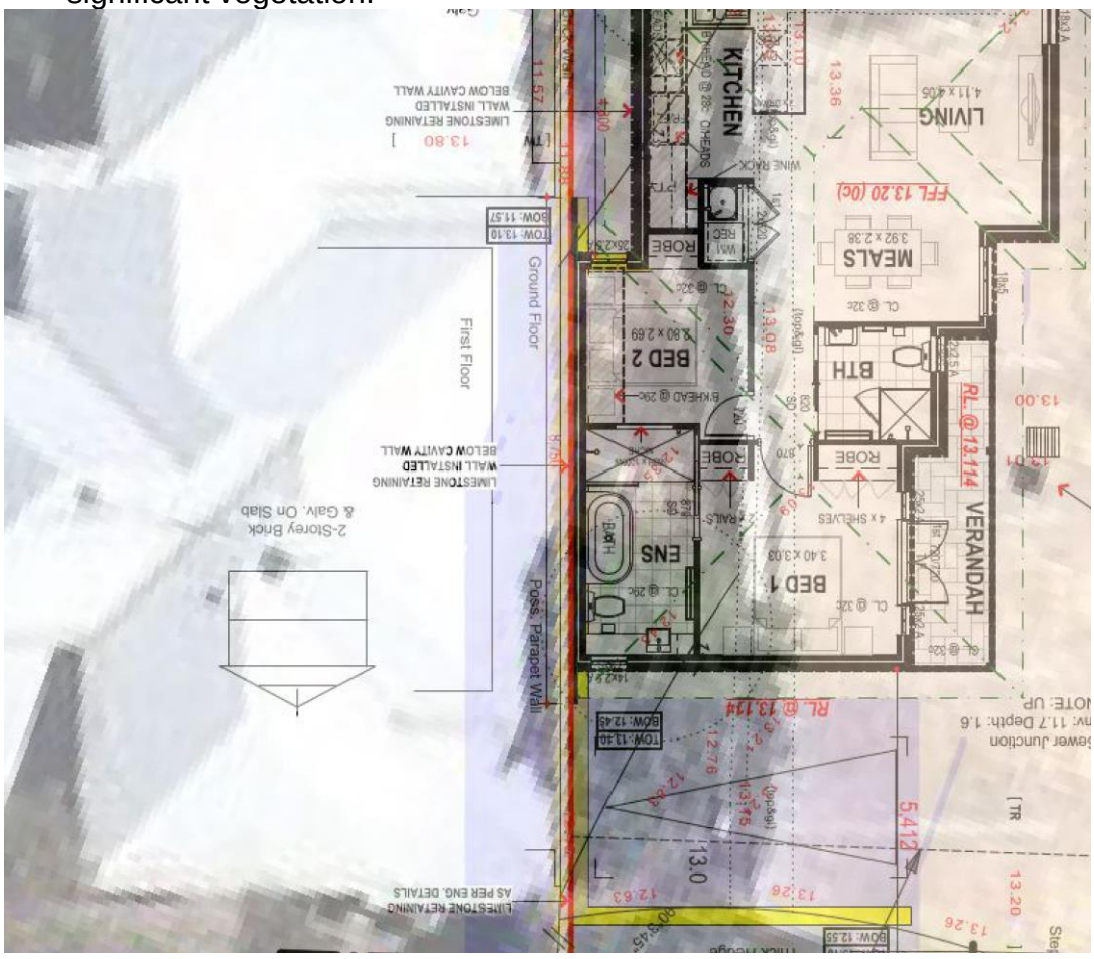


Image 1: Location of boundary wall (note it abuts a section of neighbouring boundary wall)

Image 2: Photo of neighbours' boundary wall (note covered outdoor living area in right part of photo).

Site works and Retaining walls

Element	Requirement	Provided	Extent of Variation
Fill	Excavation or filling between the street and building shall not exceed 0.5m except where necessary to provide pedestrian or vehicle access, drainage works or natural light for a dwelling.	0.6m	0.1m
Retaining	Up to 500mm above natural ground level within 1m of a boundary, otherwise setback in accordance with Table 2a & 2b	0.65m (highest portion of retaining)	0.15m

The proposal is considered to meet the design principles of the R-Codes relating to site works (filling) in the following ways;

- The site works proposed are in the rear area of the site and will not alter the impression of natural ground level when viewed from the public street as it acts as a continuation of the existing retaining;

- The change to site levels do not otherwise result in other design principle assessments to relevant criteria such as building height or visual privacy that are not dealt with by appropriate conditions;
- The retaining walls provided at the rear portion of site (retaining directly under the proposed Grouped dwelling is considered to be a part of the building, and not separate retaining walls) allow the land to be used to benefit the residents and are not considered to pose any adverse amenity impacts to the neighbouring properties; and,
- Further, the site works are considered supportable, and the area contained in the area being filled and retained doesn't pose a visual privacy variation as it is used for car parking.

Visual privacy

Element	Requirement	Provided	Extent of Variation
Bed 2 (West)	4.5m	2.3m	2.2m

The proposal is not considered to meet the design principles of the R-Codes as the raised opening will be afforded a view over current and future potential outdoor living areas on the adjoining site. Whilst the neighbour's alfresco area is covered and the view is somewhat screened by the existing boundary wall and the angle of view, it is considered that some views may be afforded into the area as demonstrated by image 3 below:

Image 3: Approximate location of proposed Bedroom 2 window from neighbours outdoor living area.

A condition of approval requiring screening of Bedroom 2 is therefore recommended to ensure optimal visual privacy to the neighbour.

CONCLUSION

Based on the above Design Principle and Local Planning Policy 2.4 assessments, it is considered that the proposal will meet the specified discretionary criteria. Additionally, it is considered that the development will pose minimal adverse amenity impacts onto neighbouring properties, and that its location on the site allows for a more rational use of space. It is recommended that the application be approved, subject to the conditions contained in the Officer recommendation.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC2101-5
(Officer's recommendation)

Moved: Cr Bryn Jones **Seconded: Cr Geoff Graham**

Planning committee acting under delegation 1.1:

APPROVE , under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Grouped dwelling addition to existing site containing a Veterinary Hospital at No. 59 (Lot 6) Ellen Street, Fremantle subject to the following conditions:

1. **This approval relates only to the development as indicated on the approved plans, dated 16 December 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 Bedroom 2 window located on the north elevation, is to be screened in accordance with Clause 5.4.1/6.4.1 C1.1 of the Residential Design Codes by either:**
   - **a) fixed obscured or fixed translucent glass to a minimum height of 1.60 metres above internal floor level, or**
   - **b) fixed screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the internal floor level, or**

c) a minimum sill height of 1.60 metres above the internal floor level,

4. Prior to occupation of the development hereby approved, the boundary wall located on the western lot 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. 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.

Carried: 7/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

Cr Frank Mofflin vacated the meeting at 8.58 pm and was absent during discussion and voting of this item.

PC2101 - 8 HAMPTON ROAD, NO.229B (LOT 100), SOUTH FREMANTLE – VARIATION TO PREVIOUS PLANNING APPROVAL FOR DAP002/20 (MIXED USE COMMERCIAL DEVELOPMENT (PETROL FILLING STATION, OFFICE AND WAREHOUSE) (JL DAPV003/20)

Meeting Date:	13 January 2021
Responsible Officer:	Manager Development Approvals
Decision Making Authority:	Planning Committee
Agenda attachments:	1. Original Determination Letter and Plans
Additional information:	1. Applicant's Report 2. Site Photos

SUMMARY

Approval is sought to for modifications to the warehouse component of the approved mixed commercial Development (Petrol Filling Station, Office and Warehouse). Subsequent to the proposed modification which includes the removal of the proposed Office, the application also includes the proposed deletion of condition No.14 which reads as follows:

> ***Prior to the issue of a Building Permit for the development hereby approved, 1 male and 1 female (or 2 unisex) shower and 1 locker for the Office shall be provided, to the satisfaction of the City of Fremantle. Prior to occupation of the development the end of trip facilities must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.***

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 application is recommended for conditional approval.

PROPOSAL

Detail

On 23 November 2020 the City received an application for modifications to the approved mixed-use development including a single storey Petrol filling station and two storey storage facility, including Office and Warehouse uses. It is proposed to change the use of the approved ground floor Office (228m^2) area into additional Warehouse area for the rear storage facility development. Subsequent to the design modification it is also proposed to delete condition 14 which reads as follows:

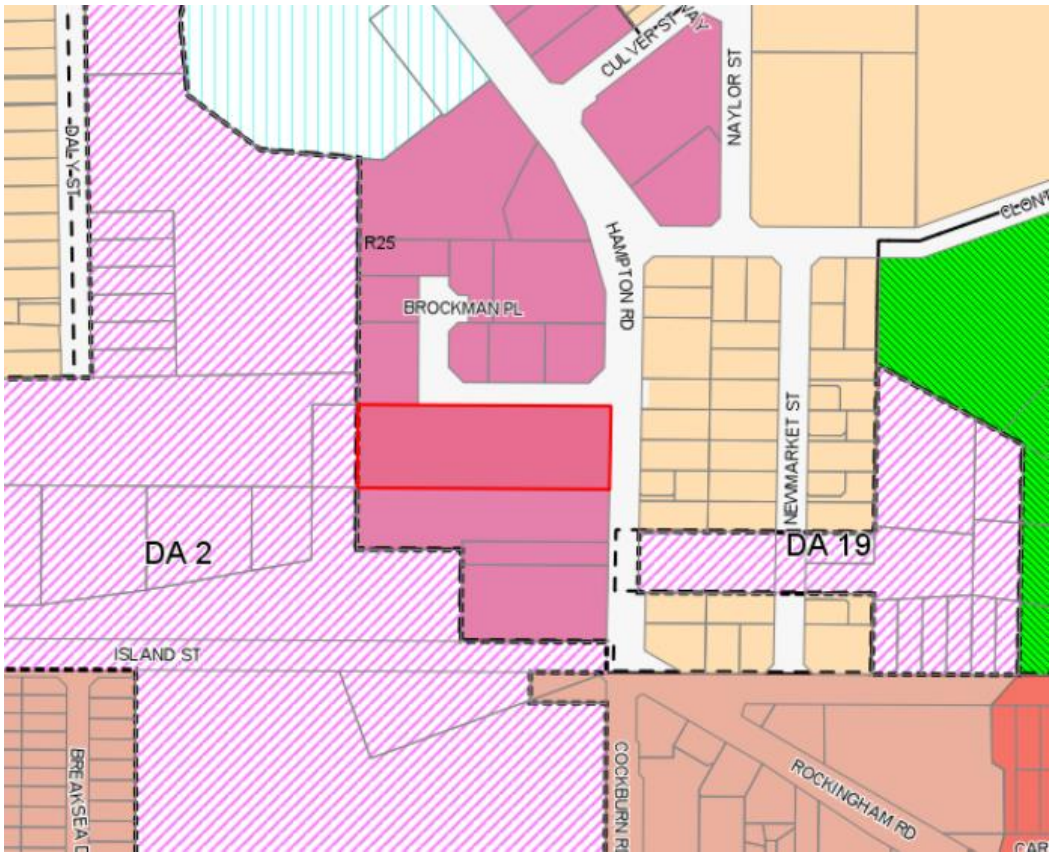
Prior to the issue of a Building Permit for the development hereby approved, 1 male and 1 female (or 2 unisex) shower and 1 locker for the Office shall be provided, to the satisfaction of the City of Fremantle. Prior to occupation of the development the end of trip facilities must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.

The approved development consisted of the following:

- Demolition of the majority of existing buildings and structures
- New single storey Petrol Filling Station
- One pylon sign facing Hampton Road and three Building signs
- Landscaping onsite and within the verge
- Two, two storey Warehouse and Office Buildings (Self Storage facility)
- 40 parking bays (16 bays - Petrol Filling Station, 8 bays - Office and 16 Bays - Warehouse)

Site/application information

Date received:	23 November 2020
Owner name:	Barricade Holdings Pty Ltd
Submitted by:	Planning Solutions
Scheme:	Mixed Use R25
Heritage listing:	Level 2 / South Fremantle Heritage Area
Existing land use:	Office, Storage Yard
Use class:	Petrol Filling Station, Office and Warehouse
Use permissibility:	A, P, P



COMMITTEE DECISION ITEM PC2101-8
(Officer's recommendation)

Moved: Cr Bryn Jones **Seconded: Cr Jenny Archibald**

Planning Committee:

SUPPORT the Officer's Recommendation to APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No.4, the variations to previous planning approval for DAP002/20 (Mixed use Commercial Development (Petrol Filling Station, Office and Warehouse) at No.229b (Lot 100) Hampton Road, South Fremantle, subject to the conditions outlined in the responsible authority report.

Carried: 6/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton

Form 2 – Responsible Authority Report

(Regulation 17)

DAP Name:	JDAP Metro Inner South	
Local Government Area:	City of Fremantle	
Proposed Amendments:	Variation to previous planning approval for DAP002/20 (Mixed Use Commercial Development (Petrol Filling Station, Office and Warehouse)	
Applicant:	MW Urban	
Owner:	Boke Investments Pty Ltd	
Value of Amendment:	Nil	
Responsible Authority:	City of Fremantle	
Authorising Officer:	Manager Development Approvals	
LG Reference:	DAP002/20	
DAP File No:	DAP/20/01757	
Date of Original DAP decision:	16 June 2020	
Application Received Date:	23 November 2020	
Application Statutory Process Timeframe:	60 Days	
Attachment(s):	1. Original Determination Letter and Plans 2. Applicant's Report 3. Site Photos	
Is the Responsible Authority Recommendation the same as the Officer Recommendation?	☒ Yes ☐ N/A	Complete Responsible Authority Recommendation section
	☐ No	Complete Responsible Authority and Officer Recommendation sections

Responsible Authority Recommendation

That the Metro Inner South Joint Development Assessment Panel resolves to:

1. **Accept** that the DAP Application reference DAP/20/01757 as detailed on the DAP Form 2 dated 23 November 2020 is appropriate for consideration in accordance with regulation 17 of the *Planning and Development (Development Assessment Panels) Regulations 2011*;

2. **Approve** DAP Application reference DAP/20/01757 and accompanying plans (DA01 Rev A, DA02 Rev C, DA03 Rev A, DA04 Rev C, DA05 Rev C, DA06 Rev C, DA07 Rev A, DA08 Rev A, DA09 Rev A, DA10 Rev A, DA11 Rev A, A-100, A-101, A-102, A-103, A-104,, A-105 and A-106) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of Clause 4 of the City of Fremantle's Local Planning Scheme No. 4, for the proposed minor amendment to the approved to the approved Mixed use Commercial Development (Petrol Filling Station, Office and Warehouse) at No229b (Lot 100) Hampton Road, South Fremantle, subject to the following conditions:

Amended Conditions

1. This approval relates only to the development as indicated on the approved plans, dated 18 November 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.

14. Prior to the issue of a Building Permit for the development hereby approved, 1 unisex shower and 1 locker for the Office shall be provided, to the satisfaction of the City of Fremantle. Prior to occupation of the development the end of trip facilities must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.

All other conditions and requirements detailed on the previous approval dated 16 June 2020 shall remain unless altered by this application.

Details: outline of development application

Region Scheme	Metropolitan Region Scheme
Region Scheme Zone/Reserve	Urban Zone
Local Planning Scheme	Local Planning Scheme No.4
Local Planning Scheme Zone/Reserve	Mixed Use
Use Class (proposed) and permissibility:	Petrol Filling Station "A" Office "P" Warehouse "P"
Lot Size:	9160m^2
Net Lettable Area (NLA):	5163m^2 Warehouse

	112m^2 Office 265m^2 Petrol Filling Station
Number of Dwellings:	Nil
Existing Land Use:	Office and Storage Yard
State Heritage Register	No
Local Heritage	☐ N/A ☒ Heritage List (See Officer Comments) ☒ Heritage Area
Design Review	☒ N/A ☐ Local Design Review Panel ☐ State Design Review Panel ☐ Other
Bushfire Prone Area	Yes
Swan River Trust Area	No

Proposal:

On 23 November 2020 the City received an application for modifications to the approved mixed-use development including a single storey Petrol filling station and two storey storage facility, including Office and Warehouse uses. It is proposed to change the use of the approved ground floor Office (228m^2) area into additional Warehouse area for the rear storage facility development. Subsequent to the design modification it is also proposed to delete condition 14 which reads as follows:

> *Prior to the issue of a Building Permit for the development hereby approved, 1 male and 1 female (or 2 unisex) shower and 1 locker for the Office shall be provided, to the satisfaction of the City of Fremantle. Prior to occupation of the development the end of trip facilities must be installed and thereafter be maintained for the life of the development, to the satisfaction of the City of Fremantle.*

The approved development consisted of the following:

- Demolition of the majority of existing buildings and structures
- New single storey Petrol Filling Station
- One pylon sign facing Hampton Road and three Building signs
- Landscaping onsite and within the verge
- Two, two storey Warehouse and Office Buildings (Self Storage facility)
- 40 parking bays (16 bays - Petrol Filling Station, 8 bays - Office and 16 Bays - Warehouse)

The original application was considered and approved by the Metro Inner South Joint Development Assessment Panel (JDAP) at their meeting held on 16 June 2020 (Attachment 2 refers).

Background:

The land is located on the southern corner of Hampton Road and Brockman Place in Beaconsfield. The site is zoned Mixed Use 'R25' and is located within the South Fremantle Local Planning Area of Schedule 7, which permits building heights up to 7m.

The adjoining southern properties and adjacent northern properties are also zoned Mixed Use and improved by industrial and commercial built form. Across Hampton Road to the east the land is zoned Residential and is improved by single storey single houses. The lot immediately to the west consist of the former South Fremantle tip site.

The immediate area is transitioning in terms of land use mix and built form to better reflect the Mixed Use character and zoning applicable under LPS4.

No. 229b Hampton Road is improved by a number of existing buildings. The eastern portion of the subject site contains a single unoccupied building surrounded by hardstand, formerly in use as a Portuguese Language School and Portuguese Embassy, and prior to that as a service station.

The site also contains buildings and structures known as the 'Former Atkinson Jockey's Quarters and Stables' which are classified as being a place of considerable cultural heritage significance under the City's Heritage List and the Local Heritage Survey and has a Level 2 Management. A number of other sheds occupy the central portion of the subject site.

On 16 June 2020 the Metro Inner South Joint Development Assessment Panel granted planning consent for DAP002/20. On 2 October 2020 the City issued a Demolition Permit for the existing structures on site (excluding the heritage listed former jockey's quarters and stables) and on 25 November 2020 the City issued a Building Permit for the subsequent development. Demolition works have been completed however construction of the new development had not commenced at the time of this report.

Legislation and Policy:

Legislation

- Planning and Development (Development Assessment Panels) Regulations 2011- Regulation 17 – Amendment or cancellation of development approval by DAP
- Planning and Development (Local Planning Schemes) Regulations 2015 - Clause 67 – Matters to be considered by Local Government

Local Government Policies

- LPP1.1 - Amendment and Extension to the Term of Planning Approval

Consultation:

Public Consultation

The application was not required to be advertised in accordance with the provisions with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015 and Council's Local Planning Policy *LPP1.3 - Public Notification of*

Planning Proposals (LPP1.3) as the development is considered to be substantially the same as the approved development and the proposed modifications do not introduce any new discretions to Scheme or Policy requirements.

Referrals/consultation with Government/Service Agencies

The original application was referred to Department of Water and Environmental Regulations (DWER) and Department of Fire and Emergency Services (DFES) for comment. The variation application was not required to be referred back to these agencies.

The conditions and advice notes included in the original recommendation are not proposed to be amended as part of this application.

Planning Assessment:

LPP1.1 – Amendment and Extension to the Term of Planning Approval

In accordance with Regulation 17 of the Planning and Development (Development Assessment Panel) Regulations 2011, an owner can apply to amend a development application, provided the changes do not substantially alter the development approved.

In addition to the DAP Regulations, the City's Local Planning Policy 1.1 - Amendment and Extension to the Term of Planning Approval sets out relevant requirements for consideration when reviewing a variation application. These requirements are as follows:

> *In determining whether to allow the amendment of a planning approval, Council will consider whether the nature and extent of the proposal amendment is such that the use or development the subject of the planning approval:*
>
> *(c) Remains, in substance, the same; or*
> *(d) Is changed so a new and different use or development is proposed.*

The proposed amendment introduces no new discretionary matter and is considered to be substantially the same as the approved development and can therefore be considered as an amendment.

The proposed variations are considered to warrant a review of the original assessment of the proposed land use, car parking, bicycle parking and end of trip facilities requirements of Local Planning Scheme No 4. A review of these requirements is as follows.

Land Use

Although the variation application proposes to convert a 228m^2 portion of the approved office land use to Warehouse the proposed Petrol Filling, Office and Warehouse land use remain appropriate for the site for the reasons outlined in the original assessment including:

- The immediately adjacent lots to the south and north contain of an array of industrial and commercial uses that are not considered sensitive.
- The closest residential properties are located to the east of site opposite side of Hampton Road approximately 35-40m away which would not unduly impact the existing adjoining uses.
- Hampton Road is a major road that provides a wide separation distance and already results in some impacts to the existing residential zones through traffic noise and pollution, particularly during day time hours. The proposed uses will have a negligible impact on noise and traffic during this time.
- The proposed development includes the retention and some minor conservation works to the heritage significant '*Former Atkinson Jockey's Quarters & Stables'*.
- With regard to the desired future character of the area, the view of the Council based on its most recent relevant resolution on the matter (22 August 2018) is that the longer term optimum planning outcome for this area would be redevelopment as a high density mixed use/residential precinct. However, achieving this outcome would require a coordinated commitment by all landowners in the Brockman Place mixed use zone precinct to facilitate such an outcome, including a willingness to contribute towards funding of significant road network improvements (through a developer contribution scheme or similar mechanism) required to support more intensive development and land uses and associated vehicle movements. To date there has been no demonstration of such a commitment, and therefore the Council's expressed preference in terms of the longer-term planning outcome needs to be weighed against the reasonable prospects of achieving that outcome. On balance therefore, officers consider it would be unreasonable to refuse the current application on grounds that it would prejudice achievement of a longer term alternative development form and land uses, given the very significant obstacles to delivery of that alternative which exist now and for the foreseeable future.

Carparking

The original approved development resulted in a total 20 car bays shortfall as per the requirements of Table 2 of LPS4. The proposed amendment means this existing approved total shortfall is reduced from 20 to 17 bays.

It is again considered that the proposed on-site car parking shortfall should be supported again against Clause 4.7.3 (viii) for the same reasons as outlined in the DAP002/20 RAR, which were as follows:

- A surplus of 16 onsite bays is provided for the Petrol filling station use,
- A self-storage facility whilst falling into the Warehouse definition of LPS4 does not operate like a traditional 'warehouse' land use operates. Such facilities are generally occupied in a very sporadic and temporary nature, by smaller domestic vehicles rather than larger commercial vehicles one would associate with a common Warehouse operation.
- The accommodated 8 on site bays for future Office use will be now wholly available for Warehouse tenants,

Bicycle Parking and End of Trip Facilities

Element	Required	Proposed	Extent of Variation
Bike parking	*Office*: Class 1 or 2: 1 per 200m^2 of gla 1	Nil	1
End of Trip Facilities	1 male and 1 female shower	1 Uni-Sex	1 shower
Locker	1 for every Class 1 or 2 rack = 1	Nil	1

Although the proposed modification includes a reduction in the amount of Office area, the remaining Office area still generates a requirement for one bicycle bay and therefore the minimum end of trip facilities being one female and one male shower facility and one locker.

The variation application proposes the deletion of condition 14 for the end of trip facilities as the removal of 228m2 of Office space is being proposed.
As the amended development still includes a 112m^2 Office, the requirement for the provision of bicycle parking and end of trip facilities is still considered necessary. As only one class 1 or 2 bicycle parking bay is required it could be considered onerous to provide two shower facilities, therefore one Uni-Sex facility is considered acceptable in this instance. The proposed plans show appear to indicate the provision of an EOT facility, however it is not clear. As such, it is recommended that condition 14 be retained, however amended to require a minimum of one Uni-Sex shower and one locker.

Conclusion

The proposed amendments are considered minor and do not alter the development's compliance with relevant LPS4 and Council Policy requirements. The application is recommended for approval subject to the modification of relevant conditions as discussed above.

Cr Frank Mofflin returned to the meeting at 8.59 pm.

PC2101 - 9 INFORMATION REPORT – JANUARY 2021

1. SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

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

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

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

Responsible Officer: Manager Development Approvals
Agenda attachments: Nil

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

1. Application Reference
DA0166/20
Site Address and Proposal
4 Keel Place, North Fremantle – Proposed 3 Storey Single house
Planning Committee Consideration/Decision
• At its meeting held on 4 November 2020, the Council resolved to refuse the application.
Current Status
• On 19 November 2020 an Application for Review by the State Administrative Tribunal was lodged by the owner. • Mediation between the relevant parties has been scheduled for 21 January 2021.

2. Application Reference
DAP004/20
Site Address and Proposal
19-21 McCabe Street, North Fremantle – Proposed 8 Storey mixed use development
Planning Committee Consideration/Decision
• At its meeting held on 4 November 2020, the Metro Inner-South Development Assessment Panel resolved to Approve the application.

Current Status
• On 15 December 2020 an Application for Review by the State Administrative Tribunal was lodged by the owner. The application requests the deletion of Condition 28, which required the addition of three deep soil areas in or immediately adjacent to the Public Art Walk/public pedestrian accessway. • As the JDAP was the decision maker the Department of Planning Lands and Heritage will be the respondent in this instance.

3. Application Reference
DA0166/20
Site Address and Proposal
6 Commercial Street, South Fremantle – Proposed Demolition of existing Single house and construction of a single storey Single house.
Planning Committee Consideration/Decision
• At its meeting held on 25 November 2020, the Council resolved to refuse the application.
Current Status
• On 22 December 2020 an Application for Review by the State Administrative Tribunal was lodged by the owner. • A Directions Hearing has been scheduled for 22 January 2021.

COMMITTEE DECISION ITEM PC2101-9
(Officer's recommendation)

Moved: Cr Bryn Jones **Seconded: Cr Geoff Graham**

Council receive the following information reports for January 2021:

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

Carried: 7/0
Mayor Brad Pettitt, Cr Bryn Jones, Cr Geoff Graham, Cr Andrew Sullivan, Cr Jenny Archibald, Cr Rachel Pemberton, Cr Frank Mofflin

10.3 Council decision

Nil

11. Motions of which previous notice has been given

Nil

12. Urgent business

Nil

13. Late items

Nil

14. Confidential business

Nil

15. Closure

The Presiding Member declared the meeting closed at 8.59pm.