



Agenda

Planning Committee

Wednesday, 16 January 2019, 6.00pm

CITY OF FREMANTLE
NOTICE OF A PLANNING COMMITTEE MEETING

Elected Members

A Planning Committee meeting of the City of Fremantle will be held on **Wednesday, 16 January 2019** in the North Fremantle Community Hall, located at 2 Thompson Road, North Fremantle commencing at 6.00 pm.



Julia Kingsbury
Acting Director Strategic Planning and Projects

11 January 2019

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CITY OF FREMANTLE

Planning Committee

Agenda

1. OFFICIAL OPENING, WELCOME AND ACKNOWLEDGEMENT

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

2. ATTENDANCE, APOLOGIES AND LEAVES OF ABSENCE

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

3. DISCLOSURES OF INTERESTS

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

4. RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

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

5. PUBLIC QUESTION TIME

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

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

6. PETITIONS

Petitions to be presented to the committee.

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

7. DEPUTATIONS

7.1 Special deputations

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

There are no special deputation requests.

7.2 Presentations

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

8. CONFIRMATION OF MINUTES

Officer's recommendation

That the minutes of the Planning Committee meeting dated 5 December 2018 be confirmed as a true and accurate record.

9. ELECTED MEMBER COMMUNICATION

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

10. REPORTS AND RECOMMENDATIONS

10.1 DEFERRED ITEMS

PC1901 -1 THOMPSON ROAD NO.89 (LOT 23), NORTH FREMANTLE - DEMOLITION OF EXISTING SINGLE HOUSE AND CONSTRUCTION OF TWO STOREY SINGLE HOUSE (JL DA0371/18)

Meeting Date: 16 January 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachment: 1: Amended Development Plans
2: Site Photos

SUMMARY

Approval is sought for the demolition of the existing Single house and construction of a two storey Single house, at No. 89 Thompson Road, North Fremantle.

The original application was referred to Planning Committee due to submissions being received raising concerns which could not be addressed via the imposition of planning conditions. The original proposal sought discretion against Local Planning Scheme No. 4 (LPS4) and the Residential Design Codes (R-Codes) in respect to the following:

- Primary street setbacks
- Lot boundary setbacks
- Solar access to adjoining sites

At its meeting held on 5 December 2018 the Planning Committee (PC) resolved to refer the application to the Administration with the advice that PC was not prepared to grant planning approval, based on the current submitted plans, and invite the applicant, prior to the next appropriate PC meeting, to consider amending the proposal in order to comply with the Deemed to Comply requirements of the R-Codes relating to overshadowing.

The applicant has since submitted amended plans which include the following changes:

- reducing the upper floor southern eave from 560mm to 160mm,
- reduce the rear portion of the dwelling wall height by 430mm, and
- reducing the impact of shadow on the southern neighbour from 28.5% (116m²) to 24.5% (100m²)

The amended application seeks discretion against Local Planning Scheme No. 4 (LPS4) and the Residential Design Codes (R-Codes) in respect to the following:

- Primary street setbacks
- Lot boundary setbacks

The amended proposal is considered to have resolved the overshadowing concern raised by Officers and as such the amended proposal is recommended for conditional approval.

PROPOSAL

Detail

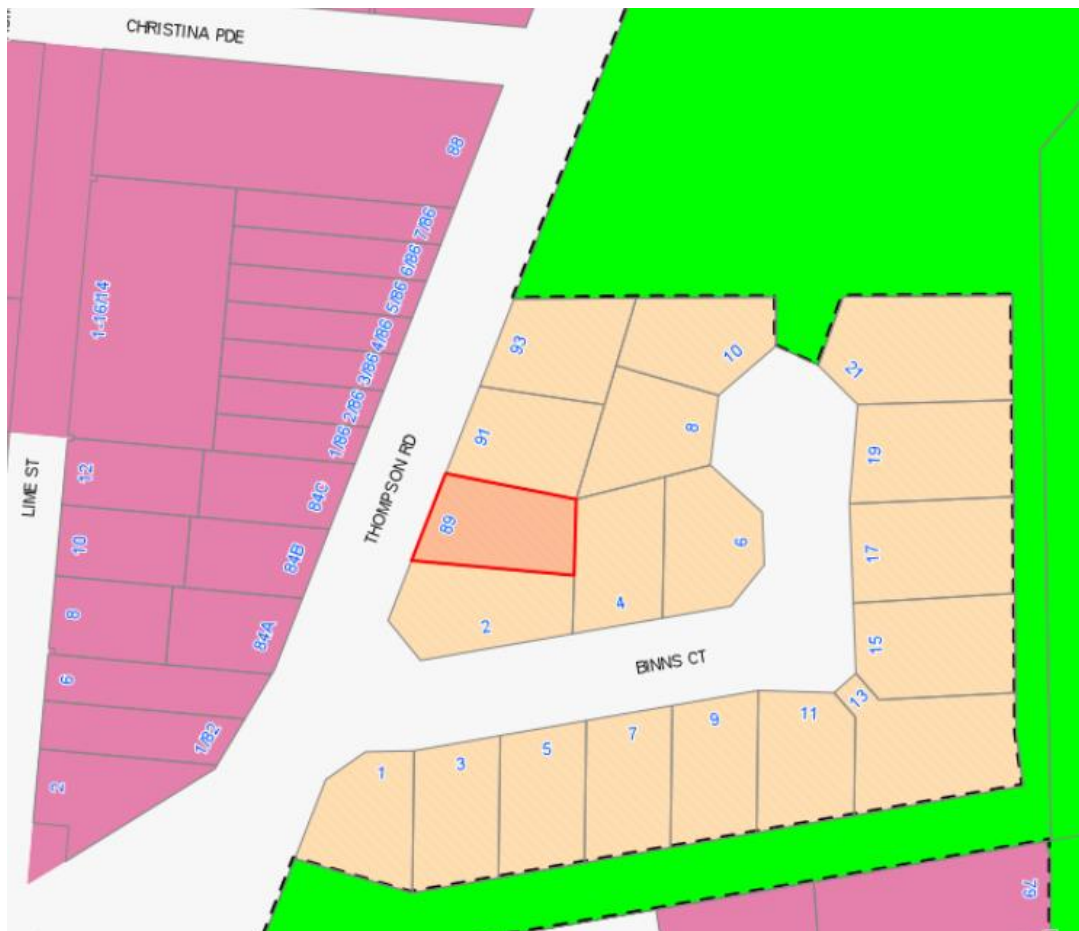
Approval is sought for the demolition of the existing Single house and construction of a two storey Single house on the subject site. The proposal comprises of the following:

- Demolition of the existing dwelling;
- A two storey Single house is to be situated toward the front (west) of the site with a double garage fronting Thompson Road.
- The dwelling comprises of a ridge roof design and features a mixture of materials and finishes.

See 'Attachment 1' below for copy of amended development plans.

Site/application information

Date received:	4 July 2018
Owner name:	Michael and Carly West
Submitted by:	Ventura Home Group
Scheme:	Residential
Heritage listing:	Not individually listed, North Fremantle Heritage Area
Existing land use:	Single house
Use class:	Single house
Use permissibility:	P



CONSULTATION

External referrals

Nil required

Community

The original application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015. The advertising period concluded on 25 September 2018, and three (3) submissions were received. The following issues were raised:

- Overshadowing of the adjoining southern site's exclusive centrally located outdoor living area and existing habitable room windows on the northern elevation of this dwelling.
- Reduced southern lot boundary setback and associated amenity impacts created via building bulk and shadow from the proposed garage boundary wall.
- Reduced primary street setback and inconsistent with the prevailing streetscape pattern of this portion of Thompson Road.
- Visual Privacy impacts from the upper floor windows of the development.

The amended plans submitted now comply with the Deemed to comply criteria of the R-Codes resulting in a shadow of less than 25%. Therefore the concerns received regarding this matter have been addressed. Additionally in regard to the Visual Privacy concerns it is noted that the proposal complies with the 'deemed to comply' criteria of the R-Codes and as such is acceptable on planning grounds.

With regards to the discretionary assessment relating to lot boundary setbacks and primary streets setbacks, these matters are discussed in the Officers Comment section 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. The amended plans have been assessed and 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 setbacks
- Lot boundary setback

The above matters are discussed below.

Background

The subject site is oriented east-west and is located on the eastern side of Thompson Road, within the Residential zone. The closest major road is Stirling Highway, which is approximately 150 metres to the west. The site is not individually listed however it is located within the North Fremantle Heritage Area.

The site is rectangular in shape, with an angled frontage to Thompson Road. The property currently contains an existing single storey Single house built in the 1990's which is to be demolished as part of this development. The site currently has a vehicle access (crossover) to Thompson Road which is to be reused for the proposed dwelling.

On 17 December 2018 the applicant lodged amended plans to address Committee's reason for its referral back to the Administration. See 'Attachment 1' below for copy of the amended plans.

Demolition

The existing dwelling is proposed to be demolished in order to make way for the two storey dwelling. In accordance with clause 4.14 of LPS4, as the existing dwelling does not contribute to the cultural heritage significance of the place or character of the locality, and is considered to be of little or no significance, the demolition is supported.

Street Setback

Element	Requirement	Provided	Extent of Variation
Dwelling and Garage (Ground Floor)	5.0m	2m – 4.2m	800mm - 3m
Master Suits/ Study nook Dressing room (Upper Floor)	7.0m	2.1m – 5.1m	1.9m - 4.9m

Council's Local Planning Policy 2.9: Residential Streetscape Policy stipulates the minimum required street setbacks for residential development in the North Fremantle Local Planning Area. In considering variations to the prescribed street setback under LPP 2.9, Council shall have regard to the character of buildings in the prevailing streetscape. The street setbacks of the proposal are considered supportable for the following reasons:

- There are numerous examples within the prevailing streetscape of garages and dwellings encroaching far forward of the prescribed ground and upper floor street setbacks. Examples of such include the two dwellings immediately to the north of the subject site which contain garages with 2 – 3m setbacks to the primary street.
- Due to the nature of the topography within this section of Thompson Road, there is no established streetscape pattern in regard to the primary street setbacks. The established streetscape contains numerous examples of reduced street setbacks, mostly to facilitate garage facilities and sufficient gradients for vehicle access.
- Within the prevailing streetscape there are three, two storey dwellings projecting into the prescribed 7 metre street setback area, creating significant bulk on the streetscape. By comparison, this development pushes the majority of the two storey element back from the street and will therefore have a less significant impact in respect to perceived building mass.

Lot Boundary Setback

Element	Requirement	Provided	Extent of Variation
South – Ground Floor			
Garage	1m	Nil	1m
Kitchen / Scullery	1.5m	1.5m	Complies
South – Upper Floor			
Bedroom 5/ Bathroom	2m	3m	Complies
Ensuite	1.2m	1.2m	Complies
North – Ground Floor			
Guest Room	1m	1.3m	Complies
Media/ Living Room	1.5m	1.7	Complies
North – Upper Floor			
Bedroom 4	1.9	1.6m	300mm
Bedroom 3	1.9m	2m	Complies
Activity Room	1.9m	1.8m	100mm
Master Room	1.9m	3.4m	Complies

The northern lot boundary setbacks of the development are considered to satisfy the design principles of Clause 5.1.3 of the R-Codes for the following reasons:

- In summary, the entire upper floor wall ranges in setback from 1.6m to 3.9m. Whilst noting the majority of the upper floor wall is setback to comply with the required 1.9m however small portions of this articulated wall project up to 300mm into the setback area required.
- Overall, this stepped treatment helps provide building bulk relief for the neighbouring property whilst also allowing adequate separation between the two developments maintaining a sufficient level of ventilation.
- Also given this reduced setback relates to the northern side of the property, there will be no impact upon the adjoining property's ability to maintain access to direct sunlight.

The proposed southern boundary wall was not considered to satisfy the design principles of Clause 5.1.3 of the R-Codes as it was considered to contribute to the proposal's non-compliance with the overshadowing requirements of the R-Codes. As detailed above, the proposal has been amended to reduce the overshadowing to comply with the Deemed to Comply requirements of the R-Codes and as such the southern boundary wall, on balance can be supported for the following reasons:

- With regard to the setbacks from the southern side boundary, it is noted that the upper floor portions of the development are generally well set back from that side, either meeting or exceeding the relevant setback requirements on both levels.
- Although it is acknowledged that the proposed southern boundary wall will directly abut two existing ground floor windows (one being a habitable room window – marked yellow in image below) of the southern adjoining dwelling, given the amended proposal complies with overshadowing provisions of the R-Codes, the amenity impact created by the reduced setback is considered to relate to building bulk.

- The southern adjoining dwelling incorporates a 1.5 – 1.7m setback for the wall with the existing opening form this common boundary and therefore sufficient ventilation will be maintained. Therefore the only element of assessment needing consideration related to building bulk and if a 3 – 3.5m high that extends 8.2m long will adversely impact the southern property.
- Taking into consideration that the majority of the proposed boundary wall will be screened by the existing 1.8m high boundary fence, the overall building bulk impact created by the wall is not considered to be significant, and therefore the boundary wall is supported on balance.

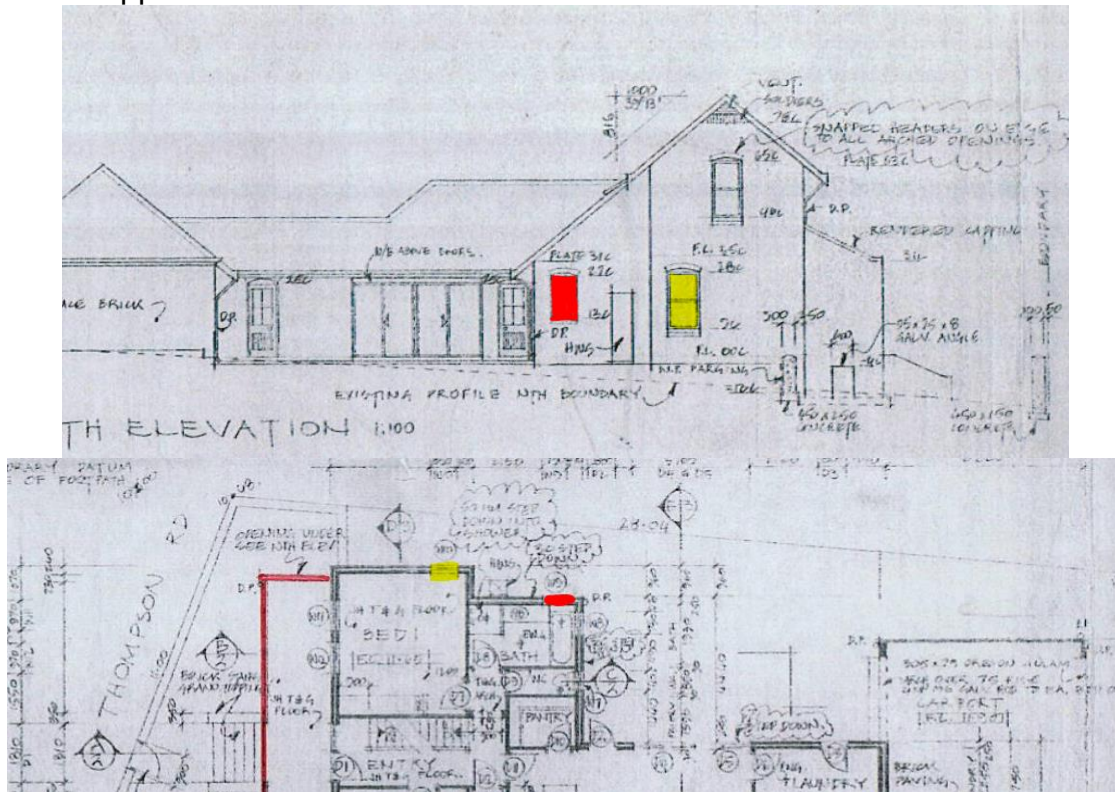


Figure 1: Location of openings of neighbouring property to the south

Solar Access

Element	Requirement	Original Provided	Amended Provided	Extent of Variation
Solar access for adjoining sites	25% (102.25m ²)	28.5% (116m ²) of the adjoining site area	24.5% (100m ²) of the adjoining site area	Complies

The proposal has been amended to bring the development into compliance with the Deemed to comply criteria of the R-Codes for solar access to adjoining sites for R25 coded property. An assessment against the Design Principles of the R-Codes is therefore not required in this instance.

It was noted in the original report that the applicant had not included the dividing fence in the calculation as required by the R-Codes as a fence is a form of development. Regardless, the original calculation exceeded the Deemed to comply requirements and was not supported against the Design principles. The above calculation includes the shadow cast by a dividing fence with the exception of the location of the existing boundary wall (at the rear of the lot) which is located wholly within the neighbouring

property to the south and precludes the need to erect a dividing fence along this section of the boundary.

CONCLUSION

Approval is sought for the demolition of the existing Single house and construction of a two storey Single house, at No.89 Thompson Road, North Fremantle.

Amended plans have been submitted to address Officers concern in regard to the overshadowing impact on the adjoining property. The amended proposal is recommended for conditional approval.

STRATEGIC IMPLICATIONS

Green Plan 2020

Encourage the retention of vegetation on private land.

1. Existing vegetation on site will be removed as part of this development. However, extensive new landscaping areas are included on the submitted plans.
2. It is noted that no DA is required for the removal of trees on private land.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

The Planning committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demotion of existing Single house and construction of a two storey Single house at No. 89 (Lot 23) Thompson Road, North Fremantle, Subject to following conditions:

- 1. This approval relates only to the development as indicated on the approved plans, dated 17 December 2018. 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. This approved development shall be wholly located within the cadastral boundaries of No. 89 (Lot 23) Thompson Road, North Fremantle including any footing details of the development.**
- 3. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**

- 4. Prior to occupation of the development hereby approved, the boundary walls located on the southern boundary shall be of a clean finish in face brick, 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. The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council's specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.**

10.2 COMMITTEE DELEGATION

**PC1901 -2 LETITIA ROAD NOS. 5A AND 5B (LOTS 1 AND 2 SSP 78737),
NORTH FREMANTLE - TWO, TWO STOREY WITH UNDERCROFT
GROUPED DWELLINGS - (NB DA0290/18)**

Meeting Date: 16 January 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development Plans
2: Applicant's Justification
3: Site Photos

SUMMARY

Approval is sought for two, two storey with undercroft Grouped dwellings.

The application is presented to Planning Committee (PC) due to submissions received that cannot be addressed through a condition of development approval. The application seeks discretion against the Local Planning Scheme No. 4 (LPS4), local planning policies, and the Residential Design Codes (R-Codes) in respect to the following:

- wall height
- upper floor front setback
- front fence
- lot boundary setback
- site works and retaining walls
- outdoor living area
- visual privacy
- solar access.

The application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for two Grouped dwellings, each consisting of two storeys plus an undercroft, and includes:

- undercroft garage and store
- pool
- dining, living, kitchen, and study on the ground floor
- three bedrooms on the first floor.

A copy of the development plans is included as Attachment 1.

Site/application information

Date received:	27 June 2018
Owner name:	Rowan Chitty
Submitted by:	SOS Enterprises Pty Ltd
Scheme:	Residential R25
Heritage listing:	North Fremantle Heritage Area
Existing land use:	Vacant lot
Use class:	Grouped dwelling
Use permissibility:	D



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought against LPS4, local planning policies and the R-Codes. The advertising period concluded on 5 November 2018, and five (5) submissions were received. One (1) submission supported the development. The remaining four (4) raised the following issues:

- The overshadowing will impact the north windows of the cottage, the northern outdoor living area, and the front and back balconies of the southern lot.

- The southwest section of wall is incompatible with the heritage area and the adjoining heritage listed places.
- The reduced front setback, coupled with the east/west orientation and bulk will have a negative impact on the streetscape of Letitia Road.
- The reduced setbacks to the south boundary will severely compromise the amenity of the adjoining lot in Herbert Street. Put simply, the new house will enjoy winter sun at the expense of its neighbour.
- I believe this proposal is unacceptably intrusive on its surroundings and poor use of the site.
- The south west wall made of steel appears to be as high as 8 or 9 meters from the road surface on Herbert St. This will be a highly visible and forbidding structure evident for much of Herbert St. and overshadowing the cul-de-sac for much of the day. It will have no aesthetic appeal and is not in keeping with the style and feel of the area that contains many heritage listed homes.
- Application appears to ignore the Herbert Street frontage of this development. The impact of this three story block abutting the highest elevation of Herbert St would be detrimental.
- The southern elevation of the proposal shows a largely solid mass of concrete and steel cladding rising up to 8 metres / 3 storeys above Herbert St with effectively no setback.
- Not only is it unattractive, but it will cause extended shadowing of the street on winter mornings and is inconsistent with the heritage value of Herbert St.

In regard to building appearance and design, policy DGN13 requires buildings to be articulated and provide visual interest with vertical emphasis, and excludes mock historical style housing. The subject proposal is considered to comply with these design requirements.

The rear lot (No. 5B) is located adjacent to Herbert Street but does not actually front Herbert Street. For assessment purposes, it is considered that the layout is more akin to a battleaxe development facing Letitia Road.

The remaining comments are addressed below.

OFFICER COMMENT

Statutory and policy assessment

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

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

- wall height
- upper floor front setback
- front fence
- lot boundary setback
- site works and retaining walls
- outdoor living area
- visual privacy
- solar access.

The above matters are discussed below.

Background

The site is located on the southern side of Letitia Road between Thompson Road and Rule Street in North Fremantle. The lot has been subdivided into two, with each lot oriented east-west and sharing a common property driveway linking Letitia Road to the Herbert Street cul-de-sac.

No. 5A fronts Letitia Road, while No. 5B is located to the south with effectively no road frontage. The lot is not heritage listed but is located within the North Fremantle Heritage Area.

Both lots are currently vacant and the ground level slope down approximately 4.5 m from east to west.

Prior to 2018, the lots were oriented north-south, with an existing Grouped dwelling development inconsistently oriented east-west. The driveway connected Letitia Road to Herbert Street but included obstructions reducing the driveway access from Herbert Street to below the minimum 3m requirement.

The initial subdivision application was recommended for approval on the basis that the existing dwelling was to remain and the boundaries would simply be re-aligned to correctly match the orientation of the dwelling. The applicant opted to demolish the existing building and continue with the re-subdivision, resulting in the current lot layout. The subdivision approval was issued by the Western Australian Planning Commission on 2 October 2018.

Building height

Element	Permitted	Proposed	Variation
Wall height (5A and 5B Letitia Rd)	2 storeys (5.5 m wall height)	<ul style="list-style-type: none"> • 2 storeys • 4.5m on highest ground level • 7.6 m on lowest ground level 	2.1 m (max)

The development seeks a wall height variation under clause 4.8.1.1 of LPS4, which states:

Where sites contain or are adjacent to buildings that depict a height greater than that specified in the general or specific requirements in schedule 8, Council may vary the maximum height requirements subject to being satisfied in relation to all of the following—

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

The eastern adjoining house (No. 6 Letitia Road) at a maximum of 5.9 m high, depicts a height greater than that depicted in the scheme, thus providing the “trigger” to assess the development under provisions (a) through (d) above.

In regards to (a), the development is considered to be detrimental to the amenity of the adjoining properties in terms of building bulk, front setbacks, solar access, lot boundary setbacks, and visual privacy as discussed in turns in the following sections. The proposal is therefore not considered to meet part (a).

In regards to (b), several houses in the immediate locality have been approved with a height greater than that proposed, notably No. 25 Herbert Street and No. 25 Rule Street. On this basis, the development is not anticipated to set any undesirable precedent within the locality and is considered to graduate the scale between buildings of varying heights within the locality. In this regard, the proposal is considered to meet part (b).

In regard to part (c), none of the houses fronting Letitia Road (Nos. 1-7) are heritage listed. However, the southern adjoining site at No. 31 Herbert Street contains a dwelling recognised as being of heritage significance for its contribution to the streetscape. On this basis, it is necessary that Council is satisfied that the proposed addition will not detrimentally impact the heritage significance of the adjoining property. As a means of guidance, the City's D.G.N13 which applies to the general locality of the subject site states that mock historical style housing, poorly proportioned, with excessive use of reproduction will not be supported. On this basis, it is considered that the modern appearance of the proposal is consistent with the objective of this requirement in that there will be a clear distinction between the heritage and contemporary components of the streetscape.

Further, the existing site is located on a dead end of Herbert Street, which means that the proposed boundary wall will not detrimentally affect views of the heritage building from public space. Having regard for the above, the proposal is considered to meet part (c).

Under part (d), Council is required to consider any other relevant matter outlined in the local planning policies. Accordingly, the City's policy D.G.N13 outlines specific height guidelines for the area bound by Thompson Road, Alfred Road, Rule Street and Harvest Road.

The development is assessed against D.G.N13 as follows:

D.G.N13 Maximum Requirements	Provided	Variation
Wall Height: Two storeys 5.7m + 1.5m for sloping sites = 7.2m	Two storeys 6.05 m (Averaged in accordance with D.G.N13)	Complies
Overall Height – 7.7m	7.6 m	Complies

The proposal therefore satisfies the requirements of DGN13, however, the upper floor front setback does not satisfy the requirements of policy LPP 2.9: Residential Streetscape as discussed below.

Based on the above, the proposal does not meet part (d).

Front setback

Element	Permitted	Proposed	Variation
2 Letitia (Upper)	7m (Upper)	2.9 m	4.1 m
3 Letitia (No upper)		n/a	n/a
4 Letitia (Upper)		6.2 m	0.8 m
5A Letitia (Upper)		5.195 m	1.81 m
6 Letitia (Upper)		6.3 m	0.7 m
7 Letitia (Upper)		>7m (estimated)	Nil

Note: The upper floor setback as defined in LPP 2.9 refers to the main wall of the dwelling and excludes balconies and verandahs.

Under LPP 2.9: Residential Streetscape, variations may be considered where they meet 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*
- 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 applicant's justification (refer Attachment 2) asserts that the development meets the criteria of (ii) and (iv) above. In regards to (ii), there is a consistent fall in ground level along the entirety of Letitia Road, and the subject site does not contain a significantly different slope than the remainder of the street and should, therefore, remain in line with the pattern of the streetscape.

In regards to (iv), the majority of houses on either side do in fact have an upper storey and, while it is not strictly consistent, it does form a prevailing streetscape.

LPP 2.9 further states that greater weight may be given to the houses on either side. As shown in the table above, the upper floor setback does vary along the street, but does so in a way which is consistent and gradually diminishes from east (7 Letitia Rd) to west (2 Letitia Rd). In the opinion of City officers, consistency with the streetscape requires the main wall of the upper floor of the dwelling to be set back in line with Nos. 4 and 6 Letitia at approximately 6.2 m. Setting back the main walls of the house in this manner will also allow the eastern adjoining house to retain the significant views. The proposed upper floor setback variation is therefore not supported.

Front fence

Element	Required	Proposed	Discretion
Maximum solid portion of wall	1.2 m	1.6 m	0.4 m
Maximum Height	1.8 m	2.4 m	0.6 m

The variation is supported for the following reasons:

- The lot has a steep slope and minor variations to the permitted fence heights are proposed.
- The infill panels of the fence are visually permeable and provide surveillance between the dwelling and the street.
- The fence height and solidity is consistent with the design of fences within the prevailing streetscape.

Lot boundary setback

Element	Required	Proposed	Discretion
South (Ground floor parapet)	1 m	Nil	1 m
South (Upper floor parapet)	1.2 m	Nil	1.2 m
South (Remainder of wall)	2 m	1.2 m	0.8 m
South (Outbuilding)	1 m	Nil	1 m

The lot boundary setbacks of the main dwelling are not supported for the following reasons:

- The reduced setbacks contribute to the loss of solar access to the outdoor living areas and major openings to habitable rooms of the adjoining southern dwelling (see also 'Solar access' below).
- The reduced setbacks, particularly the two storey nil setback, contributes to the appearance of building bulk to the adjoining southern lot.
- The reduced setbacks combine to have a detrimental impact on the amenity of the adjoining southern lot.

The nil setback of the outbuilding is supported as it is low in height with the ground level excavated so as to have minimal impact on the amenity of the adjoining lot.

Site works and retaining walls

Element	Required	Proposed	Discretion
Extent of fill	0.5 m	2 m (max)	1.5 m
Retaining wall height	0.5 m	2 m (max)	1.5 m

The variations are supported for the following reasons:

- The site has a steep slope and the proposal includes a balance between excavation and fill necessary to provide useable outdoor areas.
- The ground levels at the street are consistent with the other houses along Letitia Road.
- The retaining walls and fill will not detrimentally affect adjoining properties.

Outdoor living area

Element	Required	Proposed	Discretion
Outdoor living area	Behind the front setback area	Within the front setback area	Design principle assessment

The variation is supported as it is capable of use in conjunction with a habitable room of the dwelling, is open to winter sun and ventilation, and optimises use of the northern aspect of the site.

Visual privacy

Element	Required	Proposed	Discretion
Ground floor decks (Southern elevation of both buildings)	7.5 m	6.2 m	1.3 m
Upper floor balcony (Eastern elevation of both dwellings)	7.5 m	1.6 m	5.9 m
Master Bedroom (Upper floor southern elevation of rear building)	4.5 m	2 m	2.5 m

The deck and upper floor balcony variations are supported for the following reasons:

- Overlooking from the deck of 5A is to the blank wall and front setback area of the adjoining house; no outdoor living areas or habitable rooms are impacted.
- Overlooking from the deck of 5B is primarily to a blank wall of the adjoining dwelling. The adjoining bedroom window is offset from the line of site from the deck and partially obscured by a tree. Additionally, the existing dividing fence is low and privacy could be improved through the addition of a standard height dividing fence.
- Overlooking from the upper floor balconies is supported as the overlooking is oblique and primarily to the blank walls of the adjoining eastern dwelling, with the exception of part of the adjoining living room window. However, the eastern dwelling has a significantly higher floor level than the subject site, resulting in minimal actual overlooking impacts to the living room.

The visual privacy variation from the master bedroom of 5B is not supported as it overlooks outdoor living areas and habitable rooms of the adjoining southern site. Should the development be approved, it is recommended that this window be screened in accordance with the R-Codes.

Solar access

Element	Maximum	Proposed	Discretion
Overshadowing - Proposed	15.2% (62.6 m ²)	28% (115.6 m ²)	12.8% (53 m ²)
Overshadowing – existing from 6 Letitia	9.8% (40.4m ²)	5.5% (existing) (22.8 m ²) (existing)	Nil
Total overshadowing (see note)	25% (103 m²)	33.6% (138.4 m²)	8.6% (35.4 m²)

Note: The R-Codes allows a total of 25% overshadowing of southern lots in this zoning, and further provides for a proportional share of the total overshadowing to be calculated when multiple northern lots adjoin a single southern lot. In this instance, the subject site shares the affected southern boundary with No. 6 Letitia Road and comprises 60.8% of the total boundary length, resulting in the Deemed-to-comply requirements shown in the table above.

Most of the overshadowing is to the blank roof of the adjoining lot and the front setback area, however, a not insignificant portion of the shadow also falls on a part of the outdoor living area and a major opening to a habitable room as shown in the figure below.



Figure 1: Extent of overshadowing in grey

The solar access variation is exacerbated by the reduced lot boundary setbacks and the increased overall building height. Given the overshadowing to the outdoor living area, the overall solar access variation is not supported.

Conclusion

The following variations are not supported due to their detrimental impact on the adjoining properties, including:

- building height
- upper floor front setback
- lot boundary setbacks
- visual privacy (unless screening of the Master Bedroom is imposed)
- solar access.

The building height variation is not supported under clause 4.8.1.1 of the scheme due to non-compliance with part (a) due to the detrimental impacts of the R-Codes variations and part (d) due to the non-compliance with the City's Streetscape policy.

In light of the above, the proposal is considered to not be consistent with the Matters to be considered of the *Deemed provisions* by reasons of being detrimental to the amenity of adjoining properties and the incompatibility of the development with its setting. Have regard to the above, the application is recommended for refusal.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

The Planning Committee acting under delegation 1.2:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two, two storey with undercroft Grouped dwellings at Nos. 5A and 5B (Lots 1 and 2 SSP 78737) Letitia Road, North Fremantle, as detailed on plans dated 17 December 2018, for the following reasons:

1. The proposal does not meet the building height variation requirements of parts (a) and (d) of clause 4.8.1.1 of the City of Fremantle Local Planning Scheme No. 4 due to the variations proposed under the Residential Design Codes and the City's LPP 2.9: Residential Streetscape.
2. The proposal is inconsistent with the upper floor front boundary setback requirements of the City's policy LPP 2.9: Residential Streetscape.

- 3. The proposal fails to comply with the design principles and deemed to comply standards of the Residential Design Codes in respect to lot boundary setbacks, visual privacy, and solar access.**

- 4. The proposal does not comply with clause 67 of the Planning and Development (Local Planning Scheme) Regulations 2015 by reasons of being detrimental to the amenity of adjoining properties and the incompatibility of the development with its setting.**

PC1901 -3 CADD STREET, NO. 21 (LOT 45), BEACONSFIELD - TWO, TWO STOREY GROUPED DWELLINGS - (CJ DA0416/18)

Meeting Date: 16 January 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development plans
2: Site photos

SUMMARY

Approval is sought for two, two storey Grouped dwellings at No. 21 Cadd Street, Beaconsfield (subject site). The application is presented to Planning Committee (PC) due to a submission received that cannot be satisfied through a condition of planning approval. The application also seeks the following merit based assessments against the Local Planning Scheme No. 4 (LPS4), Residential Design Codes (R-Codes) and relevant Council policies:

- Primary street setback
- Building height
- Lot boundary setback (boundary walls)
- Vehicle sightlines
- Land use

The proposal is not considered to meet the design principles for the primary street setback and as the proposal is not consistent with the established streetscape the application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for two, two storey Grouped dwellings at the subject site. The site is located on the western side of Cadd Street in Beaconsfield and is not heritage listed or located within a heritage area. The property has previously been cleared and is vacant from any buildings or vegetation.

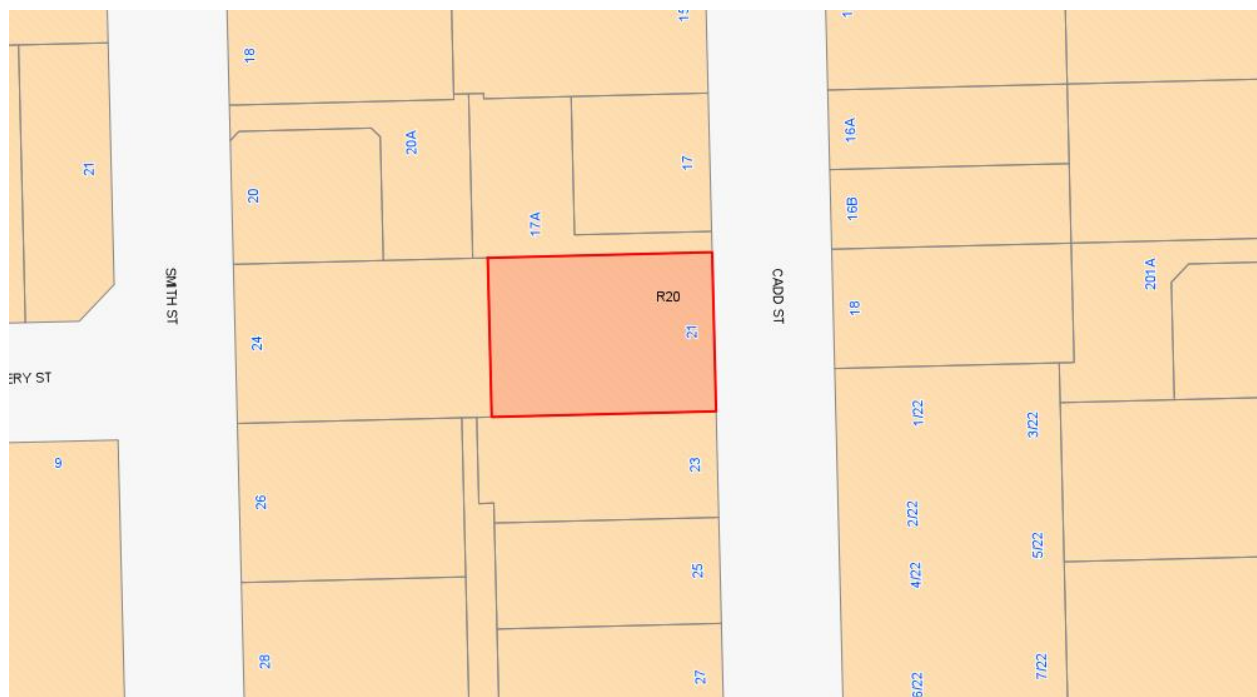
The most recent set of amended plans lodged by the applicant after feedback from officers (dated 11 December 2018) include the following amendment from the original submission:

- 300-400mm increase to southern lot boundary setback
- Change from nil setback to 1m setback for southern elevation of Carport
- Reduction in building height
- Reduction in shadow to southern neighbour to deemed to comply amount
- Minor alterations to windows
- Removal of carport door
- Additional front fence
- Increase in size to kitchen window on ground floor of rear dwelling

The changes have reduced the number of discretions on site, notably resulting in deemed to comply overshadowing and carport setbacks. The applicant has acknowledged that they have not made any changes to the primary street setback which officers have communicated is one of the key issues with this proposal.

Site/application information

Date received: 17 September 2018
 Owner name: Brett, Melanie, Dale and Sydney Montgomery
 Submitted by: Sid Thoo
 Scheme: Residential R20
 Heritage listing: Not listed
 Existing land use: Vacant
 Use class: Grouped dwelling
 Use permissibility: D



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal sought merit based assessments against the R-Codes and local planning policies. The advertising period concluded on 7 November 2018, and one (1) submission was received. The following issues were raised:

- Impact of the two storey dwellings on the streetscape.
- Homes are too large.
- Privacy impacted.

- Will lose access to northern sunlight.
- Lack of green space, particularly in front yard.

In response to the submission received, the applicant made a number of changes to the plans including, but not limited to, reducing the external wall height and amending the design to ensure the overshadowing meets the deemed to comply requirements.

The above concerns are discussed in further detail in the report below.

OFFICER COMMENT

Statutory and policy assessment

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

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

- Primary street setback
- Building height
- Lot boundary setback (boundary walls)
- Vehicle sightlines
- Land use

The above matters are discussed below.

Background

The site is located in the Beaconsfield Local Planning Area on a lot bound by Cadd Street to the east, South Street to the north, Lefroy Road to the south and Smith Street to the west. The site has a land area of 1,012m² and is currently vacant. With a density of R20 allocated to the site, the site is zoned Residential and is not heritage listed or located within a heritage area.

A two lot survey strata subdivision was approved in October 2018 in the same format as the dwelling layout shown in this application.

Primary street setback

Element	Deemed to comply	Provided	Design Principle
Ground floor (wall less than 4m in height)	7m	6m (not including Carport)	1m
Upper floor (walls 4m or greater in height)	10m	5.7m	4.3m

The prevailing streetscape (as defined by LPP 2.9), is made up of the following dwellings:

- No. 13 Cadd - Vacant
- No. 15 Cadd – 7m (GF), 10.8m (UF) (two storey)
- No. 17 Cadd – 8.5m (single storey)
- No. 23 Cadd – 10.1m (single storey)
- No. 25 Cadd – 8m approx. (single storey)
- No. 27 Cadd – 9.1m (single storey)

The diagrams below demonstrate the required and proposed setback in the context of the existing streetscape:



Figure 1: Ground floor setback



Figure 2: Upper floor setback

The proposed primary street setback is not supported in accordance with the discretionary criteria of LPP 2.9 and the design principles of the R-Codes for the following reasons:

- The streetscape is occupied by predominantly single storey dwellings.
- There is only one two storey building in the in the prevailing streetscape and this is located 10.8m from the primary street.
- The road and/or lot layout does not prevent the upper floor from intruding into the streetscape by being particularly unusual. Nor is the topography of the site particularly restrictive.
- There are no mature, significant trees on site that could be used to justify the building having to be further forward on the lot.
- The development does not abut a corner lot with a dwelling that protrudes into the established streetscape.

It is therefore considered that to protect the integrity of the existing streetscape and meet the intent of the policy, that the dwelling should be setback to the prescribed street setback distance. As such the proposed setback is not supported.

Lot boundary setbacks (boundary walls)

Element	Deemed to comply	Provided	Design Principle
West (rear dwelling)	1.5m	Nil	1.5m
South - Garage (rear dwelling)	1m	Nil	1m

The two storey wall built to the boundary may have some impact on the western neighbour by way of building bulk. However, it is not considered, on balance, to have a significant impact on the amenity of the adjoining neighbour for the following reasons:

- The existing built form on the adjoining site is setback by approximately 13m.
- No major openings will have sunlight or ventilation restricted.
- The main outdoor living area for the site is also setback into the site and is unlikely to be significantly impacted.
- There are no privacy implications from the wall, with no windows proposed.
- The wall is located on the rear of the site and will not have implications on the streetscape.

The single storey boundary wall for the garage of the rear dwelling is also supported for the following reasons:

- The shadow cast from the garage wall will partially affect a Patio covered area of site. Notwithstanding this, the majority of the outdoor living area remains unaffected by shadow.
- The shadow thrown from the garage wall will not affect major openings.
- There is sufficient setback on the remaining lot boundary to ensure ventilation is accessed by the southern property.
- The wall is single storey, with the remainder of the buildings in the proposal setback to compliant distances.

Building height

Element	Deemed to comply	Provided	Design Principle
External wall height	6m	2.8 - 6.55m	0.55m

It is noted that much of the development has been amended since lodgement to reduce the external wall height to be less than 6m deemed to comply requirement. The element of discretion relates to a portion of the front dwelling which sits in the middle of the site (see diagram below provided by the applicant) and is setback from the southern property boundary.

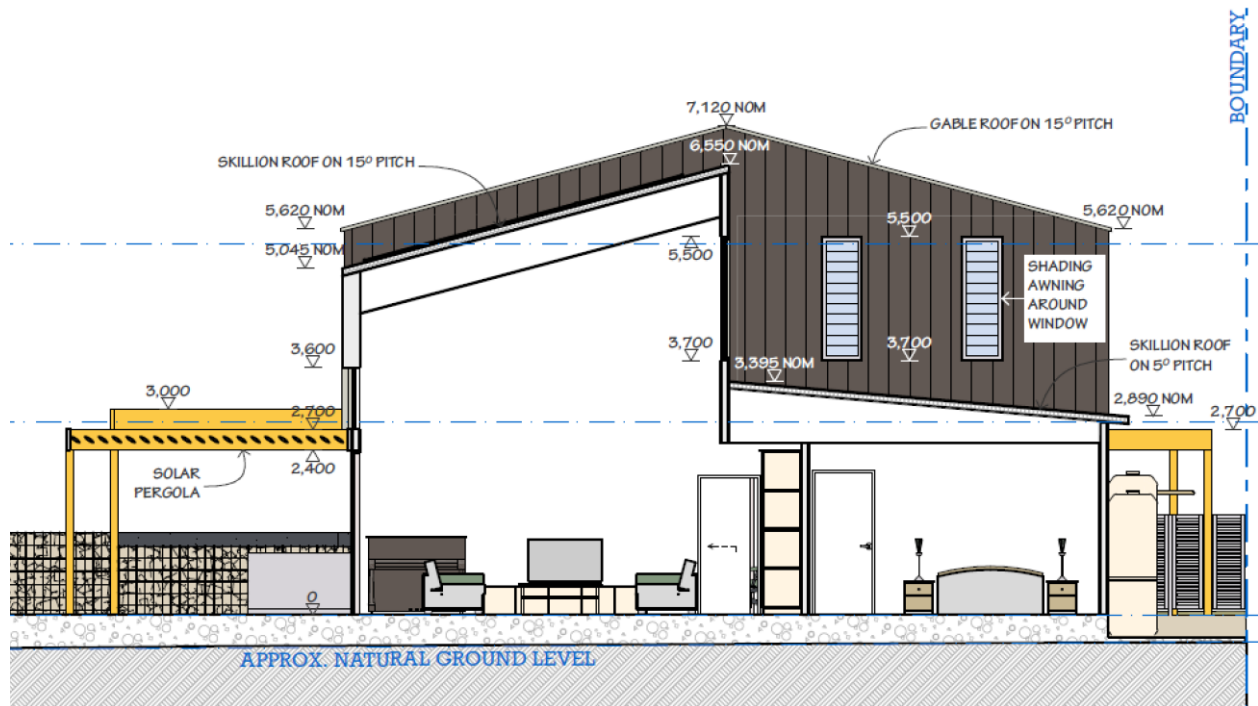


Figure 1: Internal section of front dwelling illustrating wall height discretion

The proposed discretion is supported against the requirements of the design principles for the following reasons:

- The area of additional wall height will throw some shadow over the southern property. This shadow will affect a side setback area and due to the setback of the wall, will not reach the windows of the neighbouring property.
- The additional 550mm of wall height is unlikely to impact on views of significance.
- The building bulk is setback by 7.5m which assists in reducing the impact of building bulk on the adjoining site.

Vehicle sightlines

Element	Deemed to comply	Provided	Design Principle
Front dwelling adjoining carport	Truncated or reduced to 750mm height	Visually permeable fence (1.2m high)	No truncation, 450mm of fence
Rear dwelling battleaxe leg	Truncated or reduced to 750mm height	Truncated and clear of fence	Complies

The proposed fence proposed abutting the carport is shown to be somewhat permeable but up to 1.2m in high. This means that it intrudes into the area meant to remain clear of obstruction to allow for safe access to and from the site.

As a footpath abuts the lot boundary of the site, should the application be approved, it is recommended the fence be amended to comply through a condition of approval.

Land use

The proposed land use of Grouped dwelling, is a discretionary ('D') use in the Residential zone. A 'D' use means that the use is not permitted unless Council has exercised discretion by granting planning approval. In considering the proposed use, it is recommended Grouped dwellings be supported on the site in accordance with the objectives of the Residential zone and the Matters to be Considered (clause 67 Planning and Development (Local Planning Schemes) Regulations 2015) for the following reasons:

- The development of two dwellings on the site is consistent with the zoning and density of the site.
- The use is similar to the Single house built form characterising the area.
- There are no heritage implications arising from the proposal.
- Sufficient car parking is allocated and can be serviced from the road reserve.

It is also noted, that should this development be approved, there is also a two lot subdivision that has been approved. Should the lots be created, the dwellings would become Single house's which are a P use under the Scheme.

Notwithstanding the support for the land use on site, concerns relating to this application are focused on the execution of the built form design.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

Green Plan 2020

Encourage the retention of vegetation on private land.

1. The site has been cleared.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

The Planning committee acting under delegation 1.2:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two, two storey Grouped dwellings at No. 21 (Lot 45) Cadd Street, Beaconsfield, as detailed on plans dated 11 December 2018, for the following reasons:

1. **The proposal is inconsistent with the City of Fremantle's Planning Policy LPP 2.9 Residential Streetscape Policy.**

-
- 2. The proposal is inconsistent with the requirements of the Residential Design Codes in respect to the primary street setback.**

**PC1901 -4 MCLAREN STREET, NO. 16 (LOT 502) - TWO SINGLE STOREY
GROUPED DWELLING ADDITIONS - (NB DA0453/18)**

Meeting Date: 16 January 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development Plans
2: Site Photos

SUMMARY

Approval is sought for the addition of two, Single storey Grouped dwellings at the rear of the site and accessed via a common property driveway.

The application is presented to Planning Committee (PC) due to submissions received that cannot be addressed through a condition of development approval. The application seeks discretion against the Local Planning Scheme No. 4 (LPS4), local planning policies, and the Residential Design Codes (R-Codes) in respect to the following:

- lot boundary setback
- outdoor living area.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the addition of two, Single storey Grouped dwellings at the rear of the site and accessed via a common property driveway.

On 6 December 2018, amended site plans were submitted reducing the height of the northern boundary retaining wall to below 500mm and showing all units (including that already approved on lot 1) utilising the same crossover in accordance with the City's crossover policy.

Site/application information

Date received: 3 October 2018
Owner name: Marija Stevanovic and Milan Stevanovic
Submitted by: Plunkett Homes
Scheme: Residential R30
Heritage listing: Level 3 and South Fremantle Heritage Area
Existing land use: Single house
Use class: Grouped dwelling
Use permissibility: D



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought against the R-Codes and local planning policies. The advertising period concluded on 2 November 2018, and two submissions were received. The following issues were raised:

- Object to rear boundary setback of Unit 3.
- Recommend the retaining wall goes around the tree at the rear boundary to avoid damaging the roots and killing the tree.
- Temporary fencing is required during fence removal to confine pets of adjoining properties.

Tree retention is not covered under planning legislation, however, in light of the City's strategic objectives with regards to vegetation, an advice note recommending the retaining wall avoid damaging the tree has been included.

Temporary fencing is a civil matter between owners to be resolved during the building process.

The lot boundary setback comment is addressed below.

OFFICER COMMENT

Statutory and policy assessment

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

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

- lot boundary setback
- outdoor living area.

The above matters are discussed below.

Background

The subject site is located on the northern side of McLaren Street between South Terrace and Parmelia Street in South Fremantle. The site contains an existing Single house that is listed as a management category Level 3. The lot is also located within the South Fremantle Heritage Area.

A review of the property file reveals the following relevant planning history:

- On 28 March 2018, the City approved Single storey additions and alterations to the existing Single house (DA0569/17) and which included a heritage management plan to restore the heritage place.

Lot boundary setback

Element	Required	Provided	Discretion
Northern boundary (Unit 3)	1 m 1.5 m	Nil 1.378 m	1 m 0.122 m
Eastern boundary (Unit 3)	1 m	Nil	1 m

Local planning policy *LPP 2.4: Boundary Walls in Residential Development* states that a boundary wall will be considered acceptable where it:

- *Makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas*
- *Does not compromise the design principle contained in clause 5.1.3 P3.1*
- *Does not have any adverse impact on the amenity of the adjoining property*
- *Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *Positively contributes to the prevailing development context and streetscape.*

In considering a proposed boundary wall against the design principle of the R-Codes, Council will be satisfied that the boundary wall meets the criteria of the third point above where, after considering the proposal against the criteria of points 2, 4 and 5, Council considers that the proposed boundary wall presents no significant adverse impact on the amenity of the adjoining property.

The lot boundary setback variations are supported for the following reasons:

- Building to the boundaries makes more effective use of space for enhanced privacy and outdoor living areas.
- The eastern boundary wall partially abuts a parapet wall and a verandah of the adjoining lot.
- An existing shed is located 1 m from the adjoining rear lot boundary, and the proposed northern boundary wall will partially abut this space.
- The boundary walls are single storey and abut only a portion of the boundary, resulting in minimal impact to direct sun, ventilation and building bulk to outdoor living areas or habitable rooms.
- The boundary walls are located at the rear of the site and will have minimal impact on the streetscape presentation.
- The limited length and height of the boundary walls overall will have minimal detrimental impact to the adjoining lots.

Outdoor living areas

Element	Required	Provided	Discretion
Uncovered outdoor living area (Unit 3)	2/3 of required min. area unroofed = 16 m ²	11 m ²	5 m ²

Unit 3 contains an outdoor living area that is more than 2/3 covered by a roof. The variation is supported for the following reasons:

- The outdoor living area is capable of use in conjunction with a habitable room.
- The outdoor living area is open to winter sun and ventilation.
- The outdoor living area is open to the northern aspect of the site.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

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

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

The Planning committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two, Single storey Grouped dwellings at No. 16 (Lot 502) McLaren Street, Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 6 December 2018. 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. This approved development shall be wholly located within the cadastral boundaries of No. 16 (Lot 502) McLaren Street including any footing details of the development.**
- 3. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 4. Prior to occupation of the development hereby approved, the boundary walls located on the northern and eastern boundaries shall be of a clean finish in face brick, and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.**
- 6. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

ADVICE NOTES:

- i. It is recommended the retaining wall and development adjoining the northern boundary be designed and constructed to avoid damaging the tree and its associated roots located adjacent to the northern boundary of the site.**
- ii. New crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. For the City's crossover specifications, FAQ's, permits etc refer to <https://www.fremantle.wa.gov.au/crossovers>**

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

PC1901 -5 FIFTH AVENUE, NO. 22 (LOT 14) BEACONSFIELD - ANCILLARY DWELLING AND GARAGE ADDITION TO EXISTING SINGLE HOUSE (NB DA0448/18)

Meeting Date: 16 January 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development Plans
2: Site Photos

SUMMARY

Approval is sought for an Ancillary dwelling and garage addition to the rear of an existing Single house.

The application is presented to Planning Committee (PC) due to submissions received that cannot be addressed through a condition of development approval. The application seeks discretion against the Local Planning Scheme No. 4 (LPS4), local planning policies, and the Residential Design Codes (R-Codes) in respect to the following:

- lot boundary setback.

The application is recommended for conditional approval.

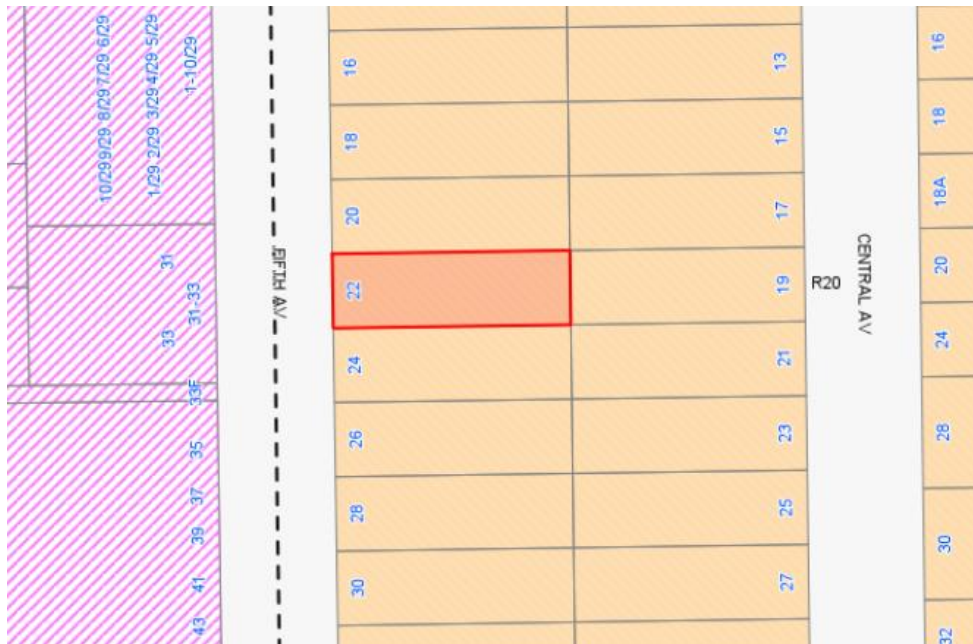
PROPOSAL

Detail

Approval is sought for an Ancillary dwelling, two-car garage, and workshop addition located behind the existing Single house on the subject site.

Site/application information

Date received: 28 September 2018
Owner name: Jose Sanchez
Submitted by: Create Homes Pty Ltd
Scheme: Residential R20
Heritage listing: Not listed
Existing land use: Single house
Use class: Single house
Use permissibility: P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought against the City's local planning policies. The advertising period concluded on 31 October 2018, and one (1) submission was received. The following issues were raised:

- Object to the boundary wall as it will detrimentally impact direct sun to the adjoining outdoor living area, and add to the perception of being 'hemmed in' by development.
- Protection of important parts of the adjoining garden could be achieved with a shorter length boundary wall located closer to the rear of the site.

The above comments are addressed below.

OFFICER COMMENT

Statutory and policy assessment

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

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

- lot boundary setback.

The above matters are discussed below.

Background

The subject site is located on the eastern side of 22 Fifth Avenue between South Street and Lefroy Road in Beaconsfield. The lot is not individually heritage listed nor located within a Heritage Area.

The lot is improved by a Single house with an outbuilding at the rear of the site.

The ground level slopes up approximately 0.5 m beneath the footprint of the proposed development. A reversing bay located forward of the house provides the ability for vehicles to enter the street in forward gear as required by the R-Codes.

It is acknowledged that vehicles will have to reverse down a 2.6 m wide driveway to reach the reversing bay located at the front of the site, however, the R-Codes do not require the reversing bay to be located near the parking bay. It only requires that vehicles are able to enter the street in forward gear. In that regard, the development is compliant.

Lot boundary setback

Element	Required	Proposed	Discretion
Southern wall	1 m (in red below) 1.5 m (in yellow below)	Nil 1 m	1 m 0.5 m

Table 2 of the R-Codes requires the walls less than 9 m long to be set back 1 m from the lot boundary. The proposed wall already contains some articulation to reduce the length of the boundary wall to under 9 m long. The above table shows that each section of wall should be set back in line with the corresponding red and yellow sections shown in figure 1 below:

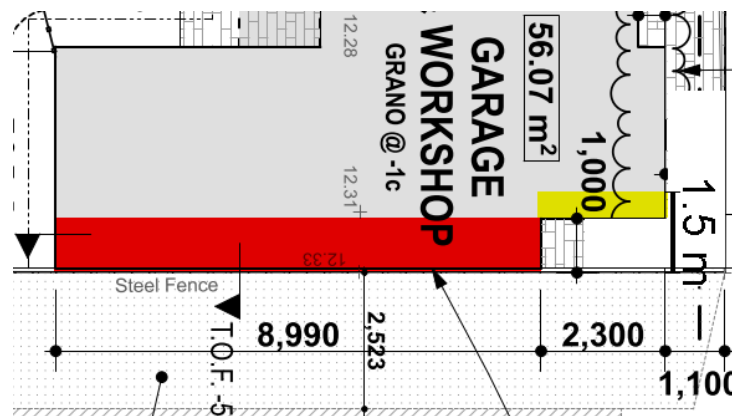


Figure 1: Red (1 m) and yellow (1.5 m) are the required setbacks for each portion of wall.

Local planning policy *LPP 2.4: Boundary Walls in Residential Development* states that a boundary wall will be considered acceptable where it:

- *Makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas*
- *Does not compromise the design principle contained in clause 5.1.3 P3.1*
- *Does not have any adverse impact on the amenity of the adjoining property*

- *Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *Positively contributes to the prevailing development context and streetscape.*

In considering a proposed boundary wall against the design principle of the R-Codes, Council will be satisfied that the boundary wall meets the criteria of the third point above where, after considering the proposal against the criteria of points 2, 4 and 5, Council considers that the proposed boundary wall presents no significant adverse impact on the amenity of the adjoining property.

The boundary wall is supported for the following reasons:

- Building to the boundary makes more effective use of space for enhanced privacy and outdoor living areas.
- The boundary wall results in approximately 9.5% overshadowing of the adjoining lot (inclusive of the dividing fence), well below the 25% maximum of the R-Codes.
- The adjoining southern lot contains a large outdoor living area and pool. None of the pool area and only a portion of the living area will be impacted by shadow. Adequate direct sun and ventilation is therefore provided to the outdoor living areas.
- The proposed development results in no visual privacy variations.
- The proposed development is located far back from the street and will have minimal impact on the streetscape.
- Overall, the development will have minimal impact on the adjoining lot.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

The Planning committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Ancillary dwelling and garage addition to an existing Single house at No. 22 (Lot 14) Fifth Avenue, Beaconsfield, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 23 November 2018. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. Prior to occupation of the development hereby approved, the boundary wall located on the southern boundary shall be of a clean finish in any of the following materials:
 - coloured sand render,
 - face brick,
 - painted surface,and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 4. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

PC1901 -6 THOMPSON ROAD, NO. 13-15 (LOT 501), NORTH FREMANTLE - PARTIAL CHANGE OF USE TO HOME OCCUPATION (CONSULTING ROOM) IN AN EXISTING GROUPED DWELLING - (NB DA0482/18)

Meeting Date: 16 January 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development Plans
2: Site Photos

SUMMARY

Approval is sought for a partial change of use to Home Occupation (Consulting Room) in an existing Grouped dwelling.

The application is presented to Planning Committee (PC) due to submissions received that cannot be addressed through a condition of development approval. The application seeks discretion against the Local Planning Scheme No. 4 (LPS4), in respect to the land use of Home Occupation.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a Home Occupation (Consulting Room) with the following details:

- Home occupant is the sole practitioner
- Hours of operation: Tuesday to Thursday 10.00am to 7.00pm
- 8 to 15 visits per week involving only one client at a time
- Two available on-site car bays.

A copy of the plans is available as Attachment 1.

Site/application information

Date received: 1 November 2018
Owner name: Silent Owner
Submitted by: Silent Owner
Scheme: Residential R25
Heritage listing: Level 3, North Fremantle Heritage Area
Existing land use: Grouped dwelling
Use class: Home Occupation
Use permissibility: D



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the land use is listed as a discretionary use in LPS4. The advertising period concluded on 13 December 2018, and two submissions were received. One submission was in support of the proposal provided the use ceased when the occupant ceased to live on the premises. Such a caveat is a requirement under LPS4 and a condition of approval. The remaining submission raised the following issues:

- people standing in the garden or on the verandah will be able to look into the front yard and living rooms of the adjoining house
- the nature of the visitors requiring counselling may pose a threat to residents
- parking along the street is limited and will cause issues when another client arrives while a previous session is still in progress
- the practice could be expanded to include more rooms and more patients.

City officers provide the following response in regards to the issues raised:

- The front yard is open to the street and is not a private space.
- No works are proposed and the potential overlooking into living spaces is currently extant due to the increased front setback of the subject house in relation to the reduced setback of the adjoining house, which has installed some screening.
- The occupant intends to separate sessions by at least 30 minutes, leaving visitors unlikely to park on the street or loiter on the front verandah waiting for an appointment.
- The practice intends to serve the general public, not be a specialised practice. Notwithstanding, planning legislation does not provide local governments the authority to restrict the precise nature of the practice.

- Expanding the practice into more rooms and/or additional hours will require an additional planning approval and does not form part of the subject application.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the objectives of the zone and the land use definitions of LPS4 and the Matters to be considered of the *Deemed provisions* as discussed below.

Background

The lot is located on the eastern side of Thompson Road, directly across from the North Fremantle Community Hall between Harvest Road and Hevron Street. The lot is improved by the addition of a Grouped dwelling. The building is included on the City's Heritage list as management category 3 and the lot is located within the North Fremantle Heritage Area.

Land Use

The application has been assessed against the definition of Home Occupation in LPS4 as shown in the table below:

Element	Comment
(a) does not employ any person not a member of the occupier's household,	Complies
(b) will not cause injury to or adversely affect the amenity of the neighbourhood,	Supported because the proposal is low impact and limited in scope and scale, ensuring minimal impact on the amenity of the neighbourhood.
(c) does not occupy an area greater than 20 square metres,	Complies
(d) does not display a sign exceeding 0.2 square metres,	Complies - No sign proposed
(e) does not involve the retail sale, display or hire of goods of any nature,	Complies
(f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair, or maintenance of motor vehicles,	Supported because: <ul style="list-style-type: none"> • The limited hours of operation, limited number of clients, and lag time between each appointment ensures that the development will not require additional parking capacity. • The lot is located within a high-frequency transport zone and located approximately 450 m from a train station. • The proposal does not include any deliveries or motor vehicle maintenance.
(g) does not involve the use of an essential service of greater capacity than normally required in the zone.	Complies – No increase in requirements for electrical services, plumbing, etc.

Conclusion

The application will have minimal impact on the amenity of the locality due to the small scale, limited hours of operation, and available public transport in the locality.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

The Planning Committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, partial change of use to Home occupation (consulting room) in an existing Grouped dwelling at No. 13-15 (Lot 501) Thompson Road, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 31 October 2018. 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. This approval allows the Home Occupation (Consulting Room) hereby permitted to be conducted by the current owner of No. 13-15 Thompson Road, North Fremantle. If this owner ceases to operate the Home Occupation (Consulting Room) hereby permitted or occupy the subject site, this approval will expire.**
- 3. The Home Occupation (Consulting Room) hereby permitted shall have hours of operation that do not exceed Tuesday to Thursday 10:00 am to 7:00 pm.**

**PC1901 -7 HAMPTON ROAD, NO.10 AND 11/195 (LOTS 120 AND 133-135),
SOUTH FREMANTLE - PARTIAL CHANGE OF USE TO LIQUOR
STORE (SHOP 10 AND 11) IN AN EXISTING SHOP - (NB DA0494/18)**

Meeting Date: 16 January 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development Plans
2: Site Photos

SUMMARY

Approval is sought for a partial change of use from Shop to Liquor Store.

The Liquor Store component is to comprise a portion of the existing Shop (an IGA supermarket). The proposal is referred to the Planning Committee (PC) due to the nature of the land use being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretion against the land use provisions of the Local Planning Scheme No. 4 (LPS4).

The comments received during the notification period object to the proposal on grounds that are more appropriately addressed through the liquor licensing process rather than consideration of the application for development approval.

The development application is recommended for approval because in terms of land use planning considerations, particularly having regard to the small size of the proposed liquor store area, officers consider the proposal would be consistent with the objectives of the Local Centre zoning of the land under LPS4 and would not result in a detrimental impact on the amenity of the locality.

PROPOSAL

Detail

Approval is sought to modify a portion of the existing IGA supermarket (Shop) within the South Fremantle shopping centre complex to accommodate a Liquor Store. The Liquor Store will only be accessible within the existing Shop and will operate within the hours of the Shop from Monday to Saturday 8.00am to 10.00pm, and Sunday 10.00am to 10.00pm.

The Shop itself proposes to extend its closing hours from 9pm to 10pm but it is noted that no planning approval is required to change the operating hours.

The proposed use is to occupy approximately 37.5m² of the existing Shop.

Site/application information

Date received: 7 November 2018
 Owner name: N & N Psaltis Nominees Pty Ltd and P Sardelic Nominees Pty Ltd
 Submitted by: Canford Hospitality Consultants Pty Ltd
 Scheme: Local Centre
 Heritage listing: Limestone Features, South Fremantle Heritage Area
 Existing land use: Shop
 Use class: Shop, Liquor Store
 Use permissibility: D, A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as a Liquor Store is a discretionary land use that requires giving special notice. The advertising period concluded on 12 December 2018, and one (1) submission was received raising the following issues:

- There are already too many outlets selling alcohol in this area.
- Alcohol sales lead to disorderly behaviour and public nuisances and their display in a grocery store normalises such behaviour.
- The plans are inaccurate and don't show the true layout of the existing Shop or the layout of the Liquor Store area.

In regards to the final point raised, amended plans were submitted on 20 December 2018 providing a detailed internal floor layout.

The applicant has also provided a response stating that they will implement a harm minimisation plan to prevent sale of alcohol to minors.

The remaining comments are discussed below.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant zone objectives of LPS4 and the matters to be considered of clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, Schedule 2 (the Regulations) as discussed below.

Background

The existing Shop is in an area zoned Local Centre and located within a shopping complex containing a number of other Shops. There are no external changes proposed and the Liquor Store will be wholly contained within the existing Shop.

Land use

A Liquor Store is an 'A' use under Table 1 of LPS4, which means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice in accordance with clause 64 of the Regulations. In exercising its discretion Council is to have regard to the matters to be considered in clause 67 of the Regulations including the objectives and aims of LPS4.

The relevant provisions of Cl. 67 of the Regulations are as follows:

- a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- n) the amenity of the locality including the following -
...
(iii) social impacts of the development;
- w) the history of the site where the development is to be located;
- x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- y) any submissions received on the application.

In addition to complying with specific matters of the Regulations, the land use must also be consistent with the zone objectives of clause 3.2.1(c) of LPS4, which states:

Development within the local centre zone shall-

- i. provide for weekly and convenience retailing including small-scale shops, showrooms, cafes, restaurants, consulting rooms, entertainment, residential (at upper levels), recreation, open spaces, local offices, cottage industry, health, welfare and community facilities which serve the local community, consistent with the local- serving role of the centre,*
- ii. encourage the provision of suitable and accessible services to residents of the locality,*

- iii. ensure that development is not detrimental to the amenity of adjoining owners or residential properties, and*
- iv. conserve places of heritage significance the subject of or affected by the development.*

Officers acknowledge the submission received reflects views which are supported by significant research, that there is a correlation between liquor outlet density and the incidence of various forms of social disruption. Nevertheless development applications for changes of use must be determined on land use planning grounds and it would be beyond the City's authority as a planning body to restrict the number of similar uses within an area solely due to market saturation.

Clause 67 of the Regulations does allow the City to assess social impacts of the development as an element of the amenity of the locality. However, given the small scale (only 37.5m² of floor space), the location within an existing Shop, and the provision of other nearby existing Liquor Stores of a much larger nature, the subject proposal is unlikely to detrimentally impact the locality to an extent that would justify refusal of the application. To further reduce the potential for negative impacts, it is recommended that the section 40 liquor licence be conditioned to prohibit external signage for the Liquor Store use.

The proposed Liquor Store is considered to be consistent with the objectives of the zone and the Regulations for the following reasons:

- The use provides for weekly and convenience retailing consistent with the local-serving role of the centre.
- The development is not detrimental to the amenity of adjoining owners or residential properties as it is located in an existing shopping centre not immediately adjoining residential areas, and is small in scale and located wholly within an existing Shop.

Officers acknowledge the desire to regulate the amount and type of Liquor Stores in a given area in the wider public interest. However, it is difficult to address this aim through the planning controls in LPS4 and the Regulations. Such social considerations are more appropriately considered through the Liquor Licencing process.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

The Planning Committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Partial change of use to Liquor Store (Shop 10 and 11) in an existing Shop at No. 10 and 11/195 (Lots 120 and 133-135) Hampton Road, South Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 20 December 2018. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**

ADVICE NOTE:

- i. The applicant is advised that the City may recommend the following condition be placed on the future section 40 liquor licence:**

There is to be no external advertising of liquor products on the facade of the licensed premises.

**PC1901 -8 UPDATE ON METRO SOUTH-WEST JDAP DETERMINATIONS AND
RELEVANT STATE ADMINISTRATIVE TRIBUNAL APPLICATIONS
FOR REVIEW**

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

OFFICER'S RECOMMENDATION

That the information is noted.

**PC1901 -9 SCHEDULE OF APPLICATIONS DETERMINED UNDER DELEGATED
AUTHORITY**

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

OFFICER'S RECOMMENDATION

That the information is noted.

10.3 COUNCIL DECISION

PC1901 -10 POTENTIAL SCHEME AMENDMENT - NOS. 7 & 9-15 QUARRY STREET, FREMANTLE - OUTCOMES OF PRELIMINARY ENGAGEMENT & OPTIONS FORWARD - ADDITIONAL INFORMATION

Meeting Date: 16 January 2019
Responsible Officer: Manager Strategic Planning
Decision Making Authority: Council
Agenda Attachments: Previous (Deferred) Report on Potential Amendment

SUMMARY

Council's Planning Committee considered the outcome of preliminary engagement on the potential rezoning of Lots 1, 2 and 8 Quarry Street in December 2018 but deferred the matter pending the provision of additional information on further zoning options available for the site.

This report provides the additional information requested but maintains the recommendation that Council not proceed with initiating a formal amendment for the site.

BACKGROUND

Council's Planning Committee considered a report on the outcomes of preliminary engagement on the potential rezoning of lots 1, 2 and 8 Quarry Street (attached) on 5 December 2018 and resolved to:

Defer to the next appropriate committee meeting to allow Officers to present more information on Option 5 (as described in item PC1812-15). This information is to allow Council to consider agglomeration of the densities across both sites, with an outcome that allows for a similar number, or additional, dwellings to the do-nothing option. The agglomeration zoning/density coding is anticipated to be in the R40-45 to R60 range.

The following additional information is provided in response. This information supplements the original report which is provided at Attachment 1.

OFFICER COMMENT

As has been outlined previously, the primary planning issue presented in this location relates to the potential to achieve density (i.e. yield) in a well-serviced location with established amenities, whilst appropriately managing the interface with adjoining development and land uses. Preliminary discussion with the Department of Planning, Lands and Heritage staff has confirmed that any proposal reducing potential yield in this location is very unlikely to be supported.

Having regard to the Planning Committee’s reason for deferral, the following further alternatives are available, based on mid to higher density residential zonings being applied across the entire site (i.e. all three lots). It assumes application of default (rather than tailored) scheme and R-Code provisions.

Option 5 – Other Zoning and Residential Density Combinations						
Density	R40		R60		R80	
Zoning	Residential	Mixed-Use	Residential	Mixed-Use	Residential	Mixed-Use
Building Height (multiple dwelling)	2-storeys (6m wall height, 9m ridge height)	2-storeys 7.5m as-of-right under Schedule 8	3-storey (9m wall height, 12m ridge height)	2-storey 7.5m as-of-right under Schedule 8	4-storey (12m wall height, 15m ridge height)	2-storey 7.5m as-of-right under Schedule 8
Pot. Yield (multiple dwelling)	29 Based on plot ratio of 0.6 and average apartment size of 85sqm		34 Based on a plot ratio of 0.7 and average apartment size of 85sqm		48 Based on a plot ratio of 1.0 and average apartment size of 85sqm	
Building Height (single/grouped dwelling)	2 storeys (6m wall height, 7m concealed roof, 9m ridge height) As per Local Planning Policy 2.9: Residential Streetscape Policy					
Pot. Yield (single/grouped dwelling)	18 based on average site area of 220sqm		27 based on average site area of 150sqm		34 based on average site area of 120sqm	

Only the R80 zoning option listed could result in an equal or greater yield than the current zoning, with up to 48 dwellings within the site, compared with the 41 dwellings possible currently (7 single/grouped plus 34 multiple).

Notwithstanding the theoretical density achievable, it should be acknowledged that the actual density constructed under any zoning scenario will strongly influenced by market demand, financial feasibility, design considerations and other development controls in the scheme (eg height limits). Because of the awkward configuration of the lots, it is quite possible that Lots 1 and 2 would not achieve their maximum density under the current zoning scenario, with previous exercises indicating a range of yield estimates between 20 and 36 dwellings. Commercial advice would be necessary to better gauge probable (as opposed to theoretical) yield, and robust analysis is likely to be necessary to obtain the support of the Department of Planning for any zoning option with a lesser theoretical yield (ie below R80).

A coordinated design outcome is more likely to be achieved through a consistent zoning and composite redevelopment, and this has been a key driver behind the investigation. Retaining the existing zonings will not necessarily prevent coordinated or good quality development, but it may preclude amalgamation of the sites and probable independent development of each. This would reduce the flexibility available to designers because of the smaller area of the sites as well as the requirement to contain development within individual lot boundaries (because buildings cannot legally span a cadastral boundary). The irregular shape of the lots is also likely to pose design challenges, with the southern truncation of lots 1 and 2 also restricting outlook to Fremantle Park.

A Local Development Plan (LDP) could be proposed to promote some greater coordination over the three lots but is only permissible with the support of the Western Australian Planning Commission, which is likely to consider this only to achieve a high density yield.

On balance, the previous officer recommendation is maintained. A Residential R80 rezoning with LDP to address interface could achieve similar results to the approach originally consulted on (albeit at a slightly lower density) however is likely to be of similar concern to the community. If Council wish to explore a lower density rezoning (ie R60 or below), it is recommended that this be done in consultation with the Department for Planning, Lands and Heritage, supported by design concepts and financial appraisal demonstrating its strategic infill benefits over and above those achievable under the current zoning.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the process of rezoning of the site, if undertaken in-house. Valuation impacts of any change of zoning to the City's landholding do not represent planning considerations and are consequently not further considered in this report.

LEGAL IMPLICATIONS

The process for a scheme amendment is outlined in the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations).

CONSULTATION

Community engagement on the potential scheme amendment was undertaken in accordance with *Local Planning Policy 1.3 - Public Notification of Planning Proposals* for a 'preliminary scheme amendment' from 3 September 2018 to 10 October 2018. The outcomes of this process are outlined in the previous report on this matter, provided at Attachment 1.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

Council:

- 1. Note the submissions received during preliminary engagement on the potential amendment to Local Planning Scheme No. 4 to amend the zoning of 7 & 9-15 Quarry Street, Fremantle.**
- 2. Resolve to not proceed with the initiation of a scheme amendment for 7 & 9-15 Quarry Street, Fremantle at this time.**
- 3. Request preparation of a separate report to the next appropriate meeting of the Finance, Operations, Policy and Legislation Committee regarding disposal of 7 & 9-15 Quarry Street, Fremantle under the current zoning.**

**PC1901 -11 MONUMENT HILL MEMORIAL RESERVE CONSERVATION PLAN -
REVIEW**

Meeting Date: 16 January 2019
Responsible Officer: Manager Strategic Planning
Decision Making Authority: Council
Agenda Attachments: Monument Hill Memorial Conservation Plan
Recommendations: Status

SUMMARY

The City has received a request that it review the Monument Hill Memorial Reserve Conservation Plan ('Monument Conservation Plan'), adopted by Council in 2011. The City undertook an internal review of the document and recommends that 'Section 10: Implementation of Recommendations' be reviewed and updated to more explicitly address how requests for inclusion of new memorials on the reserve will be considered.

This report recommends that Council:

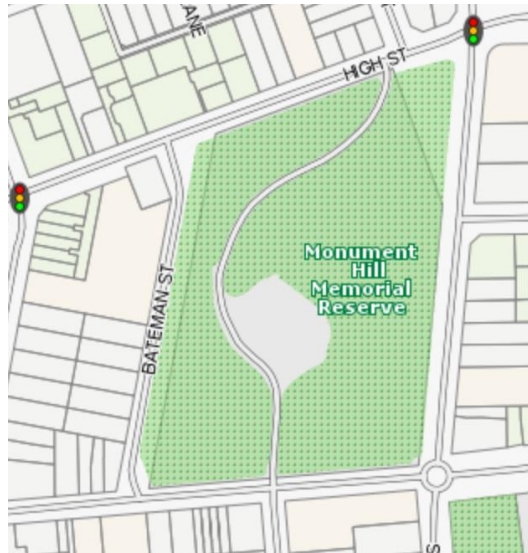
- Note the findings of the review.
- Support the review of Section 10 in relation to new inclusions on the Memorial.
- Consult with the Heritage Council, RSL and precinct groups in relation to the proposed modifications to the Conservation Plan, and
- Request that the matter of the appropriate use of the reserve be considered in the review of the Property Local Law.

BACKGROUND

Monument Hill Memorial Reserve is an approximately 4.5 ha reserve immediately east of the Fremantle city centre. The reserve is Crown land with the majority vested in the City for the purpose of 'Contemplation of Memorials, Look-out, Landscape and the Community', though small portions along Bateman Street and at the intersection of Swanbourne Street and High Street are, for historic reasons, vested as road reserve.



Location Plan



Site Plan

The reserve was vested in the Mayor and Councillors of the Municipality of Fremantle Municipal Council for use as a park in 1904. The foundation stone of the Fallen Sailor's and Soldiers' Memorial was laid on 25 April 1928, with the completed monument unveiled on Armistice Day 1928.

The site is included on the State Register of Heritage Places, listed on the City's Municipal Heritage Inventory as Category 1A and included on the City's Heritage List.

The Monument Hill Memorial Reserve Conservation Plan ('Monument Conservation Plan' or 'MHRCP') was prepared by Kelsall Binet Architects in 2009 to replace an earlier (2001) conservation plan. It was first considered by Council in June 2010 (PSC1006-121), with the outcomes of public comment considered in October 2010 (PSC1010-205). The final document was considered by Council on 25 January 2011 (PSC1101-15) at which meeting Council resolved that:

- 1. The Draft Monument Hill Memorial Reserve Conservation Plan be adopted**
- 2. It be noted that the implementation of all the recommendations contained within the draft plan will have to be further considered in the context of policy / local law development, and/or the standard budgetary and prioritisation process of the Council.**

The Conservation Plan has been operational for nearly 8 years during which time it has guided and informed decision making relating to the management, maintenance and use of the reserve. The efficacy of the Plan has been subject to on-going monitoring during that period.

The City has recently received a request that the Plan be reviewed given its age, the standard Heritage Council recommendation such documents be reviewed 5 yearly, and the significance of the place. Budget provision for this has not been made however a 'light touch' internal review of the document has been undertaken to:

1. Confirm the status of Plan recommendations;

2. Identify points of concern and areas for review based on experience in its implementation and the on-going monitoring the City's heritage staff undertake of conservation outcomes on City-managed properties.

This report outlines the conclusions of that review.

OFFICER COMMENT

The Conservation Plan details the history, physical attributes and significance of the reserve in detail. These components have not altered significantly and no modifications to these parts of the plan are considered necessary.

The Plan details a series of recommendations defining policy in relation to the management of the reserve, and management and maintenance works to be undertaken. It also recommends the preparation of several subsidiary documents to provide more detailed guidance on specific elements, such as a Conservation Planning Strategy, Management Plan and Interpretation Plan. The Plan recommendations have been reviewed internally and a high level assessment of the operation and outcomes being achieved has been undertaken, with the following conclusions:

1. The policy recommendations remain relevant and appropriate.
2. The Burra Charter has been updated since the preparation of the document, making some of the detailed references to its wording out of date. The modifications do not, however, affect the direction or principles underpinning it, and so do not necessitate review of these components.
3. The conservation works recommended have been partially undertaken, with remaining lower priority works listed on the City's capital works program for future years, based on priority.
4. The day to day management and maintenance of the reserve is generally appropriately coordinated, with a high level of internal awareness of the Conservation Plan. Extension of some management principles relating to public use of the reserve into Local Laws may assist in implementation, and so should be considered. A recent example of this raised as a concern with the City relates to the flying of drones for recreation from the reserve. This is being considered as part of the Property Local Law review.
5. New proposals on the reserve are rare and so have been dealt with individually in the context of the policy direction set by the Plan. A recent experience has, however, highlighted the desirability of making the recommendations and procedures in relation to the installation of new memorials more explicit.

Recommendations to address items 4 and 5 are consequently made. No further changes to the Plan are considered necessary at this time.

Whilst best read in context, the recommendations of the plan and a brief summary of their status is provided in attachment 1.

Advocacy in relation to appropriate funding support to maintain and celebrate the City's heritage assets may assist in advancing funding-dependent recommendations (including the completion of conservation and improved interpretation works) in the future.

Preparation of a Management Plan to coordinate activities, whilst desirable, is not considered a sufficiently high priority at this time to justify the allocation of substantial resources towards it, given the generally successful coordination of management being achieved. Priority is instead being given to the review of the West End Conservation Area policy, the conduct of an audit of the city's heritage buildings, an update to the Victoria Hall Conservation Plan (ahead of its sale), and the assessment of development applications and provision of advice to property owners.

FINANCIAL IMPLICATIONS

Review of the Conservation Plan has not been identified as a priority and has therefore not been listed for budget consideration. Review of the Plan has consequently been undertaken in house. Budget for works recommended by the Plan are prioritised against other projects through the City's budgetary processes.

LEGAL IMPLICATIONS

Nil

CONSULTATION

Nil. Consultation with the Heritage Council and RSL on the recommendations of this review is recommended.

VOTING AND OTHER SPECIAL REQUIREMENTS

Simple Majority Required

OFFICER'S RECOMMENDATION

That Council:

- 1. Note the findings of the internal review of the Monument Hill Memorial Reserve Conservation Plan.**
- 2. Initiate a process to update the relevant sections (principally section 10) of the Monument Hill Memorial Reserve Conservation Plan to more explicitly define how requests for the installation of new memorials will be considered. As part of this process the City is to consult the Heritage Council, the Returned and Services League state and local branches, and the Arts Centre and Gibson Park Precinct Groups on any recommended modifications.**
- 3. Consider the matter of appropriate informal recreational activities on the reserve to align with its vested purpose and the recommendations of the Conservation Plan during the review of the Property Local Law.**

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

12. URGENT BUSINESS

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

13. LATE ITEMS

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

14. CONFIDENTIAL BUSINESS

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

15. CLOSURE