

Minutes

Planning Committee

Wednesday, 5 June 2019, 6.00pm

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PLANNING COMMITTEE

Minutes of the Planning Committee
held in the North Fremantle Community Hall on
on **5 June 2019** at 6.00 pm.

1. OFFICIAL OPENING, WELCOME AND ACKNOWLEDGEMENT

The Presiding Member declared the meeting open at 6.00 pm.

2.1. ATTENDANCE

Cr Andrew Sullivan	South Ward
Cr Bryn Jones	North Ward / Deputy Presiding Member
Cr Jenny Archibald	East Ward
Cr Adin Lang	City Ward
Cr Sam Wainwright	Hilton Ward
Cr Dave Hume	Beaconsfield Ward
Mr Paul Garbett	Director Strategic Planning and Projects
Ms Julia Kingsbury	Manager Development Approvals
Ms Phillida Rodic	Manager Strategic Planning
Mr Joshua Loveridge	Planning Officer
Ms Kayla Beall	Meeting Support Officer

There were approximately 19 members of the public in attendance.

2.2. APOLOGIES

Mayor, Dr Brad Pettit

Cr Jon Strachan

2.3. LEAVE OF ABSENCE

Cr Ingrid Waltham

Cr Jeff McDonald

3. DISCLOSURES OF INTERESTS

Nil

4. RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

The following members of the public spoke in favour of the Officer's Recommendation for item PC1906-1:

David Spencer
Scott Douglas
Drew O'Dwyer

The following members of the public spoke in favour of the Officer's Recommendation for item PC1906 - 2:

Joseph Hoyne
Peter Farrer-Smith

The following members of the public spoke against the Officer's Recommendation for item PC1906 -2:

Mark Strachan
Jim Stewart

The following members of the public spoke against the Officer's Recommendation for item PC1906 -3:

Kate Whitton
Adriano Piviali

The following member of the public spoke in favour of the Officer's Recommendation for item PC1906 -4:

Aaron Lohman

The following members of the public spoke against the Officer's Recommendation for item PC1906 -4:

Gavin Kelly

The following member of the public spoke in favour of the Officer's Recommendation for item PC1906 -5:

Patrick Healey

The following members of the public spoke against the Officer's Recommendation for item PC1906 -5:

Cono Pansini
Paul Harford

The following member of the public spoke against the Officer's Recommendation for item PC1906 -7:

David Court

The following member of the public spoke against the Officer's Recommendation for item PC1906 -8:

Nick Wild

6. PETITIONS

Nil

7. DEPUTATIONS

7.1 SPECIAL DEPUTATIONS

Nil

7.2 PRESENTATIONS

Nil

8. CONFIRMATION OF MINUTES

COMMITTEE DECISION

Moved: Cr Dave Hume

Seconded: Cr Andrew Sullivan

That the minutes of the Planning Committee dated 1 May 2019 be confirmed as a true and accurate record.

Carried: 6/0

**Cr Andrew Sullivan, Cr Jenny Archibald
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume**

9. ELECTED MEMBER COMMUNICATION

Nil

10. REPORTS AND RECOMMENDATIONS

Nil

10.1 DEFERRED ITEMS

Nil

10.2 COMMITTEE DELEGATION

PC1906 -1 MARINE TERRACE, NO. 176-238 (LOTS 1, 2, 32, 33, 34, 602), SOUTH FREMANTLE - CHANGE OF USE FROM WAREHOUSE TO TAVERN AND ALTERATIONS AND ADDITIONS TO EXISTING BUILDING (JCL DA0005/19)

Meeting Date: 5 June 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Amended Development Plans
2: Schedule of Submissions
3: Site Photos

SUMMARY

Approval is sought for the partial change of use from Warehouse to Tavern and internal and external additions and alterations to a portion of the existing building at No. 176-238 Marine Terrace, South Fremantle.

The application is presented to the Planning Committee (PC) as relevant objections have been raised during the community consultation period which cannot be addressed via the imposition of relevant planning conditions.

The proposed Tavern use and development are not considered to be prejudicial to the future implementation of the adopted Sealanes and Wool Testing Site Structure Plan. The proposal is also considered to be consistent with the Development Zone objectives contained within LPS4 and other relevant provisions of Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 –*Matters to be considered by local government*. On this basis, the proposed development is not considered to result in any significant amenity impacts on the surrounding area.

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for the partial change of use of the existing Warehouse to Tavern at 176-238 Marine Terrace, South Fremantle.

The applicant has submitted a Venue Management Plan and a list of proposed Liquor Licence conditions that provides the following details about the operation of the proposed Tavern:

- The venue is proposed to operate as a high quality 'gastro tavern' incorporating a working boutique micro-brewery and micro-distillery offering patrons a mix of high-quality beverage and dining and 'cellar door' in a casual, friendly atmosphere.
- The micro-brewery and micro-distillery is proposed to operate from Monday to Friday, between the hours of 8.00am and 6.00pm.
- The Tavern is proposed to operate Monday to Thursday 11.00am to 11.00pm, Friday and Saturday, 11.00am to midnight and Sunday 11.00am to 10pm.

- A maximum patron capacity of 300 people with seating for a minimum of 150 patrons.
- The premises are proposed to operate in accordance with a comprehensive Venue Management Plan.

The proposed works include:

- Internal fitout to the existing warehouse, including a mezzanine addition, re-flooring portions of the tenancy, brewing equipment, furniture, commercial kitchen, cool rooms and storage/waste facilities.
- Construction of a 6m high grain silo at the rear of the building.
- Provision of 34 bicycle racks and 15 on-site parking bays.
- Alterations to the Marine Terrace and South Terrace frontages, including the provision of new doors, metal balustrades, alfresco bench seating, and new shop front windows.

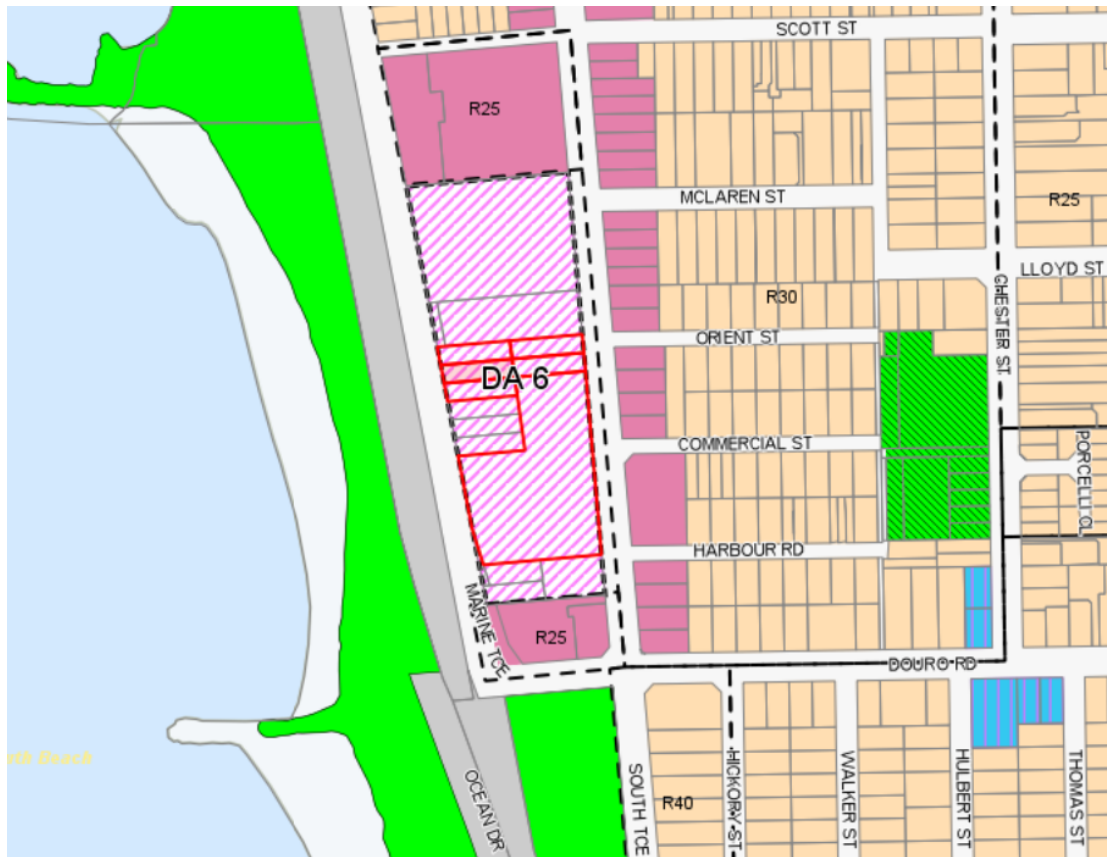
The applicant submitted further information on 3 April 2019 including the following:

- Amended Development Plans to provided additional detail of the internal fitout;
- Traffic Impact Report;
- Acoustic Report;
- Venue Noise Management Plan;
- Venue Waste Management Plan;
- Venue Management Plan;
- Consumer Survey;
- Restrictive Trading Conditions;
- Patron Projection data;
- Brewery Odour Management letter; and
- Planning Justification Letter.

Development plans (as amended) are included as Attachment 1.

Site/application information

Date received:	7 January 2019
Owner name:	Cleland Nominees Pty Ltd as trustee for Paino Property Trust
Submitted by:	Ox Studio
Scheme:	Development Zone
Heritage listing:	Individually Listed Category 3 and South Fremantle Heritage Area
Existing land use:	Warehouse (Within portion of building onsite)
Use class:	Tavern
Use permissibility:	D



CONSULTATION

External referrals

Western Power

The application was referred to Western Power for comment as the site is affected by a Western Power Restriction Zone. Western Power has advised that they have no objection to the proposal subject to the following advice being included in any approval:

- Any development on the subject site shall be designed and constructed to protect Western Power infrastructure and interests from potential land use conflict. Proponents should refer to <https://westernpower.com.au/safety/360-aware/industry-safety/>
- It is the landowner's responsibility to ensure that the design and construction of any new structure on the land complies with all applicable laws including, without limitation, clearance requirements of electrical infrastructure. We recommend that you engage a suitably qualified independent person (surveyor, architect, engineer) to undertake an assessment of the proposed development to ensure that best methods of construction are utilised and compliance with all applicable laws (including clearance requirements of electrical infrastructure in general and those specified under Occupational Safety and Health Regulations 1996 (WA).

These matters can be dealt with as relevant conditions and advice notes.

Department of Water and Environment (DWER)

The application was referred to DWER for comment in accordance with Development Plan 20 as the proposal includes a change of use. At the time of writing this report DWER have not provided a response. An advice note has been included in the Officer's recommendation advising the applicant that they should consult with DWER in regard to the proposal prior to the issue of a Building Permit.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, due to the on-site parking shortfall and the Tavern land use. The advertising period concluded on 15 February 2019, with additional submissions being received after the closing date. A total of 32 submissions have been received at the time of writing this report. Of the submissions, 25 supported the proposal, six objected, and one expressing conditional support. A summary of each submission is detailed in Attachment 2; however the following themes were raised (summarised):

In objection:

- Noise and odour impacts on nearby residents;
- Antisocial behaviour and intoxicated patrons;
- Problems with the saturation of existing venues in central Fremantle.
- The extension of venues to South Fremantle threatens its 'local feel';
- Parking and traffic impacts due to lack of parking in the locality;
- South Fremantle should be maintained for family friendly venues; and,
- Impact on property values.

In support:

- The development will add a quality venue to the locality;
- There is ample parking available in the area and plenty of public transport options;
- The area is historically used for industrial type activities, which the brewery and distillery is consistent with;
- The venue will cater to locals, beach-goers and tourists;
- The venue will create employment and tourism opportunities;
- The venue will offer an alternative to the café strip;
- The venue will offer a family friendly place to meet with friends and visitors; and,
- The Venue will offer a dining alternative to existing options in South Fremantle.

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

In addition to this information the applicant also submitted a 'Consumer Survey' that the applicant voluntarily undertook to examine the attitudes of consumers in relation to the proposed Tavern development. The survey included 201 valid responses from a mix of Fremantle residents, regular visitors to Fremantle for work or leisure, and tourists to Fremantle, which the applicant has advised consisted of the following comments (summarised):

- The proposed location, relaxed environment and the availability of food all day appealed to the majority of respondents.
- The majority of respondents would like to see a greater variety of licensed venues in Fremantle and this proposal will add to choice and vibrancy within Fremantle.
- The majority of respondents considered that the venue would enhance the amenity of Fremantle.
- The majority of respondents advised that they would visit the venue on a monthly basis if approved.

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

- Development must comply with the Environmental Protection (Noise) Regulations 1997 (as amended) and this is a matter which is subject to ongoing compliance. The applicant has submitted an Acoustic Report demonstrating that the proposal can comply with the relevant regulations as discussed further in this report.
- The proposed development is not considered to prejudice the ability for the Structure Plan to be implemented in the future given the building in which it is encapsulated would need to be demolished to facilitate the current adopted structure plan.
- As discussed in the parking assessment below, traffic and parking impacts are considered to be acceptable and/or manageable as to adversely impact on the immediate locality.
- The development primarily interacts with Marine Terrace, with the frontage facing South Terrace being used for services only. It is noted that the development will be required to adhere to the aforementioned management criteria, and as such any amenity impacts are considered to be minimal.
- The proposed trading hours are to be in accordance with Section 98 of the *Liquor Control Act 1988*.
- Given the above management plans, it is considered unlikely that antisocial behaviour will impact the locality in relation to this development. Moreover, whilst public health is an important concern, the management plan indicates that alcohol provision will be appropriately managed, thereby preventing intoxication, and not posing any unreasonable public health impact.
- The impact of a development on property values is not a planning consideration.

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. In this particular application requires a discretionary assessment against the following LPS4 and Council Policy requirements:

- Car parking
- Land use

The above matters are discussed below in the Officers Comment section.

Background

The subject site is located on the Sealanes site to the east of Marine Terrace, and to the west of South Terrace. The site has a land area of approximately 1,972m² and is zoned 'Development Zone'. The site is individually heritage listed and located within the South Fremantle Heritage Area.

The site contains an existing warehouse structure facing Marine Terrace and an associated outbuilding at the rear of the warehouse with accompanying hardstand.

The site is subject to the Sealanes site South Fremantle Structure Plan, which was adopted by Council in 2004 (prior to the gazettal of LPS4). The Structure Plan seeks to redevelop the area for residential and mixed use development. The Structure Plan indicatively indicates taller residential developments facing Marine Terrace with lower mixed use developments facing South Terrace. To date there has been little or no redevelopment in accordance with the approved Structure Plan.

The Deemed Provisions for local planning schemes introduced under Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* altered the statutory status of structure plans. Under clause 27(1) of the Deemed Provisions a decision-making authority is to have due regard to, but is not bound by, the provisions of a structure plan when determining a development application.

Land Use

The subject site is zoned 'Development Zone' under LPS 4, and upon gazettal of LPS4 in 2007 key provisions of the Structure Plan were carried forward within LPS4 as Development Plan 20 – *Sealanes and Wool Testing Authority sites, South Fremantle* (DA-6, Schedule 7).

Clause 5.1 of the Development Plan specifies preferred and potential uses within each of the precincts of the Plan. Preferred uses are uses that are encouraged within the precinct and potential uses are those that may also be considered appropriate. Uses not categorised as either preferred or potential, may be considered at the discretion of Council based on its individual merits.

As a Tavern is not listed as either a 'Preferred' a 'Potential' land use in the Plan, the application must be considered on its individual merits. It is noted that the listed uses of the Structure Plan relate primarily to land uses contemplated in a comprehensive redevelopment of the area, and do not necessarily provide guidance for interim land uses associated with the existing built form on site.

Whilst the proposed land use is not identified as either a preferred or potential use in the Development Plan 20 provisions in LPS4, the key considerations for Council in its assessment of this application concern the appropriateness of the proposed use having regard for the existing and desired character of the general locality, the potential amenity impacts which may result from the proposed use, and whether the development might prejudice the longer term broader redevelopment of the Development Plan area as generally provided for under the Structure Plan.

Although the proposal introduces a new land use within the Development Plan area, the Tavern is proposed to be located within an existing structure with minor works being required to accommodate the use. Given the limited take up of the redevelopment options detailed in the Structure Plan since the plan's adoption in 2004 and having regard for the limited scale of the currently proposed works, the proposal is not considered to be detrimental to the potential for residential and mixed use development in accordance with the structure plan to be acted upon in future.

Moreover, a further consideration is the desirability for the subject site to become more activated. As discussed in the report, the anticipated amenity impacts of the proposal to the residential and commercial properties in the locality are considered minimal and/or can be managed appropriately.

Local Planning Policy D.G.F16 – *Marine Terrace Policy (Including South Fremantle)*, which applies to the portion of the proposal fronting Marine Terrace and Lot 602, encourages the Scott Street to Douro Road area to contain larger scale residential and marine related development to a maximum height of three storeys. It is acknowledged that whilst the proposal does not meet these aims with regards to land use, it does not prejudice the development of larger scale residential or marine related development in future, as discussed above.

Overall, the proposed Tavern land use is supported for the following reasons:

- The Tavern use is consistent with the objectives prescribed in LPS4 for the Development Zone, as the proposal is for a commercial use which is permissible under Clause 5.1 of the Structure Plan;
- The proposal includes the adaptation of an existing warehouse building with relatively minor external works, which are removable;
- As confirmed by the Acoustic Report prepared by Herring Storer, the venue will comply with the Environmental Protection (Noise) Regulations 1997 (as amended), therefore noise impacts associated with the proposed Tavern as considered minimal.
- As confirmed in an Odour Management Plan, the proposed brewery has been designed as a closed brewing system, whereby the steam produced from the kettle is captured in a condensation column, cooled and condensed to water and recycled. Any brewing odour is dissolved in the condensing water and is therefore not considered to pose an unacceptable impact on the locality.
- The use is considered an appropriate land use for the subject site in the context of the Structure Plan, with potential impacts on the amenity of the locality including nearby residents being minimised and appropriately managed on an ongoing basis. The proposal utilises and activates an existing structure which is not currently providing any social or economic benefit to the locality; and,
- Will not prejudice the future implementation of the structure plan or the actualisation of the vision for the area as provided by LPP D.G.F16.

Car parking

Element	Requirement	Proposed	Extent of Variation
Car Parking	1: 5 m ² of lounge /garden area (374.6m ²) 74.9 (75)	15	60
Delivery bays	1	1	Nil
Bicycle bays	Class 1 – 4 bays	Nil	4
	Class 3 - 4 bays	34	Nil

Clause 4.7.3 of LPS4 allows the Council to support a relaxation of on-site car parking, provided the proposal meets the criteria specified in Clause 4.7.3.1. The onsite parking shortfall is supported for the following reasons:

- Two public car parks are located within the immediate locality, including directly opposite the subject site on Marine Terrace providing a total of 253 marked bays. See aerial image below of the two public car parks taken into consideration.



Fig. 1 – Aerial photograph of car parks (highlighted in yellow).

- The car parks shown in Figure 1 are located to the western side of the site away from the residential streets of McLaren, Orient, and Commercial Street and Harbour Road. These car parks include ticketed parking, time limited parking, and non-time limited parking spaces. Access to and use of these public car parking bays is considered to provide sufficient bays to cater for the anticipated parking demand.
- The subject site and general locality is serviced by several public transportation options, namely the Blue CAT bus service and the 532 bus route. The Blue CAT runs between Phillimore and Market Streets in a loop, connecting the site to Fremantle Train Station. The 532 bus route runs from Fremantle Train Station to Cockburn Central Station.
- The proposal is in proximity to a shared path running along Ocean Drive, thereby allowing cyclists to access the site. Moreover, 34 on site bicycle racks are provided on the subject site, thereby allowing convenient storage of bicycles for cyclists visiting the venue. It will be conditioned that sufficient end of trip facilities be provided to fully cater for cyclists.
- The locality is considered to have a high degree of pedestrian amenity and accessibility yielded by the aforementioned shared path, in addition to other local footpaths. As such, it is reasonable to consider that a number of patrons will access the site through walking.
 - It is anticipated that alternative modes of transportation, such as ride share services may be engaged by patrons to and from the venue, which may reduce the demand for parking in the locality associated with the subject proposal.

On the basis of the above, it is recommended that the on-site parking shortfall be supported.

It is noted that 34 Class 3 bicycle racks are proposed to be provided within the development site. Although the number of class 3 racks far exceeds the requirement, this is not considered to offset the requirement for four class 1 racks, which are considered to provide a more secure option for users especially staff. As such it is recommended that a condition of approval be imposed to require these racks. It is also noted that end of trip facilities including a space for lockers has been shown on the proposed plans however the number of lockers has not been specified. As such an appropriate condition is recommended to ensure adequate lockers are provided.

Noise Management

The applicant has submitted a Venue Noise Management Plan which specifies that amplified music will be provided within the venue by way of an in house sound system at a volume that maintains a relaxed and comfortable environmental that allows patrons to converse. Where a DJ or live act is engaged, noise levels are proposed to be no greater than the levels permitted in accordance with the Environmental Protection (Noise) Regulations. The Management Plan also addresses: the responsibilities of staff in regard to managing noise levels, the management of entrances/exits into/out of the venue, the management of waste including the recycling of glass, general patron management, and a procedure to actively respond to any complaints.

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

The report concludes that the noise levels throughout the internal area of the venue including a DJ or small live band and the operation of the brewing equipment can and will comply with the requirements of the Environmental Protection (Noise) Regulations 1997 at all times.

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

DBU6 – Late Night Entertainment Venues Serving Alcohol

In accordance with the general provisions of DBU6 (Late night entertainment venues serving alcohol), it is considered the local area is well serviced by public streets and is accessible to Taxis to allow for safe transport to and from the site without significantly disrupting through traffic.

The adjoining footpaths and streets are well lit to allow for adequate safety for patrons late at night. The proposed Tavern is also adjacent to Lunch Bar and Shop uses and has sufficient separation from residential uses to ensure limited impacts on amenity and reduced opportunity for conflict between uses.

Liquor Licensing

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

CONCLUSION

The proposal is considered to meet the specific applicable requirements of LPS4 including Development Plan 20. Potential impacts from the operation of the venue including noise, odour, parking and patron behaviour are considered to be minimised and can be appropriately managed on an ongoing basis. The proposal is considered to contribute to the activation of the Sealanes site. As such, the application is recommended for approval, subject to the conditions included in the officer's recommendation below.

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

- Increase the number of people working in Fremantle
- Increase the number of visitors to Fremantle
- Increase the net lettable area of retail space

Alcohol Management (SG50)

- Potential impacts of the proposed Licensed Premises can be appropriately managed.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC1906 -1

Moved: Cr Bryn Jones

Seconded: Cr Andrew Sullivan

Planning committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the change of use to Tavern and alterations and additions to existing building at No. 176 – 238 (Lots 1, 2, 32, 33, 34 and 602) Marine Terrace, South Fremantle subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 3 April 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. Storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. Prior to the occupation of the development hereby approved, the modified vehicle crossover shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.**
- 4. Prior to occupation of the development hereby approved, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 4.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the City of Fremantle.**
- 5. All car parking, and vehicle access and circulation areas shall be maintained and available for car parking/loading, and vehicle access and circulation on an ongoing basis to the satisfaction of the City of Fremantle.**
- 6. Prior to occupation of the development hereby approved, all air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located or screened so as not to be highly visible from beyond the boundaries of the development site to the satisfaction of the City of Fremantle.**

7. Prior to the issue of a Building Permit, a minimum of 4 Class 1 bicycle racks and 4 lockers shall be provided, to the satisfaction of the City of Fremantle.
8. Prior to issue of a building permit, the applicant/owner is to submit a waste management plan for approval, detailing the storage and management of the waste generated by the development to be implemented and maintained for the life of the development, to the satisfaction of the City of Fremantle.

ADVICE NOTES

- i. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.
- ii. Details about the stormwater drainage design intended for the proposed development shall be submitted to the City of Fremantle's Infrastructure Engineering department (Principal Engineer) for review and approval by the City. The Infrastructure Engineering department can be contacted via ibs@fremantle.wa.gov.au or 9432 9999.

Details should include catchment area, drainage calculations and information about the existing drainage connection.

The applicant shall use an ARI of 1 in 20 years for 15 minutes, for storm water design purposes.

- iii. An application for a crossover permit is required. New/modified crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. A link on the City's website for crossover specifications, FAQ's, permits etc refer to <https://www.fremantle.wa.gov.au/crossovers>.
- iv. Any development on the subject site shall be designed and constructed to protect Western Power infrastructure and interests from potential land use conflict. Proponents should refer to <https://westernpower.com.au/safety/360-aware/industry-safety/>
- v. The applicant is advised to liaise with the Department of Water and Environment (DWER) in regard to the contamination status of the site and the proposed land use and associated works. DWER can be contacted on Phone 1300 762 982 or Email – www.dwer.wa.gov.au

- vi. It is the landowner's responsibility to ensure that the design and construction of any new structure on the land complies with all applicable laws including, without limitation, clearance requirements of electrical infrastructure. We recommend that you engage a suitably qualified independent person (surveyor, architect, engineer) to undertake an assessment of the proposed development to ensure that best methods of construction are utilised and compliance with all applicable laws (including clearance requirements of electrical infrastructure in general and those specified under Occupational Safety and Health Regulations 1996 (WA)).
- vii. Any signage may be the subject of a separate planning application.
- viii. In regard to the condition for a Waste Management Plan, the applicant/owner is required to utilise best practice commercial waste management guidelines to determine appropriate waste generation rates, waste storage and waste collection methodology. The above should also ensure the below is undertaken:
- Design of Bin Storage Area complies with the attached Health Local Law requirements (section 46).
 - Design of Bin Storage Area and development to have relevant door opening for larger bin receptacles (minimum 660L sized bin) to future proof waste management at the development in the future.
 - Provide estimates of bin numbers based on waste generation rates in best practice guidelines such as WALGA (attached) or Melb/Sydney.
 - The proposed collection frequency of the waste services.
 - Specify whether collections will be undertaken by a commercial contractor or through the City's commercial waste service.
 - Provide drawing of the Bin Storage Area showing bin placement and adequate spacing/aisle widths to function appropriately for residents.
 - Provide detail on where bins will be presented for collection and how waste collection vehicles will access property to service bins.
- ix. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.

Carried: 6/0

Cr Andrew Sullivan, Cr Jenny Archibald,
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume

PC1906 -2 SETON CATHOLIC COLLEGE, MARCHANT ROAD, NO. 26 (LOT 218), SAMSON - TWO STOREY ADMINISTRATION BUILDING AND ALTERATIONS TO AN EXISTING EDUCATIONAL ESTABLISHMENT - (NB DA0045/19)

Meeting Date: 5 June 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments:
1: Development Plans
2: Schedule of submissions and Applicant's response
3: Applicant's Justification
4: Site Photos

SUMMARY

Approval is sought for a two storey administration building addition and alterations to existing buildings at Seton Catholic College, No. 26 (Lot 218) Marchant Road, Samson.

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

- **Onsite car parking**
- **Streetscape (fencing).**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a two storey administration building addition and alterations to existing buildings at Seton Catholic College, No. 26 (Lot 218) Marchant Road, Samson. The proposed works include:

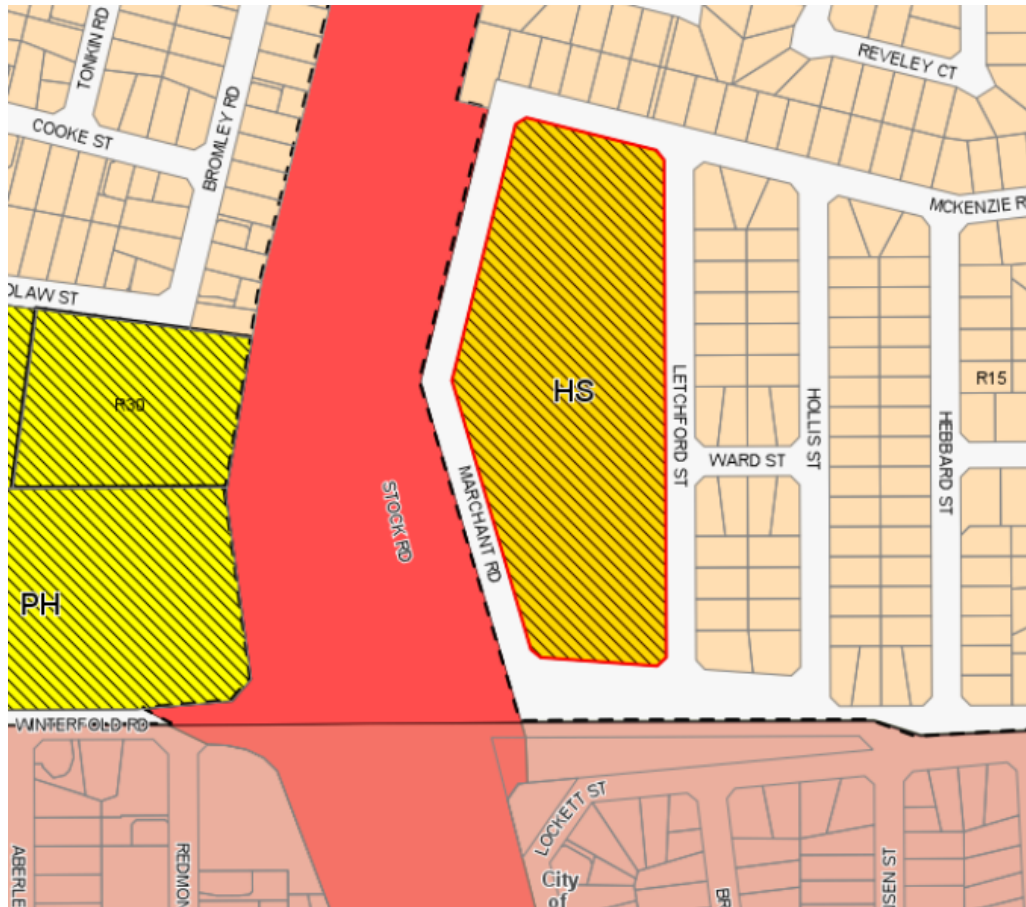
- Two storey administrative and staff building
- Conversion of existing administrative building into a staff support facility
- Deletion of 20 onsite car bays
- Pump house, water tanks, and screen fencing to Letchford Street for emergency services
- Road reserve works to create parking bays along Marchant Road.

The buildings are not for the use of classrooms and, as such, will not result in an increase of students.

Development plans are included as Attachment 1.

Site/application information

Date received: 8 February 2019
 Owner name: Roman Catholic Archbishop
 Submitted by: Parry and Rosenthal Architects
 Scheme: Community Facility - High School Reserve
 Heritage listing: Not Listed
 Existing land use: Educational Establishment
 Use class: Educational Establishment
 Use permissibility: n/a



CONSULTATION

External referrals

Department of Fire and Emergency Services (DFES)

The application was referred to DFES for an assessment of the submitted Bushfire Management Plan as the lot is partially located within a bushfire zone. As of the date of this report, DFES has not provided a response and a condition of approval has been added requiring that the Bushfire Management Plan be supported by the appropriate authority.

Main Roads Western Australia (MRWA)

The application was referred to MRWA for comment as the site is near a Primary Regional Road reservation. MRWA has provided advice that they have no objection to the proposal subject to compliance with the recommendations of the applicant's acoustic report, dated April 2019, requiring minimum glazing levels to windows.

These matters can be dealt with as relevant conditions and advice notes.

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 provisions of LPS4 and local planning policies. The advertising period concluded on 4 April 2019, and 5 submissions were received. The following issues were raised (summarised):

- The growth of Seton College increases the car parking and access issues for residents.
- Do not support gating off Marchant Road as residents use it.
- Do not support bus parking on Letchford Street.
- Students should be encouraged to use public transport or bike.
- The water tanks should be located on Marchant Road and not detract from the streetscape of Letchford Street.
- Concerned about the height of the water tanks on Letchford St. Will these be screened by the mature trees that are already in existence on the boundary or will these trees be removed? How will the tanks be screened from the streetscape? Is there the opportunity to put the tanks fully or partially below ground?
- All improvements should be on the college grounds not in public property.
- Staff and student parking on the west and north is a good idea. The footpath and trees should be kept.
- I assume the set down areas are only for a specific period of time. My concern would be that if we use them during that time we would be ticketed.
- Is there any reporting as part of the application on the traffic impact for Letchford Street and the surrounding residential roads if the planning application is approved?

A more detailed Schedule of Submissions, along with the applicant's response to each, is included as Attachment 3. Briefly, the applicant has provided the following response:

- This development application is not associated with additional students / staff, and hence traffic generation is unchanged. The modifications proposed allow for better management of traffic and parking to the betterment of the College and the surrounding community.
- The recorded traffic counts data supports the conclusion that the large majority of traffic using Marchant Road is associated only with the College.
- The College already provides a high level of encouragement and a 2017 survey of students indicated the following modes of transport: 26% bus, 9% walk or ride
- The Letchford Street location was investigated for the water tanks but deemed unsuitable due to accessibility and DFES requirements. Refer to Attachment 3 for a detailed response.

- Lowering the tanks fully / partially below the existing ground level was investigated but not deemed feasible. Refer to Attachment 3 for a detailed response.

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

- A Traffic and Parking Management Plan is required as a condition of approval to address vehicle access and parking issues.
- All works within the road reserve will be at the expense of the applicant and to the satisfaction of the City. Gating off Marchant Road, and providing bus bays on Letchford Street are not supported.

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

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and Council local planning policies. In this particular application the areas outlined below do not meet LPS4 and/ or policy provisions and need to be assessed under the relevant discretionary criteria:

- Onsite car parking
- Streetscape (fencing).

The above matters are discussed below.

Background

The subject site is located in Samson and bound by Marchant Road to the south and west, McKenzie Road to the north, and Letchford Street to the east. The site has a land area of approximately 42,340 m² and is currently an Educational Establishment. The site is zoned Community Facility - High School Reserve and has a density coding of R15. The site is not individually heritage listed nor is it located within a Heritage Area.

The site is improved by the addition of the Seton Catholic College.

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

- Planning Approval was granted on 19 December 2007 for the Addition of Staffroom to Educational Establishment (DA655/07);
- A variation to the previous Planning Approval (DA655/07) was granted on 19 September 2008 (V31/08);
- Planning Approval was granted on 19 December 2008 for the Addition of Workshop to Existing Educational Establishment (DA634/08),
- Planning Approval was granted on 22 July 2009 for a Patio Addition to Educational Facility (DA0323/09), and
- Planning Approval was granted on 8 January 2010 for an entry statement addition and Signage to the existing Educational Establishment (DA0726/09).
- Planning Approval was granted on 21/4/2010 for additions and alterations (two storey north east wing addition of classrooms) to the existing buildings for the Educational Establishment (refer to DA0121/10).
- Planning Approval was granted on 17/4 /012 for signage addition to existing Educational Establishment onsite (refer to DA0613/11).

- Planning approval was granted on 15 August 2013 for additions and alterations (modifications to the administrative building) to the existing Educational Establishment (refer to DA0372/13).
- Planning approval was granted on 10 February 2016 for a gymnasium and tennis courts addition (DA0504/15)

The approval for the gymnasium is still valid, but the college has provided a written statement confirming they are not proceeding with the project.

Land use

Under LPS4, the purpose of the Community Facility Reserve is “*To provide for civic and community activities and facilities that are provided for the general community by public institutions and groups.*” The proposed buildings facilitate the ongoing use of the college and are consistent with the purpose of the reserve.

Traffic and Parking requirements

The applicant has submitted a Parking and Transportation Management Study that examines the potential local impacts in relation vehicle, pedestrian and cyclist site access, circulation and parking as a result of the proposed development.

The plan notes that morning school generated traffic typically coincides with morning commuting peak periods where afternoon school generated traffic typically occurs before the evening peak periods. During the morning peak students are typically dropped off and only short stay parking is required, however, during the afternoon peak parents typically are required to park and wait for students to finish.

Data collected from a student transport survey identified the following:

- 2% (21 students) bike to school
- 7% (73 students) walk
- 26% (273 students) take a bus
- 52% (546 students) are driven to school and dropped off
- 7% (74 students) of students drove and parked
- 5% (53 students) of students drive to school with another student.

The survey also indicates that 99% of staff drive and park at the College each day.

The study presents the following two alternative traffic and parking options:

Option A:

- Move the bus services from Marchant Road to Letchford Street between Marchant Road and Ward Street.
 - This option is proposed to remove the need for students to have to cross the road and thereby be safer for the students.
 - This option also involves busses exiting back into Winterfold Road from McCombe Avenue (currently via Letchford)
- Drop off / pick up zones on Letchford Street and Marchant Road to more evenly distribute traffic and provide parents with two options and help reduce parking in the residential side streets
- Formalise the verge parking along Marchant Road to angled bays to accommodate the proposed loss of staff parking as well as improve the current situation.

Option B:

- Retain the bus services in their current location on Marchant Road
- Have one drop off / pick up zone on Letchford Street
 - This option will increase the number of bays available for drop off / pick up
 - This option may result in an increased risk of queuing along Letchford Street.

The report also recommends that Marchant Road be closed by a gate at each end to reduce traffic movements so as to occur only during school hours. This is proposed to increase safety around the school and reduce non-school related movements along Marchant Road.

In response to the above, the City advises the following:

- A Bus set down area is not considered suitable along Letchford Street as it is considered to increase the disruption to the residents in this street.
- Closing Marchant Road with gates cannot be considered as part of this development application. It is noted that this option is not desirable as Marchant Road is a public road.
- The College is encouraged to maintain as much on-site parking as possible.
- Formalising angled parking within the verge is supported in principle, however it will be subject to a separate application for approval from the City's Infrastructure Department. Any works within the Road Reserve will be required to be completed at the applicant's expense to the specifications of the City.
- Given 20% of students reside within 3km of the College, the applicant is strongly encouraged to provide additional bicycle parking facilities to encourage and incentivise this mode of transport. It is noted that LPS4 requirements for bicycle parking is at a rate of one bay per five students, resulting in a requirement of approximately 210 bays. Although it is not considered appropriate to retrospectively impose this requirement, the application is encouraged to significantly improve the on-site bicycle facilities.

The Parking and Transportation Management Study should guide the submission of a final Traffic and Parking Management Plan. This plan should be prepared in consultation with the City to address the potential impacts identified by the applicant and the City, and be submitted for the City's final endorsement prior to the issue of a Building Permit for the proposed works.

In regard to the specific car parking requirements as a result of this proposal, the LPS4 requirements are as follows:

Element	Requirement	Proposed	Extent of Variation
Car parking	1: 1 class room (55) = 55 bays, plus 1: 25 year 12 students (170) = 7 bays	54 bays (approx.)	8 bays

The proposed buildings will require the removal of 14 onsite car bays, creating in a shortfall of eight on-site bays across the site. The eight bay shortfall is supported under clause 4.7.3 of LPS4 for the following reasons:

- Taking into consideration Seton College are in discussion with the City to include the construction of approximately 143 bays (subject to City's design and landscaping requirements) within the Marchant Road reserve. These bays effectively formalise the current verge parking and allow an increased number of vehicles through the use of angles parking bays.
- The proposal is subject to a final Traffic and Parking Management Plan outlining how alternate forms of transportation will be encouraged and how student drop off and pick up will be managed. It is noted that the Parking and Transportation Management Study submitted with the application proposes utilising school staff to monitor and direct parking as an option.
- Staff parking can be fully accommodated through the proposed Marchant Road works and the remaining onsite parking bays.

Streetscape

Water tanks and a pumping station for fire safety are located near the Letchford Street road reserve, across from Nos. 10 and 12 Letchford Street. The tanks are approximately 4.3m high and partially screened from Letchford Street by a 2.1- 2.7m high wall. The applicant's response to the submissions states that the proposed location is the most feasible in terms of fire regulations. The tanks are to be a Woodland green colour and surrounded by existing vegetation to soften the view from the street. However, it is also proposed to remove one tree to make room for the tanks.

Due to the height of the tanks in relation to the proposed wall, it is unlikely they would be screened from view of the street, particularly from the footpath across Letchford Road. The *Deemed provisions* give Council the ability to consider the streetscape amenity and whether sufficient landscaping has been provided for development. The new screen wall and tanks would necessitate the removal of a large amount of vegetation. City officers recommend a landscaping plan be submitted showing the tanks to be sufficiently screened through the use of vegetation.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

Officers Recommendation

Moved: Cr Bryn Jones

Seconded: Cr Sam Wainwright

Planning committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two storey administration building and alterations to the existing educational establishment at Seton Catholic College, No. 26 (Lot 218) Marchant Road, Samson, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 8 February 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.
3. The approved development shall be wholly located within the cadastral boundaries of No. 26 (Lot 218) Marchant Road, Samson including any footing details of the development.
4. This development approval does not relate to any works within the road reserves of Letchford Street, Marchant Road, or McKenzie Street. Works within the road reserves require a separate approval from the City of Fremantle's Infrastructure Services.
5. Prior to the issue of a building permit, the new buildings are to meet the requirements of SPP 5.4: Road and Rail Transport Noise and Freight Considerations in Land Use Planning, through the measures outlined in the Acoustic Assessment undertaken by Herring Storer Acoustics, dated April 2019, to the satisfaction of the City of Fremantle.
6. Prior to the issue of a building permit, a landscaping plan is to be submitted and approved, demonstrating how the water tanks will be screened from view of the street to the satisfaction of the City of Fremantle. The approved landscaping is to be implemented prior to occupation of the development and maintained for the life of the development.
7. Prior to the issue of a building permit, a Bushfire Management Plan shall be prepared and submitted to the satisfaction of the City of Fremantle on advice of the Department of Fire and Emergency Services.
8. Prior to the issue of a building permit, a final Traffic and Parking Management Plan shall be submitted to the satisfaction of the City. The plan shall be prepared in consultation with the City's Traffic Engineers and shall demonstrate how car parking and vehicle access issues relating to student drop-off and pick-up, staff parking and bus movements is to be managed

- based on issues identified within the Parking and Transportation Management Study.
9. Prior to the issue of a building permit but not a Demolition Permit, all works within the road reserve must receive separate approval from the City of Fremantle.
 10. Prior to occupation of the development hereby approved, all works within the road reserve, including landscaping and line marking and draining of vehicle bays, shall be carried out at the applicant's expense and to the specifications and satisfaction of the City of Fremantle.
 11. Prior to occupation of the development hereby approved, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 4.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the City of Fremantle.
 12. Prior to the issue of a Building Permit or Demolition Permit, a Construction Management Plan shall be submitted to the satisfaction of the City of Fremantle addressing the following matters:
 - a) Use of City car parking bays for construction related activities;
 - b) Protection of infrastructure and street trees within the road reserve;
 - c) Security fencing around construction sites;
 - d) Gantries;
 - e) Access to site by construction vehicles;
 - f) Contact details;
 - g) Site offices;
 - h) Noise - Construction work and deliveries;
 - i) Sand drift and dust management;
 - j) Waste management;
 - k) Dewatering management plan;
 - l) Traffic management; and
 - m) Works affecting pedestrian areas.

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

13. 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. In regards to condition 8 and 9 the applicant is advised to liaise with the City's Infrastructure Services department via ibs@fremantle.wa.gov.au or 9432 9999 for requirements and an application. The department has advised that the following proposed works are not supported:
 - Closing/gating off Marchant Road
 - Provision of bus services along Letchford Street
- ii. In regards to the Construction Management Plan, Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>.

A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:
<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>

- iii. Work on construction sites shall be limited to between 7am and 7pm on any day which is not a Sunday or Public Holiday. If work is to be done outside these hours a noise management plan must be submitted and approved by the Chief Executive Officer, City of Fremantle prior to work commencing.

COMMITTEE DECISION ITEM PC1906-2

Moved: Cr Dave Hume

Seconded: Cr Andrew Sullivan

Refer the item to Council on 26 June 2019 to allow for additional information to be provided in relation to the location of the water tanks.

Carried: 6/0
**Cr Andrew Sullivan, Cr Jenny Archibald,
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume**

PC1906 -3 DOURO ROAD, NO. 19 (LOT 2), SOUTH FREMANTLE - CHANGE OF USE FROM LUNCHBAR TO RESTAURANT - (CJ DA0099/19)

Meeting Date: 5 June 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development plans
2: Applicant's traffic report
3: Site photos

SUMMARY

Approval is sought for a change of use from Lunch Bar to Restaurant at 2/19 Douro Road, South Fremantle.

The proposal is referred to the Planning Committee (PC) due to the nature of some discretions being sought and comments received during the notification period that cannot be addressed through conditions of approval. The application seeks discretionary assessments against the Local Planning Scheme No. 4 (LPS4), for land use and car parking. Officers do not support the proposal due to the potential impact on the local area and existing on street parking, however do acknowledge the benefits of the tenancy being occupied with an active use.

The application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for a change of use to Restaurant of an existing Lunch bar at 2/19 Douro Road, South Fremantle. Details of the application are as follows:

- Proposal to have consumption both on site and takeaway
- Hours of operation 7.00am to 4.00pm Monday to Sunday (with expected peak times 11.00-1.00pm on weekdays and 9.00am-1.00pm on weekends)
- Maximum of thirty (30) patrons
- No additional vehicle or bicycle parking is proposed to be provided.

The applicant has advised that they do not have a specific tenant in mind, rather they are seeking to have the existing use changed in order to attract increase the success of attracting a tenant to the building due to difficulties in attracting one for the existing Lunch bar use. Therefore details regarding signage, internal fit out and expected visitation rates are limited at this stage.

Development plans are included as Attachment 1.

Site/application information

Date received: 20 March 2019
 Owner name: Stadium Drive + ATF Meridiem Trust
 Submitted by: Motus Architecture
 Scheme: Neighbourhood Centre
 Heritage listing: South Fremantle Heritage Area / Not Individually Listed
 Existing land use: Lunch bar
 Use class: Restaurant
 Use permissibility: A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015(Regulations), as the proposal is for a discretionary land use and includes a parking shortfall. The advertising period concluded on 27 April 2019, and nine (9) submissions were received, eight (8) of which objected to the proposal. The following issues were raised in the objections (summarised):

- Evening trading will be noisy and impact on residents.
- Seating on pavement will be busy.
- Will be an impact on traffic and parking in the area.
- The Hulbert Street and Douro Road intersection is already dangerous.
- Parking is a major problem in Hulbert Street.
- Other restaurants in vicinity have failed, lack of demand for another.
- Would like intersection to be made safer.

- Development has insufficient parking for residents which are making them park in the street.
- City of Fremantle needs to fix problems Planning Department has created in relation to parking and traffic management.
- Customers for existing businesses do not park further away as applicants suggested they would.
- Often have vehicles parking across driveway.

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

- In addition to onsite bays, there are five bays on the street for reciprocal use.
- For Restaurant the requirement is 1:5 seats or 1:5m² dining area meaning that only 6 bays are required which is the same as the existing lunch bar.
- Cardno report concludes the change of use is considered to have minimal impact on parking in the area.
- Proposal is for Restaurant to have limited opening hours of 7.00am - 4.00pm Monday to Sunday.
- Main difference to current use is for people to enjoy their meal on site rather than having to take away.
- Have had significant enquiry from businesses wanting to operate a restaurant – the tenancy is currently empty and has been since the development's construction.
- Comments relating to the safety of the intersection should be considered separate to this application.
- Sufficient public parking, active transport and public transport for customers and onsite parking for staff.
- Have attempted to lease and sell the space for two (2) years with no interest.

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

- The applicant is applying to restrict the operating hours of the tenancy to between 7.00am – 4.00pm, therefore no evening trading is proposed.
- The seating on the pavement is located within the road reserve. Any exclusive use would require an alfresco dining permit.
- The applicant has provided a traffic report which has been reviewed by the City's traffic officers. Further detail is included in the report below.
- The failure of unnamed businesses and financial viability of new restaurants in the area is not a relevant planning consideration.
- Making alterations to an existing intersection is not within the scope of this application.
- Behaviour of motorists in the area cannot be controlled through a planning application, however the impact of increased visitation to the area is considered below.
- The five bays on the street are not restricted for use of the tenancies at No. 19 Douro Road.
- The applicant's parking assessment is incorrect as per the specific requirements of the LPS4, in that for a Restaurant the calculation is 1:5 seats or 1:5m² dining area **whichever is the greater**. The applicant's assessment assumes the lower of the calculations.
- The tenancy has been vacant since the construction of the development.

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

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. In this particular application the areas outlined below do not meet the policy provisions and need to be assessed:

- Land use
- Car parking

The above matters are discussed below.

Background

The subject site is located on the south eastern corner of the intersection of Douro Road and Hulbert Street. The site has a land area of approximately 1400m² and is currently occupied by a mixed use development. The unit the subject of this proposal (No. 2) is located on the corner on the ground floor. The site is zoned Neighbourhood Centre and has a density coding of R25. The site is not individually heritage listed but it is located within the South Fremantle Heritage Area.

The tenancy currently has approval to operate as a Lunch bar, however has never been occupied by a tenant.

Land Use

A Restaurant is an 'A' use in the Neighbourhood Centre zone, which means that the use is not permitted unless the Council has exercised its discretion and has granted planning approval after giving special notice (advertising) in accordance with clause 64 of the Regulations. In considering an 'A' use the Council will have regard to the matters to be considered in the Regulations. In this regard the following matters have been considered:

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

The proposed development is considered to address the above matters, with the exception of car parking and traffic generation, for the following reasons:

- The use is considered to provide an active frontage to the corner and would satisfy the objective of the neighbourhood centre zone to provide convenient uses that can serve the needs of the local community.
- A restaurant in this location would provide additional variety within the Neighbourhood centre.
- There are no physical building works taking place, with the tenancy designed as a lunch bar already.
- The use is only proposed to be open during the day, with no evening trade reducing the potential for disruption within the residential area during the evening hours.

As discussed above, although it is considered that a Restaurant use could provide a positive contribution to the locality, the subsequent on site car parking demand is considered to result in a detrimental impact on the amenity of nearby residents and the locality. Therefore the proposed use is not supported in this instance.

On site car parking

Element	Requirement	Proposed	Extent of Variation
Restaurant	1:5 seats or 1:5m ² dining area, whichever is the greater (11 bays)	Nil	11 bays
	Delivery bay – 1:service/storage area	Nil	1 bay
	Class 1 or 2 : 1 Class 3: 2	Nil	1 x class 1 or 2 2 x class 3

A history of the approved car parking variations resulting from previous applications to change the use of the tenancies originally approved is as follows (*NOTE: the multiple dwellings are excluded from the tables below, as car bays are tied to the units through the strata in this instance. The stacker bays are within common property and therefore can be used by the commercial units if available):

Original application (DA0587/13) - Approved:

Element	Deemed-to-comply	Car bays provided	Merit based assessment
292m ² of Office (1:30m ² – min. 3 bays)	10	12 stacker bays	4
120m ² of Lunch Bar (1:20m ²)	6		
TOTAL	16		

Units 4 and 5: Change of use – Office to Consulting Rooms (DA0256/16) – Approved:

Element	Deemed-to-comply	Car bays provided	Merit based assessment
70m ² of unit 1 Office (1:30m ² – min. 3 bays)	3	12 stacker bays	10
76m ² of unit 3 Office (1:30m ² – min. 3 bays)	3		
Consulting Rooms (5:1 practitioner)	10		
120m ² of Lunch Bar (1:20m ²)	6		
TOTAL	22		

Unit 3: Change of use – Office to Shop (DA0453/16) – Approved:

Element	Deemed-to-comply	Car bays provided	Merit based assessment
70m ² of unit 1 Office (1:30m ² – min. 3 bays)	3	12 stacker bays	11
76m ² of unit 3 Shop (1:20m ²)	4		
Consulting Rooms (5:1 practitioner)	10		
120m ² of Lunch Bar (1:20m ²)	6		
TOTAL	23		

Unit 1: Change of use – Office to Consulting Rooms (DA0157/17) – Approved:

Element	Deemed-to-comply	Car bays provided	Merit based assessment
Consulting Rooms (5:1 practitioner)	15	12 stacker bays	13
76m ² of unit 3 Shop (1:20m ²)	4		
120m ² of Lunch Bar (1:20m ²)	6		
TOTAL	25		

Unit 2: Change of use – Lunch Bar to Restaurant (DA0099/19) – Current application:

Element	Deemed-to-comply	Car bays provided	Merit based assessment
Consulting Rooms (5:1 practitioner)	15	12 stacker bays	18
76m ² of unit 3 Shop (1:20m ²)	4		
120m ² of Restaurant (1:5 seats or 1:5m ² dining area) –30 seats or 54m ² dining area	11		
TOTAL	30		

The applicant has provided a Parking assessment from traffic consultants that have justified the proposed parking shortfall as follows (summarised):

- The site is facilitated by good public transport, with the CAT bus stop close by.
- Site is surrounded by bicycle boulevards and footpaths for active transport use.
- There are bike racks on Hulbert Street and within the development.
- Change of use is minor and merely changes the offering from mainly takeaway meals to offering a seated experience.
- Plenty of on street parking during the day, which is when the café is proposed to operate.
 - During the weekdays there were 14 bays unoccupied within a 2.5 minute walking distance. There was at least one bay available on average during weekdays.
 - During weekends, most parking bays were available at 12.15pm, on Douro Road, and an average of at least two bays were available at all times within the 2.5 minute walking distance.
 - Within a 150m radius, the highest number of available parking bays were observed to be on Thomas Street.
- Different land uses in the area have different demand times. For example, the hours applied for the restaurant are unlikely to conflict with the hours for the residents in the area who generally require after hours parking.

The City has reviewed the applicants report, and provides the following response:

- It can be assumed that all customer parking would be reliant on street parking as the allocated parking for the Restaurant is behind a gate.
- Parking survey shows Hulbert Street to have limited capacity to accommodate customers, with Hulbert Street having the least amount of bays available during peak times.
- The parking survey does offer a sound parking option for the site however it should be taken into consideration that local residents have identified damage and disturbances by drivers having to perform three point turns on to the southern cul-de-sac streets looking for a parking space or simply accessing Douro Road.
- The assessment relates to 7.00am - 4.00pm daily operation. Should an extension of hours be sought, the current parking assessment wouldn't be relevant.

The Restaurant is not considered to meet the car parking discretionary criteria of LPS4 for the following reasons:

- The use increases the shortfall from the commercial bays by five, resulting in a total of eighteen bays not provided on site.
- If the tenancy was allocated its own car parking, it could be looked at in isolation, however as all commercial tenancies share the parking on site, the cumulative impact this will have is therefore considered important.
- The onsite parking is located in a secured parking area, and is in a car stacker arrangement. The applicant has not advised how these bays are/will be managed, but it is assumed that these are also for visitors to the multiple dwellings, as well as the five commercial tenancies. This may well mean that there are very few bays available for the restaurant staff, and would be very unlikely that customers would be able to use these bays.
- While the applicant seeks to avoid an impact on evening parking for residents, other uses, being consulting rooms and Shop who all trade during the day, will directly compete with car spaces both on site and in the street.
- On street car parking is available in the area and much is unrestricted, however has been reported by residents as being at peak capacity.
- A Lunch bar is characterised by short term visitation (i.e. picking up and taking away), whereas a Restaurant predominantly has sit down patronage. While in reality the size of the tenancy is not changing, meaning that the demand may not be significantly different, when people park in the area they are likely to stay longer in that on street car bay.

In relation to the bicycle parking on site, in accordance with clause 4.7.3.3, it is recommended that the class 1 or 2 bicycle racks can be waived in this instance.

Additionally, due to the construction already undertaken on site, it is not practical for additional class 3 racks to be installed. The change of use results only in one extra rack being required, and with the public racks next to the development, demand is considered to be catered for.

CONCLUSION

In summary, while the change from a Lunch bar to a Restaurant use is really only different in its type of patronage (i.e. predominantly sit-in rather than takeaway), the key issue for officers is the increase in on street parking demand. It is acknowledged that the tenancy has remained vacant for its existence, and that the applicant has advised by changing the use they are significantly more likely to lease or sell the premises, resulting in an activated commercial corner tenancy for this immediate area of South Fremantle.

Should Planning Committee see merit in the proposal and wish to support the change of use, the following alternate recommendation is provided:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, change of use from Lunch bar to Restaurant at No. 2/19 (Lot 2) Douro 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 March 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.*
- 2. The Restaurant hereby permitted shall have opening hours that do not exceed 7:00 am to 4:00 pm daily, to the satisfaction of the City of Fremantle.*
- 3. Prior to occupation of the development hereby approved, the owner is to submit a waste management plan for approval detailing the storage and management of the waste generated by the development to be implemented and maintained for the life of the development, to the satisfaction of the City of Fremantle.*
- 4. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.*

Advice notes:

- i. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 Design, construction and fit-out of food premises. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9999 or via health@fremantle.wa.gov.au.*
- ii. It is recommended that the applicant engages the City's Environmental Health department to determine their obligations in obtaining an alfresco dining permit. The City's Environmental Health department can be contacted on 9432 9999 or alternatively via email at health@fremantle.wa.gov.au.*

STRATEGIC IMPLICATIONS

Strategic Community Plan 2015-25

Nil

Green Plan 2020

Encourage the retention of vegetation on private land.

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

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.2:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, change of use from Lunch bar to Restaurant at No. 2/19 Douro Road (Lot 2), South Fremantle, as detailed on plans dated 20 March 2019, for the following reasons:

1. The proposal is inconsistent with the parking requirements (clause 4.7.2) of Local Planning Scheme No. 4.
2. The proposal would be detrimental to the amenity of the area under clause 67 of Planning and Development (Local Planning Scheme) Regulations 2015 by reasons of vehicle parking and traffic.

COMMITTEE DECISION ITEM PC1906-3 **(Alternative officer's recommendation)**

Moved: Cr Dave Hume

Seconded: Cr Andrew Sullivan

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, change of use from Lunch bar to Restaurant at No. 2/19 (Lot 2) Douro 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 March 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. The Restaurant hereby permitted shall have opening hours that do not exceed 7:00 am to 4:00 pm daily, to the satisfaction of the City of Fremantle.**
- 3. Prior to occupation of the development hereby approved, the owner is to submit a waste management plan for approval detailing the storage and management of the waste generated by the development to be implemented and maintained for the life of the development, to the satisfaction of the City of Fremantle.**
- 4. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

Advice notes:

- i. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 Design, construction and fit-out of food premises. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact Environmental Health Services on 9432 9999 or via health@fremantle.wa.gov.au.**
- ii. It is recommended that the applicant engages the City's Environmental Health department to determine their obligations in obtaining an alfresco dining permit. The City's Environmental Health department can be contacted on 9432 9999 or alternatively via email at health@fremantle.wa.gov.au.**

Carried: 6/0

**Cr Andrew Sullivan, Cr Jenny Archibald,
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume**

Reason for change

The proposed change of use was not considered likely to have an adverse effect on the area in terms of shortage of car parking or other impacts on amenity.

PC1906 -4 HIGH STREET, NO. 223 AND 225 (LOT 100 AND 475), FREMANTLE - PARTIAL CHANGE OF USE (PUBLIC CAR PARK) AND SIGNAGE - (TG DA0093/19)

Meeting Date: 6 June 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments:
1: Development Plans
2: Site Photos
3: Applicant response to consultation submissions

SUMMARY

Approval is sought for a partial change of use to public car park and associated signage at 223 and 225 High Street (Lots 100 and 475).

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

- Land use (Public Car Park)
- On site car parking (223 High Street)

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for a partial change of use of existing car parks into a public carpark at 223 and 225 High Street. The works include:

- The use of all on site car parking bays on 223 High Street as a public car park,
- The use of the majority of onsite car parking bays on 225 High Street as a public car park (16 bays are proposed remain associated with the existing consulting rooms on site),
- Signage to both lots relating to the public car park use, and
- Installation of additional shade trees to landscaping strips at 225 High Street.

The site began operation as a public car park without a valid land use approval. Following contact from the City, existing signage was covered and the public car park land use ceased operation pending the resolution of the subject application.

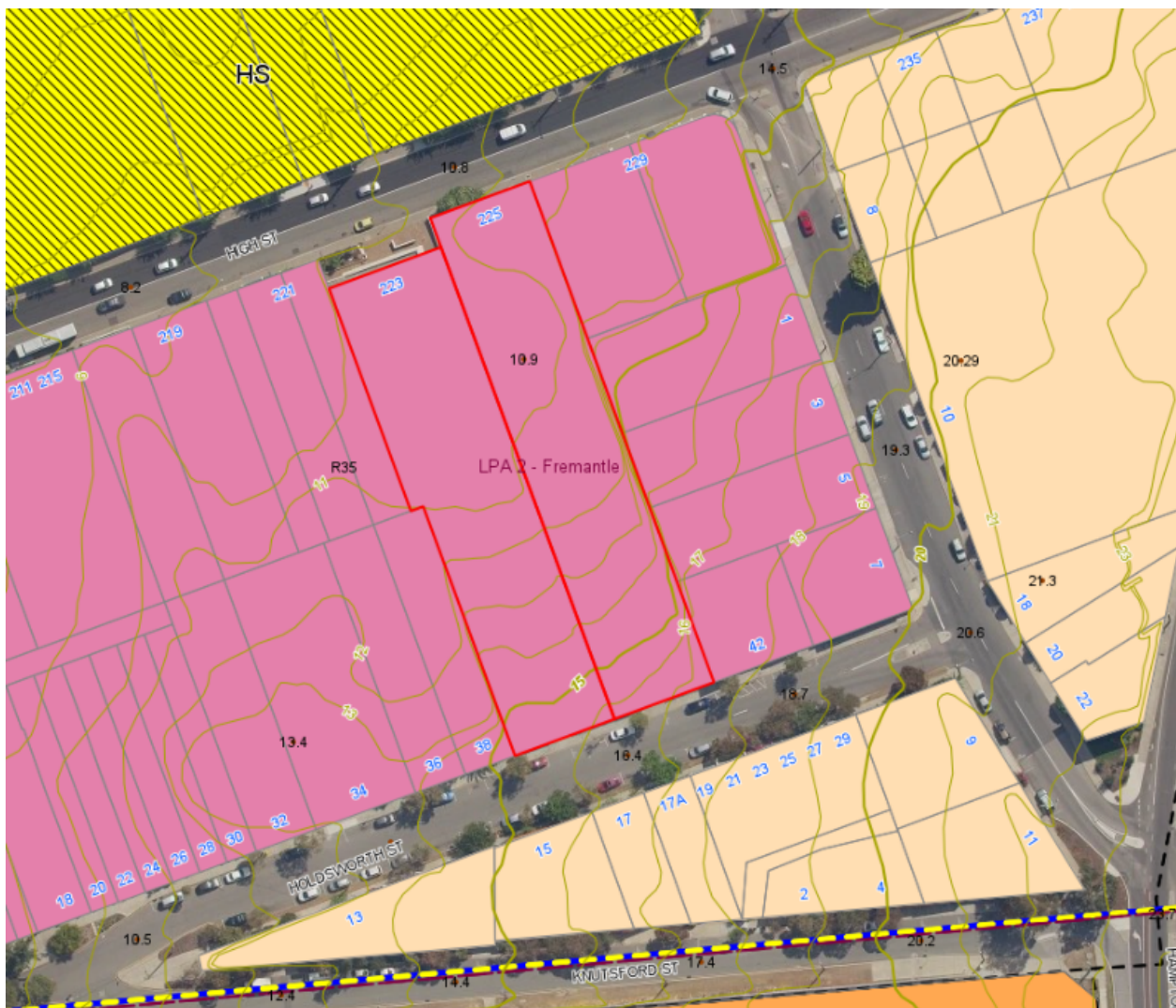
The applicant submitted amended plans on 17 May 2019 including the following:

- Additional detail with regard to vehicle manoeuvring, deleting onsite bays to accommodate turn around on both sites.
- Additional landscaping on the 225 High Street site in existing landscaping strips.
- Detail of the removal of one of the bollards separating the eye clinic carpark from the public car park at 225 High Street to permit exit from the site in forward gear should the eye clinic carpark be full.

Development plans are included as Attachment 1.

Site/application information

Date received: 14 March 2019
Owner name: Baldrick Pty Ltd
Submitted by: Element WA
Scheme: Mixed Use R25
Heritage listing: 223 High Street: WECA Heritage Area
225 High Street: Level 2 – WECA Heritage Area
Existing land use: 223 High Street: Office/Consulting Room
225 High Street: Consulting Room
Use class: Office/Consulting Room/ Public Carpark
Use permissibility: P, P and A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal comprised a land use which requires consultation in accordance with Local Planning Scheme No. 4. The advertising period concluded on 5 April 2019, and 11 submissions were received, 10 supporting the application and one objecting to the proposal. The following issues were raised in the objecting submission (summarised):

- The operation of a paid car park with an entrance from Holdsworth Street would encourage more traffic in the residential area,
- People parking may opt for free parking for 2 hours on the street rather than pay at a parking station, removing the availability of street parking for residents and visitors,
- It was requested that free parking passes for the subject site be made available to Holdsworth Street residents should the proposal be approved,
- The use of the site as a public car park detracts from the amenity of the area.
- Access to the public car park should be provided from High Street to reduce the impact of additional vehicle movements upon residential dwellings in Holdsworth Street.
- It was requested that some landscaping be provided to screen the site fencing facing Holdsworth Street.
- The operation of the premises as a public car park will result in underutilisation of other nearby facilities.
- A public car park is unnecessary as surrounding residences and businesses have adequate onsite parking.

In response to the above, the applicant submitted revised plans and submitted a response to the concerns raised (Attachment 3).

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

- The accommodation of the car parking at full capacity as a public carpark is consistent with its use by land uses on the subject site. While the offices in the building at 223 High Street are currently vacant and the pathology consulting room is a low intensity land use with regard to car parking, a business consistent with the approved land use could occupy the site resulting in maximum utilisation of the car parking facilities on site.
- The subject sites have approved compliant vehicle access from Holdsworth Street providing for the existing car parking bays. These bays could already be occupied at maximum capacity by the existing land uses on the subject sites.
- The parking bays on Holdsworth Street are managed by the City and are publicly available as two hour parking bays.
- The City is unable to statutorily require that landowners be provided with parking permits for the subject site.

- Only one of the subject sites (225 High Street) has compliant through access to High Street, the remaining site having access from Holdsworth Street only. As the subject sites are to remain separate, a potential outcome is that one site may be redeveloped while the other remains as existing. Accordingly predicating any approval of the subject use on access across the site boundary may result in a non-compliant car park arrangement in the future.
- The applicant has submitted amended plans showing the installation of additional shade trees to existing landscaping strips. It is a recommended condition of approval that additional detail be provided with regard to landscaping and that this landscaping be maintained for the life of the use.
- The subject area has been identified as an appropriate location for the establishment of new public parking facilities in accordance with the City's Integrated Transport Strategy.
- There are some sites within the City Centre which do not provide for sufficient car parking in accordance with Local Planning Scheme No. 4 or have no car parking on site. Accordingly the subject land use is considered to support these uses.

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

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of Local Planning Scheme No. 4. Where a proposal does not meet these requirements, an assessment is made against the relevant discretionary criteria of the Scheme or policy. In this particular application the areas outlined below do not meet the policy or scheme provisions and require discretionary assessment:

- Land use (Public Car Park)
- On site car parking (223 High Street)

The above matters are discussed below.

Background

The subject sites are located on the southern side of High Street and also take rear access from Holdsworth Street. The sites have a land area of approximately 2030m² (223 High Street) and 2034m² (225 High Street). Both sites accommodate existing commercial buildings including a vacant Office and Consulting Room tenancy at 223 High Street and a Consulting Room (eye clinic) tenancy at 225 High Street. The sites are zoned Mixed Use and have a density coding of R35. The existing building on 225 High Street is on the City's Heritage List as management category 2 and both sites are located in the WECA Heritage Area.

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

223 High Street

- On 16 January 1989, the City granted planning approval to a change of use to 'Professional Office' (DA408/88A).
- On 19 November 1990, the City granted planning approval for a change of use to 'Pathology Laboratory' at the subject site (DA408/88B).
- On 16 September 1997, the City granted planning approval to 'Signage' (DA903-97)
- On 18 May 1999 the City granted planning approval for the 'Relocation of Coolroom' at the site (DA99-416).
- On 26 September 2013, the City approved additions and alterations to the existing building (DA0415/13).
- On 2 July 2017, the City approved additions and alterations (two storey) to the existing building (DA0298/17).

225 High

- On 28 June 1999, the City granted approval to drain and seal the existing car park on site (DA338/99).

Land Use

A Public Car Park is an 'A' use in the Mixed Use zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval and given special notice in accordance with clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. In considering an 'A' use the Council will have regard to the matters to be considered in the Planning and Development (Local Planning Schemes) Regulations 2015. In this regard the following matters have been considered:

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

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

- The works component of the development comprises the installation of signage and a pay station to the subject sites only, accordingly the change to the effective land use on the subject sites is considered to be limited. The sites are currently occupied by private car parking and this is to be provided as public car parking.
- The subject site is located in an area identified in the City's *Integrated Transport Strategy 2015* as being an area preferred to accommodate public car parking to service the City Centre – that is, an area within walkable distance of, but outside, the city centre core area bounded by the Parry St/Norfolk St 'ring road'.
- The development is not considered to unduly impact the subject sites and locality with regard to environmental or social impacts.

- Having regard to the above considerations, it is considered appropriate to limit the period of approval for the operation of the public car park to five years from the date of approval. This limitation permits the review of the appropriateness of the land use in the context of the City's strategic planning objectives at this time.

On site car parking

Element	Requirement	Proposed	Extent of Variation
Car Parking	223 High Street Vacant ground floor office tenancy: 22 parking bays Upper floor consulting room (pathology): 10 parking bays Total: 32 parking bays	No dedicated parking on site (parking proposed to be provided in public car park).	32 bays
	225 High Street Consulting room: 5 bays	16 bays	Nil

The provision of onsite parking for the building at 223 High Street is considered to meet the discretionary criteria of Local Planning Scheme No. 4 in the following ways:

- Sufficient car parking remains available on the subject site for the use of employees working at the existing building on site.
- Sufficient public car parking is located in the immediate locality of the subject site to accommodate visitors to and employees of the premises.
- The site is well served by public transport services along High Street with a bus stop located across the road from the subject tenancy.

CONCLUSION

In accordance with the above considerations, aspects of the proposal which vary the statutory planning requirements are considered to appropriately address the relevant discretionary criteria of LPS4. The proposed change of use is considered to be acceptable in accordance with the objectives of the Mixed Use zone. Accordingly the proposal is recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Integrated Transport Strategy 2015

- Increase the number of car parking spaces outside the City Centre.

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Moved: Cr Bryn Jones

Seconded: Cr Adin Lang

Planning committee acting under delegation 1.2:

APPROVE , under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the partial change of use to Public car park and signage at No. 223 and 225 (Lots 100 and 475) High Street, Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 17 May 2019 and 14 March 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. Notwithstanding condition 1 above, no later than 5 June 2024 the public car park signage and associated infrastructure (pay station) shall be removed and the public car park use shall cease operating, to the satisfaction of the City of Fremantle.
3. Prior to commencement of the development hereby approved, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 4.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the City of Fremantle.
4. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.
5. Prior to the commencement of the land use hereby approved, a detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.
6. Prior to the commencement of the land use hereby approved, landscaping shall be completed in accordance with the approved plans required in condition 5 or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Fremantle.

Advice Note

- i) Further to condition 3, the applicant is advised that the bollards located in the carpark of 225 High Street require modification to permit through access across the site.

AMENDMENT 1

Moved: Cr Dave Hume

Seconded: Cr Jenny Archibald

To add the following condition 7:

7. **Notwithstanding condition 1 above, 32 car parking bays on 223 High Street shall be marked and allocated for car parking for occupiers of the existing building, to the satisfaction of the City of Fremantle.**

Amendment 1 carried: 6/0
Cr Sam Wainwright, Cr Jenny Archibald,
Cr Bryn Jones, Cr Adin Lang, Cr Andrew Sullivan, Cr Dave Hume

AMENDMENT 2

Moved: Cr Adin Lang

Seconded: Cr Andrew Sullivan

To add the following conditions 8 & 9

8. **Notwithstanding condition 1, vehicle access and egress to Nos. 223 (Lot 100) and 225 (Lot 475) High Street, Fremantle is to be restricted to and from High Street only, with no access or egress to be provided via Holdsworth Street.**
9. **Prior to the commencement of the use, Nos. 223 (Lot 100) and 225 (Lot 475) High Street are to be legally amalgamated or alternatively the owner may enter into a legal agreement with the City of Fremantle, drafted by the City's solicitors at the expense of the owner and be executed by all parties concerned prior to the commencement of the works. The legal agreement will specify measures to allow the development approval to operate having regard to the subject site consisting of two separate lots, to the satisfaction of the City of Fremantle**

Amendment 2 carried: 3/3
For
Cr Bryn Jones, Cr Adin Lang, Cr Andrew Sullivan,
Against
Cr Jenny Archibald, Cr Sam Wainwright, Cr Dave Hume

Cr Bryn Jones used his casting vote FOR the Amendment resulting in it being CARRIED.

COMMITTEE RECOMMENDATION ITEM PC1906- 4

Moved: Cr Bryn Jones

Seconded: Cr Adin Lang

Planning committee acting under delegation 1.2:

APPROVE , under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the partial change of use to Public car park and signage at No. 223 and 225 (Lots 100 and 475) High Street, Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 17 May 2019 and 14 March 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.
2. Notwithstanding condition 1 above, no later than 5 June 2024 the public car park signage and associated infrastructure (pay station) shall be removed and the public car park use shall cease operating, to the satisfaction of the City of Fremantle.
3. Prior to commencement of the development hereby approved, the car parking and loading area(s), and vehicle access and circulation areas shown on the approved site plan, including the provision of disabled car parking, shall be constructed, drained, and line marked and provided in accordance with Clause 4.7.1(a) of the City of Fremantle Local Planning Scheme No.4, to the satisfaction of the City of Fremantle.
4. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.
5. Prior to the commencement of the land use hereby approved, a detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (i.e. mulch, lawn, synthetic grass etc), shall be submitted to and approved by the City of Fremantle.
6. Prior to the commencement of the land use hereby approved, landscaping shall be completed in accordance with the approved plans required in condition 5 or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Fremantle.
7. *Notwithstanding condition 1 above, 32 car parking bays on 223 High Street shall be marked and allocated for car parking for occupiers of the existing building, to the satisfaction of the City of Fremantle.*

8. ***Notwithstanding condition 1, vehicle access and egress to Nos. 223 (Lot 100) and 225 (Lot 475) High Street, Fremantle is to be restricted to and from High Street only, with no access or egress to be provided via Holdsworth Street.***

9. ***Prior to the commencement of the use, Nos. 223 (Lot 100) and 225 (Lot 475) High Street are to be legally amalgamated or alternatively the owner may enter into a legal agreement with the City of Fremantle, drafted by the City's solicitors at the expense of the owner and be executed by all parties concerned prior to the commencement of the works. The legal agreement will specify measures to allow the development approval to operate having regard to the subject site consisting of two separate lots, to the satisfaction of the City of Fremantle***

Advice Note

- i) **Further to condition 3, the applicant is advised that the bollards located in the carpark of 225 High Street require modification to permit through access across the site.**

Carried: 6/0
Cr Sam Wainwright, Cr Jenny Archibald,
Cr Bryn Jones, Cr Adin Lang, Cr Andrew Sullivan, Cr Dave Hume

**Cr Dave Hume requested the item be referred to the Ordinary Meeting of Council.
Seconded by Cr Andrew Sullivan.**

**PC1906 -5 HOPE STREET, NO. 134 (LOT 7), WHITE GUM VALLEY- ADDITIONS
(TWO STOREY) TO EXISTING SINGLE HOUSE - (TG DA0080/19)**

Meeting Date: 5 June 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development Plans
2: Site Photos

SUMMARY

Approval is sought for two storey addition and alterations to the existing Single house at 134 Hope Street, White Gum Valley.

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

- **Visual privacy**
- **Primary street setback**
- **Building height**
- **Boundary setback**

The application is recommended for conditional approval.

PROPOSAL

Detail

Approval is sought for two storey additions and alterations to an existing Single house at 134 Hope Street, White Gum Valley. The proposed works include:

- Demolition of the western portion of the existing dwelling.
- The addition of an upper floor comprising a dining/living room, bedroom, balcony, and bathroom.

The applicant submitted amended plans on 7 May 2019 including the following:

- Modification to the upper floor window location and stair location (western boundary).
- Additional information with regard to the overlooking impact of the upper floor of the dwelling.

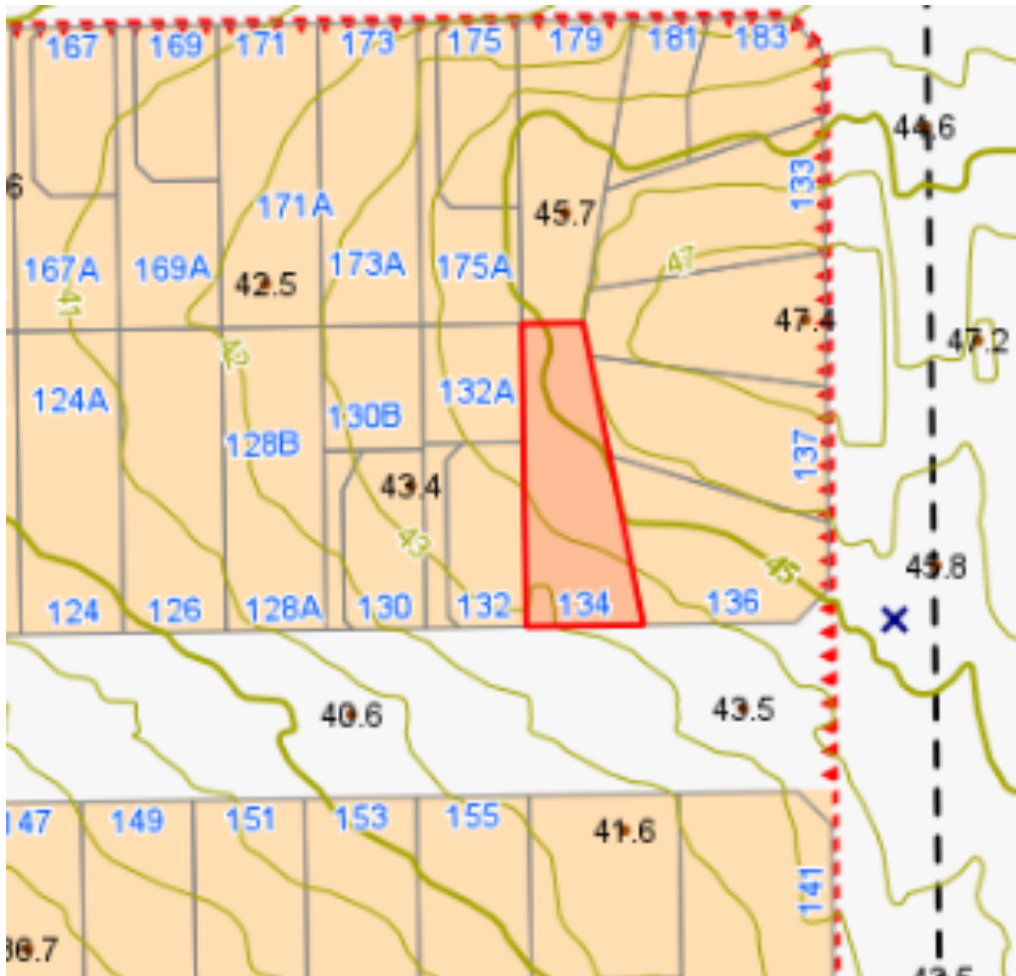
These amended plans also depicted a modification to remove a new vehicle crossover and carport from consideration, consolidating vehicle access from the existing crossover. These modifications were made on a previous revision.

The applicant also provided additional information depicting the extent to which the proposed dwelling overlooks the adjoining dwelling to the west.

Development plans are included as Attachment 1.

Site/application information

Date received: 7 March 2019
Owner name: CJ Horwood and A G Wood
Submitted by: P Healey
Scheme: Residential R20/25
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 the proposal involved variations to the deemed-to-comply criteria of the R-Codes which had the potential to affect adjoining properties. The advertising period concluded on 5 April 2019, and three submissions were received. The following issues were raised (summarised):

- A screen/structure or opaque window to the western side of the upper floor alfresco/balcony was requested to be in place to prevent the direct view into the adjoining property.
- Opaque/frosted glass was requested to be installed for the windows above the stairwell on the west wall– potentially this window allows for direct line of vision from the top of their stairs and landing into windows along the adjoining east wall which open into open plan living areas.
- The height of the proposed building was considered to adversely affect adjoining properties to the east with regard to views, overshadowing, development potential and property values.
- The proposed reduced street setback was considered to adversely affect adjoining properties to the east.

In response to the above, the applicant submitted revised plans to address the above concerns and the following response (summarised):

- The proposed additions will not result in overlooking of major openings and active habitable spaces on adjoining properties as the openings close to the property boundaries result in overlooking of roof areas and street setbacks only.
- The height of the dwelling is consistent with building height in the immediate locality and additional plans were provided demonstrating the proposed dwelling in comparison to a dwelling which met the deemed-to-comply building height requirements but was larger.
- The street setback of the dwelling is consistent with the buildings in the prevailing streetscape.

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

- The applicant amended the location of the proposed stairs to reduce the impact of the development upon the visual privacy of neighbouring dwellings. This amendment is considered to contribute to reducing the potential impact of the proposed development upon mutual visual privacy.
- The impact of development on neighbouring property values is not a relevant planning consideration,
- The proposed development is not considered to unduly impact neighbouring development potential as the additions will not result in modification to proposed works on adjoining sites.

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

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, 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:

- Visual privacy
- Primary street setback
- Building height
- Boundary setback

The above matters are discussed below.

Background

The subject site is located on the northern side of Hope Street, White Gum Valley and is directly adjacent to the street corner with Carrington Street. The site has a land area of approximately 873m² and is currently occupied by a single house. The site is zoned Residential and has a density coding of R20/25. The site is neither individually heritage listed nor located in a Heritage Area.

A search of the property file has revealed that the site has a current approval for subdivision. Should this approval be pursued, a new rear lot is to be created, accessed via a common property access leg (WAPC572-18 dated 13 August 2018). The current proposal includes works, being the demolition of the side of the existing dwelling, which are proposed to accommodate the access leg.

Primary Street Setback - Local Planning Policy 2

Element	Requirement	Proposed	Extent of Variation
Ground floor	7m	7.7m	Nil
Upper floor	10m	7.7m	2.3m

The upper floor street setback is considered to meet the discretionary criteria of Local Planning Policy 2.9 in accordance with the following prevailing street setback assessment:

Property	Setback
128A Hope Street	8m per DA08/05
130 Hope Street	6.84m per DA703/04
132 Hope St	Ground Floor – 4.5m Upper Floor - (N/A)
134 Hope Street (Subject site)	7.6m (ground) 7.7m (upper floor excluding balcony)
136 Hope Street (corner lot)	3.7m (ground) 6.6m (upper excluding balcony) Per approval dated 28 August 1977

In accordance with the above prevailing streetscape, the proposed dwelling is considered to effectively provide a consistent setback across the prevailing streetscape and is not considered to result in an intrusive streetscape element. The dwelling is set behind the setback of the adjoining property to the east and accordingly will not unduly limit views across street setback of the subject site from the adjoining balcony to the east.

Lot Boundary Setback

Element	Requirement	Proposed	Extent of Variation
Upper Floor (east)	1.5m	1.2m	0.3m
Upper Floor (west)	5.2m	3.52m	1.48m

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

- The setback to the east comprises a small portion of the upper floor bathroom wall and the remainder of the wall is set back in accordance with the relevant deemed-to-comply criteria. The wall will accordingly have a limited impact with regard to its bulk and mutual privacy is to be maintained through the inclusion of highlight windows and obscured glazing for openings to this elevation. These openings and the varied setbacks between ground and upper floors are considered to appropriately ameliorate building bulk.
- The setback to the west is considered appropriate on the basis that the inclusion of screening in accordance with the recommended conditions of approval will appropriately ameliorate the privacy impact of the dwelling in accordance with the relevant design principle. The proposed setback of 3.5 metres is considered to appropriately limit the impact of building bulk.
- Sunlight access is considered to be maintained due to the existing lot orientation precluding shade from the development affecting adjoining lots at midwinter when shade cast by development is at its greatest extent.

Building Height

Element	Requirement	Proposed	Extent of Variation
Wall height	7m	8.1m	1.1m

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

- With regard to the views of significance for adjoining properties, it is noted that the rear of the dwelling's height meets the relevant deemed-to-comply criteria and accordingly the height of a wholly compliant structure would limit views to a similar extent to that proposed. It is likewise noted that were the wall height of the dwelling lowered to comply and a pitched roof proposed, this development would limit views to a greater extent.
- The height of the dwelling does not unduly impact sunlight access for adjoining properties as the structure will generally cast shade to the south, over the Hope Street road reserve.

The discretionary height criteria of Local Planning Area 6 (White Gum Valley) of Local Planning Scheme No. 4 are likewise considered to be satisfied for the following reasons:

- The height of the dwelling is considered to be consistent with the height of two storey dwellings in the immediate locality.
- The dwelling is not considered to unduly impact the amenity of the locality by way of its height.

Visual Privacy

Element	Requirement	Proposed	Extent of Variation
Balcony Setback	7.5m	3.52m	3.98m
Living Room Setback	6m	5.1m	0.9m

The overlooking of the adjoining property to the east from the upper floor living room is considered to meet the Design principles of the R-Codes without the inclusion of appropriate screening for the following reasons:

- The location proposed living room window results in minimal potential overlooking to major openings onto habitable rooms at the adjoining property due to the proposed setback and the location of the relevant openings beyond a void.
- The sill height of the windows will restrict any overlooking out over the adjoining roof area which is not considered to be a sensitive space.

The overlooking of the adjoining property to the east from the upper floor balcony is considered to meet the Design principles of the R-Codes without the inclusion of screening for the following reasons:

- The applicant has provided additional plans demonstrating the degree of overlooking from the upper floor balcony, and it is considered that generally, overlooking from this space will fall over the adjoining roof area and street setback, thereby not overlooking areas sensitive to overlooking.
- The location of the dwelling structure is considered to provide sufficient visual privacy protection for major openings on the adjoining property.

The applicant has contended that the proposal does not result in undue overlooking of the neighbouring property's outdoor living areas or major openings onto habitable rooms (supporting plans are included as attachment 1).

CONCLUSION

In accordance with the above considerations, aspects of the proposal which vary the statutory planning requirements are considered to appropriately address the relevant discretionary criteria of LPS4, the R-Codes and Council Policy. The proposed additions are considered to be consistent with existing development in the immediate locality. Accordingly the proposal is recommended for approval, subject to conditions.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC1906 - 5

Moved: Cr Bryn Jones

Seconded: Cr Jenny Archibald

Planning committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions (Two Storey) and Alterations to Existing Single house at No. 134 (Lot 7) Hope Street, White Gum Valley, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 7 May 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**

Advice Notes

- i) The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of 134 Hope Street including any footing details of the development.**
- ii) A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**

- iii) A demolition permit is required to be obtained for the proposed demolition work. The demolition permit must be issued prior to the removal of any structures on site.**
- iv) Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.**

Carried: 6/0

**Cr Andrew Sullivan, Cr Jenny Archibald,
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume**

**PC1906 -7 EUCLA COURT, NO. 8 (LOT 210), NORTH FREMANTLE ?
ADDITIONS AND ALTERATIONS (TWO STOREY) TO EXISTING
SINGLE HOUSE - (TG DA0068/19)**

Meeting Date: 5 June 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development Plans
2: Site Photos

SUMMARY

Approval is sought for two storey additions and alterations to the existing Single house at 8 Eucla Court, North Fremantle.

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

- **Primary Street setback (ground and upper floor)**
- **Boundary walls (east and south)**
- **Lot boundary setback (eave setback)**
- **Vehicle Sightlines**
- **Fencing height**

The application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for two storey additions and alterations to an existing two storey single house at 8 Eucla Court, North Fremantle. The proposed works include:

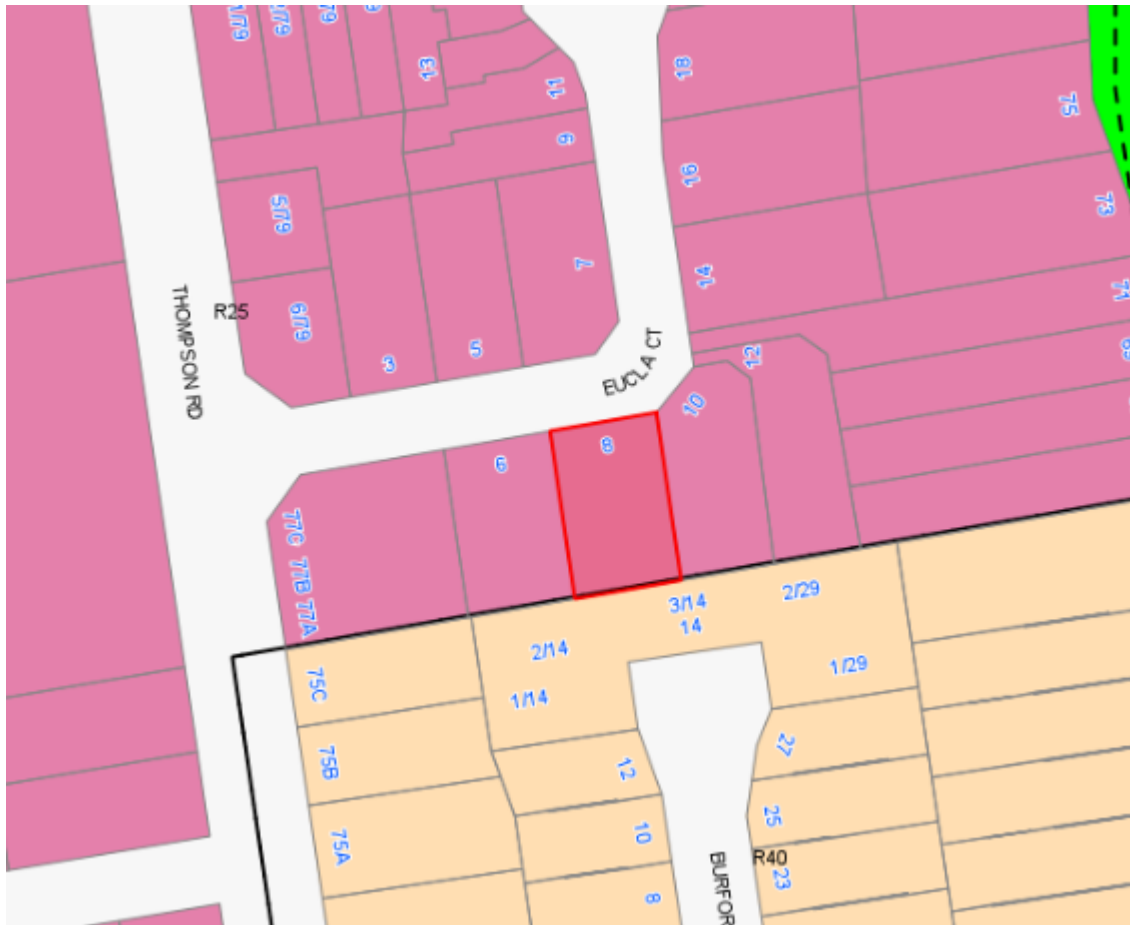
- The addition of single boundary walls to the southern and eastern site boundaries to enclose a proposed alfresco area and store room.
- The addition of a primary street fence to the northern (front) boundary of the site with infill panels indicated to be 50% open.
- The extension of the upper floor of the dwelling to create a new living room. The upper floor addition includes a pitched roof with a gable feature.

The applicant submitted amended plans on 30 April 2019 including an amendment to the proposed front fence to reduce the height of solid fencing within the sightline truncation area for the existing driveway.

Development plans are included as Attachment 1.

Site/application information

Date received: 27 February 2019
 Owner name: D W Court
 Submitted by: D W Court
 Scheme: Mixed Use R25
 Heritage listing: North Fremantle Heritage Area
 Existing land use: Two storey Single house
 Use class: Single house
 Use permissibility: A



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved variations to the deemed-to-comply criteria of the R-Codes and the requirements of Local Planning Scheme No. 4 and Council Policy. The advertising period concluded on 25 March 2019, and two submissions were received, one supporting the proposal and one objecting to the proposal. The following issue was raised (summarised):

- The discretionary matters are of concern as it was considered that the bulk of the proposed second storey development will impact adversely on the streetscape and the amenity of a number of surrounding properties.

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

- The site is in an area characterised by two storey dwellings with reduced or minimal street setbacks. The proposed development is considered by the applicant's representative to be consistent with this context.
- The addition will be finished with a mix of materials thereby assisting in reducing the perception of the impact of building bulk.

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

- In accordance with the prevailing streetscape assessment in the officer comment section below, the proposed street setback of the upper floor addition is considered to unduly project into the existing streetscape.

The remaining comments are addressed in the officer comment below.

OFFICER COMMENT

Statutory and policy assessment

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

- Primary Street setback (ground and upper floor)
- Boundary walls (east and south)
- Lot boundary setback (eave setback)
- Vehicle Sightlines
- Fencing height

The above matters are discussed below.

Background

The subject site is located on the southern side of Eucla Court in North Fremantle. The site has a land area of approximately 400m² and is currently occupied by a two storey single house. The site is zoned Mixed Use and has a density coding of R25. The site is not individually heritage listed but is located within the North Fremantle Heritage Area.

The subject site is identified as being bushfire prone in accordance with Department of Fire and Emergency Services mapping however the development is exempt from the requirements of State Planning Policy 3.7 – Planning in Bushfire Prone Areas as the proposal comprises additions to a single house on a lot less than 1100m².

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

- The existing dwelling was approved and constructed in approximately 2000.
- DA0058/14 – Patio addition to existing single house – approved.

Primary street setback (ground and upper floor)

Element	Requirement	Proposed	Extent of Variation
Ground Floor	5m	4.9m	0.1m
Upper floor	7m	3.4m	3.6m

The reduced street setback to the ground floor is considered to meet the discretionary criteria of LPP 2.9 for the following reasons:

- The ground floor storeroom extension is set behind the existing ground floor of the dwelling and dwellings on adjoining properties, thereby clearly being compliant with the prevailing streetscape.

In accordance with Local Planning Policy 2.9, in considering a reduced street setback for the upper floor, consideration is given to the prevailing streetscape, being in this case the adjoining dwelling at 6,10 and 12 Eucla Court. The street setbacks of the upper floor portions of these dwellings are considered to be greater than that being proposed for this site.

Property	Setbacks
77C Thompson Road	N/A – Corner site which subject site does not adjoin.
6 Eucla Court	Ground Floor – 5.25 (Garage) Upper Floor – 6.4m (4m to open sided porch/balcony)
8 Eucla Court (Existing and proposed)	Ground Floor – 4m (existing) 4.9m (proposed) Upper Floor – 6.9m (existing) 3.4m (proposed)
10 Eucla Court	Ground Floor – 3.4m (Garage) Upper Floor – 13m (from west side)
12 Eucla Court	Ground Floor – 3.1m (effective) Upper Floor – No upper floor
14 Eucla Court	N/A - not considered to form part of prevailing streetscape Ground Floor – 4.38m Upper Floor – 4.38m



Image 1: Aerial image of the subject site and other sites in the prevailing streetscape

In accordance with the above prevailing streetscape, it is considered that an argument may be made in favour of a minor reduced upper floor street setback (i.e. the full 7m upper floor setback may not be required) due to the presence of reduced upper floor setbacks as existing and at the adjoining property to the west. However given that the proposed upper floor setback (3.4m) will result in an excessively projecting element into the streetscape for Eucla Court this is considered to be inconsistent with the prevailing streetscape and the provisions of LPP2.9.

The applicant provided the following considerations in support of the reduced street setback:

Consideration (summarised)	Officer Comment
The upper floor setback is consistent with the built form generally found in Eucla Court and the Eucla Court area is characterised by two storey dwellings with reduced street setbacks.	This argument is noted, however it is noted that the development of Eucla Court predates the adoption of the relevant local planning policy. As considered above, the properties adjacent to the subject site generally exhibit upper floor setbacks which are well set off the primary street boundary.
No. 6 Eucla Court exhibits a reduced setback and is two storeys in height.	As noted above, it is agreed that 6 Eucla Court exhibits a reduced setback however this is not to the extent that is proposed by the applicant. Permitting a reduced setback to the upper

	floor of the subject site consistent with the setback of an open porch/balcony structure on the adjoining property is not considered to be consistent with the discretionary criteria of LPP 2.9 as this policy requires that adjoining development be of a similar height and the required setbacks are taken to the solid wall of a building.
No. 7 Eucla Court exhibits a reduced setback and is two storeys in height.	The City's policy does not generally include properties across a street in the consideration of a streetscape.
No. 10 Eucla Court exhibits a reduced setback.	This is noted however as noted above, the upper floor of this dwelling is set back approximately 13m from the primary street, thereby complying with the relevant current policy requirement.
No. 14 Eucla Court exhibits a reduced setback to its upper floor.	This site is considered to form part of a separate streetscape as it is located around a corner in Eucla Court.

The development has also been considered against the relevant design principles of the R-Codes (5.1.2):

5.1.2 – Street setbacks	
Design Principles	Complies
P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:	
<ul style="list-style-type: none"> contribute to, and are consistent with, an established streetscape; 	No – the upper floor addition is considered to project into the streetscape of this portion of Eucla Court.
<ul style="list-style-type: none"> provide adequate privacy and open space for dwellings; 	Yes – the development complies with open space requirements visual privacy requirements.
<ul style="list-style-type: none"> accommodate site planning requirements such as parking, landscape and utilities; and 	Yes – Readily accommodated on site as existing.
<ul style="list-style-type: none"> allow safety clearances for easements for essential service corridors. 	Yes – unaffected by the proposed development.
P2.2 Buildings mass and form that:	
<ul style="list-style-type: none"> uses design features to affect the size and scale of the building; 	No – the varied materials to the addition are not considered to appropriately ameliorate building bulk.
<ul style="list-style-type: none"> uses appropriate minor projections that do not detract from the character of the streetscape; 	N/A – no minor projection proposed.
<ul style="list-style-type: none"> minimises the proportion of the façade at ground level taken up by building services, vehicle entries 	Yes – limited area of blank wall and appropriate provision of vehicle parking supply provided.

and parking supply, blank walls, servicing infrastructure access and meters and the like; and	
<ul style="list-style-type: none"> positively contributes to the prevailing development context and streetscape as outlined in the local planning framework. 	<p>No – the development is considered inconsistent with the required street setbacks and to result in an undue projecting element into the streetscape of the subject portion of Eucla Court.</p> <p>LPP 2.9 clearly indicates the City’s requirements with respect to the setback of new dwellings and the discretionary criteria have not been adequately addressed in this instance.</p>

The upper floor street setback is therefore not supported on the basis that it is not considered to satisfy the relevant development requirements of LPP2.9 and DE5.1.2 of the R-Codes.

Boundary walls (east and south)

Element	Requirement	Proposed	Extent of Variation
Boundary walls (east and south)	1m	Nil	1m

The boundary walls are considered to meet the Design principles of the R-Codes as listed in the City’s LPP2.4 policy in the following ways:

- The proposed boundary walls are considered to comprise an effective use of space to improve privacy and utilise the side access areas of the site.
- The walls are single storey and thereby of limited bulk impact, either affecting adjoining boundary walls or side/rear access areas.
- The walls do not impact adjoining privacy as they do not contain windows or bring overlooking windows unduly close to the property boundary. The addition of the alfresco is in part proposed to improve the privacy of the existing outdoor living area on site.
- Light and ventilation are appropriately provided for in the proposed setbacks. The roof louvres will permit light and ventilation access on site. Due to lot orientation, the walls will have limited shade impact.
- The walls are considered to be consistent with the established prevailing streetscape and will not result in a projecting boundary wall element.

Lot Boundary Setback (eave incursion)

Element	Requirement	Proposed	Extent of Variation
Setback of minor projections	Minor projections and eaves overhangs not projecting more than 0.75m into a setback area.	Approximately 0.8m projection	0.05m

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

- The eave adjoins an existing boundary wall and roof structure to the adjoining property, thereby being considered to have a limited impact with regard to its building bulk.
- Sunlight and ventilation will be maintained due to the limited dimension of the eave and lot orientation which will result in minimal shade cast over the adjoining lot at midwinter.
- The eave is not considered to impact adjoining privacy.

Vehicle Sightlines

Element	Requirement	Proposed	Extent of Variation
Sight Lines	Walls to be truncated within 1.5m of a vehicle access point.	1.8m high pier, 0.75m high solid infill, and 1.8m high visually permeable infill panels within sightline truncation area.	Works included within truncation area.

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

- The visually permeable infill panels provide for appropriate sightlines above the permitted 750mm high infill panels. Were the application recommended for approval, a condition would be recommended requiring that the fencing infill panels be visually permeable in accordance with the relevant definition.
- No footpath or pedestrian access way adjoins the subject site, reducing the likelihood that pedestrians may use the site verge.

Fencing Height

Element	Requirement	Proposed	Extent of Variation
Local Planning Policy 2.8 – Height of Solid Fencing	1m solid fencing height (excluding support piers)	1.8m solid fencing height	0.6m

The proposed primary street fencing height is considered to meet the relevant discretionary criteria of LPP 2.8 in the following ways:

- The solid portion of fencing comprises a feature panel with the remainder of the fence providing visually permeable fencing infill panels in accordance with the policy requirements.
- Due to the use of this area as an outdoor living area with a pool, it is considered appropriate to accommodate an element of privacy to the front setback.
- There are multiple examples of minor portions of fencing which exceed the listed height requirements of the policy in the immediate area of the subject site and accordingly this aspect of the proposal will be consistent with the established streetscape.

The fencing height is likewise considered to satisfy the relevant design principles of the R-Codes as mutual surveillance of the street is provided through visually permeable fencing and via openings to the upper floor of the dwelling. The inclusion of a feature wall panel is considered to enhance the streetscape appearance of the dwelling.

CONCLUSION

As considered above, were the street setback of the upper floor of the dwelling increased, the remaining items which vary the deemed-to-comply requirements of the R-Codes could be considered worthy of support. Accordingly the application is recommended for refusal on the basis that the objectives of LPP 2.9 and the relevant design principles of the R-Codes have not been appropriately addressed with regard to the upper floor street setback.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.2:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey additions and alterations to existing Single house at No. 8 (Lot 201) Eucla Court, North Fremantle, as detailed on plans dated 30 April 2019, for the following reasons:

1. The street setback of the upper floor of the dwelling does not satisfy the variation criteria of Local Planning Policy 2.9 as the setback is inconsistent with the setback of comparable height in the prevailing streetscape and results in a projecting element into the established streetscape.
2. The street setback of the upper floor does not satisfy the design principles of State Planning Policy 3.1 (Residential Design Codes of WA) as the setback is inconsistent with the established streetscape and does not positively contribute to the prevailing or future development context.
3. The proposal is detrimental to the amenity of the area and incompatible with the objectives of the Residential Zone set out in clause 3.2.1 (a) of the Local Planning Scheme No. 4 as per clauses 67(a) and (m) of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.

COMMITTEE DECISION ITEM PC1906 -7
(Alternative officer's recommendation)

Moved: Cr Bryn Jones Seconded: Cr Jenny Archibald

Planning committee acting under delegation 1.2:

Approve, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey additions and alterations to existing Single house at No. 8 (Lot 201) Eucla Court, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans dated 30 April 2019 It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. Prior to occupation/ use of the development hereby approved, the boundary wall located on the eastern boundary shall be of a clean finish in any of the following materials:
 - coloured sand render,**
 - face brick,**
 - painted surface,**and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 4. Prior to the issue of a building permit, the fencing infill panels within the Primary Street setback area shall be visually permeable 1 metre above natural ground level as per clause 5.2.4 C4 of the Residential Design Codes and thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. The works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.**
- 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. In regards to condition 4, visually permeable is defined by LPP 2.8 Fences Policy as:**

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

- Continuous vertical or horizontal gaps of at least 50mm width occupying not less than one half of its face in aggregate of the entire surface or where**

narrower than 50mm, occupying at least two thirds of the face in aggregate, as viewed directly from the street; or

- A surface offering equal or lesser obstruction to view.

- ii. Prior to the issue of a building permit, the development is to comply with the applicable construction requirements as prescribed in Australian Standard 3959 – Construction of Buildings in Bushfire Prone Areas, to the satisfaction of the City of Fremantle.

As the property falls within a designated bush fire prone area, there is also a requirement to provide a Bushfire Attack Level (BAL) assessment by an appropriately accredited professional.

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

The link below is to the WA accredited practitioners (View bpad accredited practitioner register) who will be able to assist with the relevant bush fire prone affected properties. <http://www.fpaa.com.au/bpad.aspx>

- iii. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.
- iv. Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.
- v. The swimming pool safety barrier must comply with all provisions of AS 1926 Parts 1 & 2 – 2012.

The boundary fence (part that is being used as part of the barrier) must be a minimum 1.8m in height to be used as part of the barrier, in accordance with AS1926.1. A 900mm non-climbable zone quadrant on the inside only, in accordance with AS 1926.1 must be complied with.

Carried: 6/0

Cr Andrew Sullivan, Cr Jenny Archibald
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume

Reason for change

The design of the proposed development including the street setback of the upper floor was considered acceptable within the context of the established streetscape.

**PC1906 -8 LOUISA STREET, NO. 1 (LOT 2) AND NO. 3 (LOT 3) SOUTH
FREMANTLE - TWO STOREY ADDITIONS AND ALTERATIONS TO
EXISTING SINGLE HOUSE**

Meeting Date: 5 June 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Amended Development Plans
2: Site Photos

SUMMARY

Approval is sought for an upper floor addition and internal alterations to the existing Single house at No. 1 Louisa Street, South Fremantle. Retrospective works have also been carried out to connect this dwelling to the existing adjoining dwelling at No.3 Louisa Street, South Fremantle.

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

- Street setback

The application is recommended for refusal.

PROPOSAL

Detail

Approval is sought for an upper floor extension and ground floor alterations to an existing Single house at 1 Louisa Street, South Fremantle. The proposed works include:

- An upper floor addition to the existing dwelling at 1 Louisa Street including a bathroom, living room, outdoor living area (balcony) and bedroom.
- The amalgamation of 1 and 3 Louisa Street, and
- Works to attach the two dwellings at 1 and 3 Louisa Street (already completed).

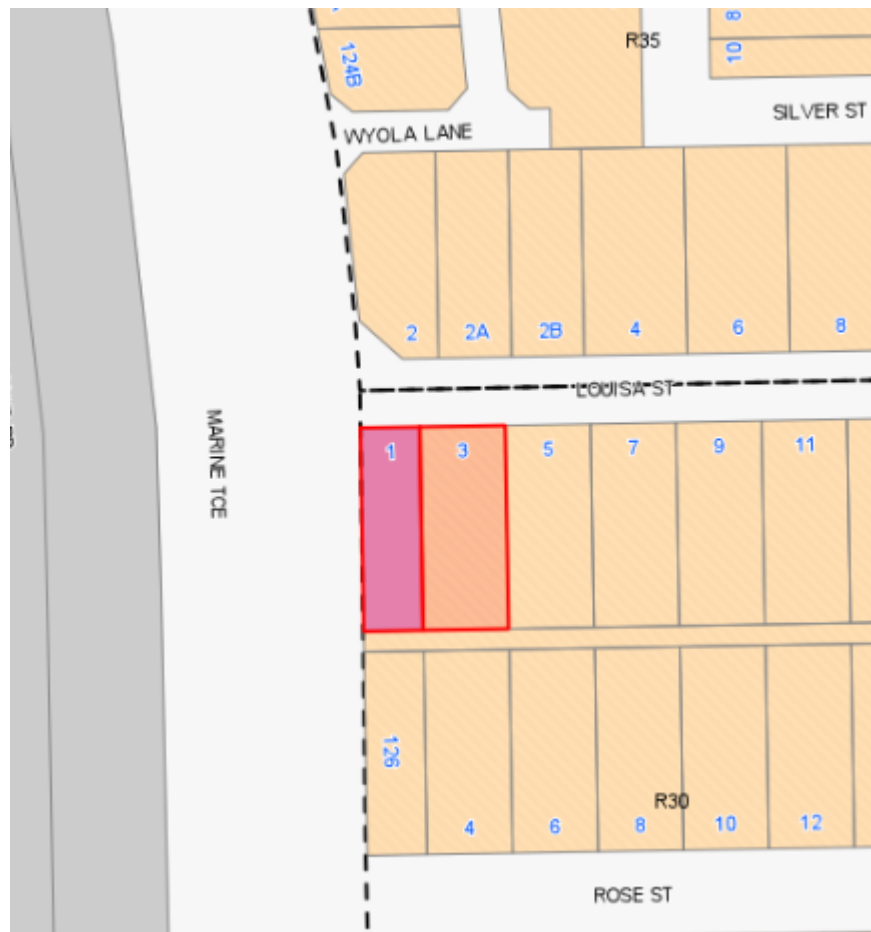
The applicant submitted amended plans on 14 May 2019 including the following:

- An increased upper floor primary street setback on the eastern side of the upper floor, and
- The provision of one parking bay, a garage and vehicle access off the rear laneway.

Development plans are included as Attachment 1.

Site/application information

Date received: 14 December 2018
 Owner name: J M Pearson and V A Preston
 Submitted by: Nick Wild
 Scheme: Mixed Use (R30) and Residential (R30)
 Heritage listing: No. 1 Louisa Street: Not Listed
 No. 3 Louisa Street: Level 3
 South Fremantle Heritage Area
 Existing land use: Existing Single houses to both lots
 Use class: Single House
 Use permissibility: P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved the exercise of discretion with regard to a number of aspects of the Residential Design Codes and Local Planning Policies. The advertising period concluded on 21 January 2019, and no submissions were received.

OFFICER COMMENT

Statutory and policy assessment

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

- Street setback

The above matter is discussed below.

Background

The subject sites are located at the corner of Louisa Street and Marine Terrace and are also accessible via a rear private laneway. The two lots have a combined land area of approximately 642m² and are currently occupied by Single houses. Nos.1 and 3 Louisa Street are zoned Mixed Use and Residential respectively and have a density coding of R30. No. 3 Louisa Street is individually heritage listed and both sites are located within the South Fremantle Heritage Area.

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

No. 1 Louisa Street

- DA463/07 – Additions and Alterations (Two Storeys) and change of use to single dwelling. This proposal comprised upper floor additions to the existing building on site and included a change of land use to Single house for the premises.

No. 3 Louisa Street

- No relevant planning history on file

It is noted that a development application approved by the City in 2003 (DA703/02 refers) would have also required the amalgamation of the two lots in question if it were to have been pursued, due to it involving works which crossed the lot boundary

Amalgamation of lots

Works which have been completed on site in attaching the existing dwellings on Nos. 1 and 3 Louisa Street have resulted in non-compliance with the fire separation requirements of the Building Code of Australia. This is due to the fact that existing development on site is located over the property boundary. Accordingly in order to address these requirements, were the application recommended for approval, the subject sites will need to be amalgamated into one lot. The subject sites would remain compliant with the relevant minimum and average site area requirements and the requirements of the R-Codes relating to a Single house.

Land Use

The applicant has advised the City that the dwellings have been physically connected and currently operate as one large Single house. The additions and alterations, the subject of this application, will not alter this situation and therefore there is no requirement to review the existing land uses. It is noted that a Single house is an 'A' use in the Mixed Use zone and a 'P' use in the Residential zone.

Local Planning Policy 2.9 - Residential Streetscape

Element	Requirement	Proposed	Extent of Variation
No.1 Louisa Street Upper Floor	10m	3.96m (Nil to access stairs)	6.04m

LPP 2.9 applies to all residential development, therefore although No. 1 Louisa Street is located within the Mixed Use zone, the Policy applies as the existing and proposed use of the existing building is for residential purposes.

In accordance with LPP 2.9, in considering a reduced street setback, consideration is given to the prevailing streetscape, being in this case the adjoining dwellings at Nos. 3, 5 and 7 Louisa Street. The upper floor setbacks of these dwellings are detailed below:

Property	Street setbacks
3 Louisa Street	Upper floor – 11.5m
5 Louisa Street	No upper floor
7 Louisa Street	No upper floor

In accordance with the above prevailing streetscape, it is considered that there is not a clearly demonstrated prevailing streetscape which is forward of the setbacks required under LPP 2.9. Accordingly it is considered that the proposed upper floor setback of nil to 3.96m results in a projecting streetscape element and is therefore inconsistent with and potentially detrimental to the prevailing streetscape.

The applicant provided the following considerations in support of the reduced street setback:

Consideration	Officer Comment
The subject site, being zoned mixed use, relates to more built up commercial properties onto Marine Terrace rather than Louisa Street.	It is acknowledged that the site is zoned Mixed Use and contains a building that is not typically characteristic of the residential dwellings in Louisa Street. If the primary street setbacks were to be applied to the Marine Terrace frontage, it is unlikely that the City would be able to exercise discretion in approving these works as there are no other properties in the prevailing streetscape The development has its primary access from Louisa Street and in accordance with

	the R-Codes, the primary street setbacks apply to this frontage.
The proposed setback is typical of the streetscape of major roads in the local area where buildings such as warehouses and shopfronts and the development will serve to close off the end of the street block.	This may have been the case for previous development outcomes however the proposal is not considered to appropriately address the discretionary criteria of the City's current development requirements.
Extensive planting in the property verge will screen the upper floor from view from the street.	While multiple trees are located in the property verge which screen the site, these may not be retained in perpetuity.

The development has also been considered against the relevant design principles of the R-Codes (5.1.2):

5.1.2 – Street setbacks	
Design Principles	Complies
P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:	
<ul style="list-style-type: none"> contribute to, and are consistent with, an established streetscape; 	No – the upper floor is considered to project into the streetscape.
<ul style="list-style-type: none"> provide adequate privacy and open space for dwellings; 	Yes – the development provides for additional onsite open space in providing for an upper floor terrace where the existing site provides no open space.
<ul style="list-style-type: none"> accommodate site planning requirements such as parking, landscape and utilities; and 	Yes – Readily accommodated on site.
<ul style="list-style-type: none"> allow safety clearances for easements for essential service corridors. 	Yes – unaffected by the proposed development as the works are located above an existing building.
P2.2 Buildings mass and form that:	
<ul style="list-style-type: none"> uses design features to affect the size and scale of the building; 	No – the proposed upper floor element is considered to increase the bulk impact of the reduced setback.
<ul style="list-style-type: none"> uses appropriate minor projections that do not detract from the character of the streetscape; 	N/A – no minor projection proposed.
<ul style="list-style-type: none"> minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and 	Yes – limited area of blank wall and appropriate provision of vehicle parking supply provided.
<ul style="list-style-type: none"> positively contributes to the prevailing development context and streetscape as outlined in the local planning framework. 	No – the development is considered inconsistent with the required street setbacks and to result in an undue projecting element into the streetscape.

	<p>LPP 2.9 indicates the City’s requirements with respect to the setback of dwellings and the discretionary criteria have not been adequately addressed in this instance.</p>
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As discussed above, No. 1 Louisa Street is located within the Mixed Use zone and is currently occupied by a warehouse building adapted for residential use. The proposed second storey addition is considered to be more typical of a residential addition in regard to its design and finish. Although the design of the proposal is not typically consistent with the character of the existing dwellings in Louisa Street, the characteristics referred to LPP2.9 are generally limited to the setbacks, height and form of walls/fencing/roofs. Having regard to the above, the reduced upper floor street setback is not supported as it results in a projecting element into the Louisa Street setback.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

OFFICER'S RECOMMENDATION

Planning committee acting under delegation 1.2:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey additions and alterations to existing Single house at Nos. 1 and 3 (Lots 2 and 3) Louisa Street, South Fremantle, as detailed on plans dated 14 May 2019 for the following reasons:

1. The street setback of the upper floor of the dwelling does not satisfy the variation criteria of Local Planning Policy 2.9 as the setback is inconsistent with the setback buildings of comparable height in the prevailing streetscape and results in a projecting element into the established streetscape.
2. The street setback of the upper floor does not satisfy the design principles of State Planning Policy 3.1 (Residential Design Codes of WA) as the setback is inconsistent with the established streetscape and does not positively contribute to the prevailing or future development context.
3. The proposal is detrimental to the amenity of the area and incompatible with the objectives of the Residential Zone set out in clause 3.2.1 (a) of the Local Planning Scheme No. 4 as per clauses 67(a) and (m) of the Deemed provisions of the Planning and Development (Local Planning Schemes) Regulations 2015.

COMMITTEE DECISION ITEM PC1906 - 8 **(Alternative officer's recommendation)**

Moved: Cr Bryn Jones Seconded: Cr Andrew Sullivan

Planning committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey additions and alterations to existing Single house at No. 1 (Lot 2) Louisa Street, South Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans dated 14 May 2019. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.
2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.
3. The works indicated on the approved plans, including any footings, shall be wholly located within the cadastral boundaries of the subject site.
4. Prior to the issue of a Building Permit, No. 1 and 3 (Lots 2 and 3) Louisa Street are to be legally amalgamated or alternatively the owner may enter into a legal agreement with the City of Fremantle, drafted by the City's

solicitors at the expense of the owner and be executed by all parties concerned prior to the commencement of the works. The legal agreement will specify measures to allow the development approval to operate having regard to the subject site consisting of two separate lots, to the satisfaction of the City of Fremantle.

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. Further to condition (4), the applicant is advised that the amalgamation of these lots is required in order to satisfy the requirements of the Building Code of Australia.
- ii. A Building permit is required for the proposed Building Works. A certified BA1 application form must be submitted and a Certificate of Design Compliance (issued by a Registered Building Surveyor Contractor in the private sector) must be submitted with the BA1.

Carried: 6/0

Cr Andrew Sullivan, Cr Jenny Archibald
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume

Reason for change

The design of the proposed development including the street setback of the upper floor was considered acceptable within the context of the established streetscape due to the location of the site on the corner of Marine Terrace and the different built form of the existing building compared to traditional houses in Louisa Street.

**PC1906 -6 JOHN STREET, NO. 4A (LOT 500), NORTH FREMANTLE ADDITIONS
(TWO STOREY ANCILLARY DWELLING) TO EXISTING SINGLE
HOUSE - TG DA0110/19**

Meeting Date: 5 June 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development Plans
2: Site Photos

SUMMARY

Approval is sought for a two storey Ancillary dwelling at 4a John Street, North Fremantle.

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

- Rear setback
- Building height
- Ancillary dwelling area.

The application is recommended for conditional approval.

PROPOSAL

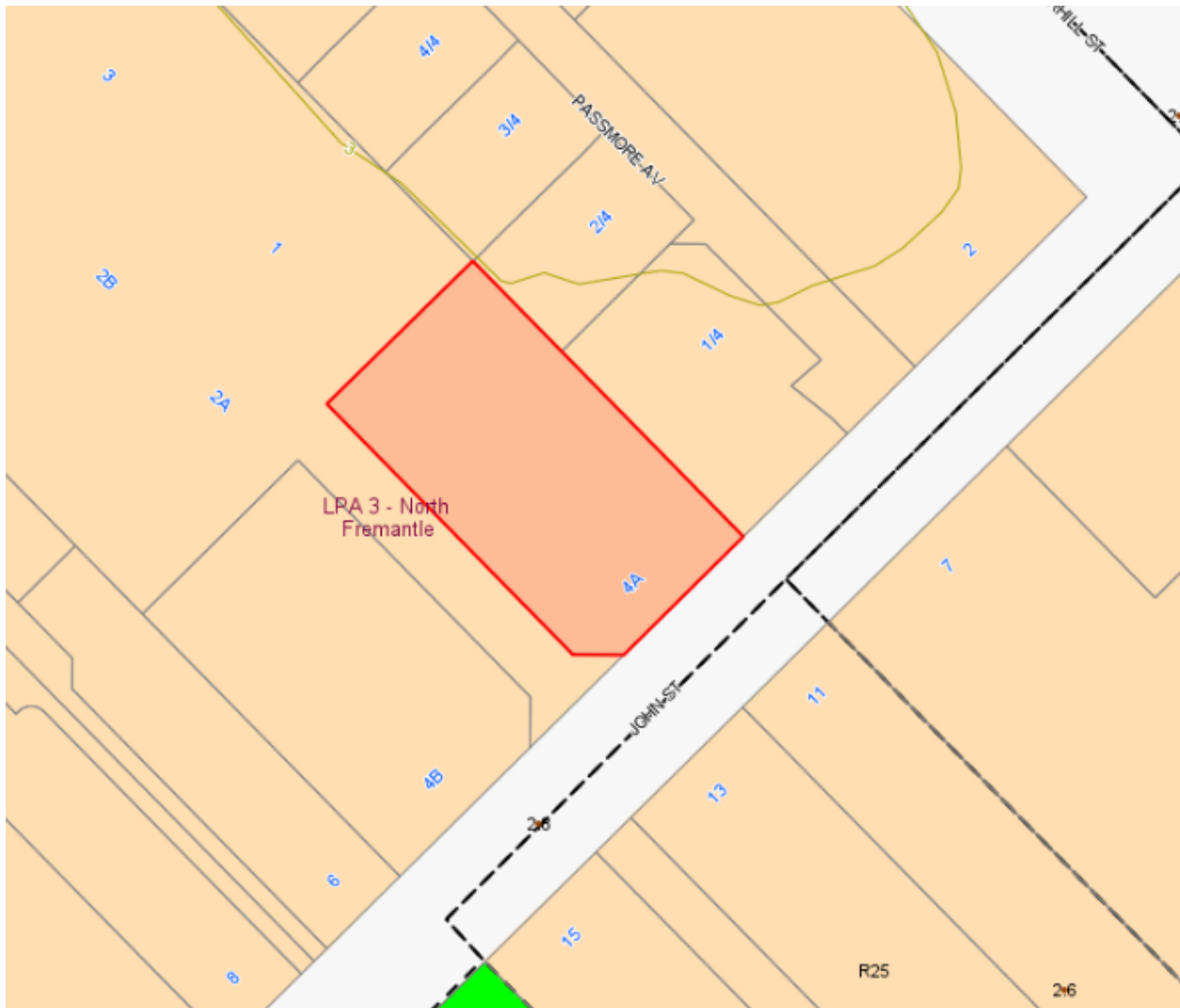
Detail

Approval is sought for the construction of a two storey Ancillary dwelling addition to an existing Single house at 4a John Street, North Fremantle. The proposed works include a new ancillary dwelling to the rear of the existing dwelling comprising a living room, outdoor living area, bedroom, activity/guest room and bathrooms over two storeys.

Development plans are included as Attachment 1.

Site/application information

Date received: 26 March 2019
Owner name: A R and K Vaile
Submitted by: R Massey
Scheme: Residential R35
Heritage listing: North Fremantle Heritage Area
Existing land use: Single house
Use class: Single house
Use permissibility: P



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved variations to the deemed-to-comply criteria of the R-Codes and Local Planning Scheme No. 4 requirements which had the potential to affect adjoining properties. The advertising period concluded on 27 April 2019, and three submissions were received, one supporting the proposal and two raising concerns. The following issues were raised (summarised):

- It is requested that the setback off the rear (north-west) boundary be increased to 1.5 metres in order to increase the separation between the proposed ancillary dwelling and adjoining dwelling.
- It is requested that the cantilevered bedroom be located elsewhere, potentially closer to the main dwelling onsite to reduce the impact upon adjoining properties or that the upper floor be set off the rear boundary further.

- It is requested that the proposed materials be amended to include more ‘interesting, textural materials such as weatherboard, brick, limestone’ to be more in keeping with surrounding cottages and the main dwelling on site.
- It is requested that the height of the dwelling be amended to be single storey to reduce the bulk impact upon adjoining properties in order to ‘preserve the continuity of existing block patterns’.
- It is requested that the ancillary dwelling be reduced in area to meet the deemed-to-comply criteria of the R-Codes. The submitter raised concerns with regard to the upper floor bedroom and its contribution to building bulk impacts.

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

- There is a sufficient setback to the rear (north-west) boundary to address the relevant design principles with regard to building bulk, privacy, and light and ventilation access.
- Our proposal tends to be “inward” looking and not toward the adjoining properties.
- It is proposed to incorporate materials that are a textural and visual compliment to the architectural urban space that exists, though not necessarily consistent with neighbouring heritage dwellings.
- The building is located in the north east corner of the site adjacent to two, two storey dwellings, graduating height down to the single storey dwellings.
- The subject site has a valid approval for a single storey ancillary dwelling of similar plot ratio area.

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

- While the rear (north-west) setback to the ground floor of the building does not meet the relevant deemed-to-comply setback criteria, it is considered to adequately address the relevant design principles of the R-Codes as discussed further below.
- There are no specific requirements with regard to built form outcomes in a heritage area. It is noted that the proposal has been reviewed by, and supported, by the City’s Heritage officers.
- The proposal involves a two storey ancillary dwelling which increases the area of usable open space on the subject site. It is noted that in 2018 a single storey ancillary dwelling of similar size was approved by the City. The height of the dwelling is considered consistent with the heights of buildings in the immediate locality and therefore to satisfy the relevant discretionary criteria of Local Planning Scheme No. 4.
- The area of the ancillary dwelling is considered to satisfy the design principles of the R-Codes and criteria which relate to the limitation of building bulk impacts.

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

OFFICER COMMENT

Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, 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:

- Rear setback
- Building height
- Ancillary dwelling area.

The above matters are discussed below.

Background

The subject site is located on the north-west side of John Street in North Fremantle, in close proximity to the corner of Corkhill Street. The site has a land area of approximately 544m² and is currently occupied by a Single house. The site is zoned Residential and has a density coding of R35. The site is located within the North Fremantle Heritage Area.

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

- DA0246/15 – Conversion of existing garage on site to store room.
- WAPC1321-16 – Subdivision of parent lot into two lots, with the rear lot accessed via a common property access leg along the north east site boundary.
- DA0233/18 – Single storey ancillary dwelling addition.

During the processing of DA0233/18 it was queried as to whether WAPC1321-16 would be pursued and it was advised that this would not be done. If this subdivision were to be pursued prior to its expiry then the ancillary dwelling would be required to comply with the relevant R-Codes requirements including car parking provision.

Lot boundary setback

Element	Requirement	Proposed	Extent of Variation
Ground Floor (north West) –	1.5m	1.2m	0.3m

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

- The ground floor of the dwelling is not considered to result in an undue bulk impact due to the use of varied materials and openings.
- The major opening to this wall is at ground level and below fence height, protecting privacy.
- Winter sunlight access will be maintained due to lot orientation, with shade generally falling across the subject site.
- Ventilation is to be maintained through the proposed setback and open neighbouring yard.

Building Height (External Wall)

Element	Requirement	Proposed	Extent of Variation
Wall Height	5.5m	6.7m	1.2m

The height of the ancillary dwelling is considered to meet the discretionary criteria of Local Planning Scheme No. 4 and the relevant design principles of the R-Codes in the following ways:

- Multiple properties, including the existing dwelling on the subject site, exceed the relevant height requirement, thereby resulting in the ability to exercise discretion with regard to building height in accordance with Local Planning Scheme No. 4 clause 4.8.1.
- The proposed dwelling height effectively graduates the height of nearby two storey properties.
- The proposal is not considered detrimental to cultural heritage values of the subject site or adjoining properties due to the location of the ancillary dwelling being well set back from the adjoining heritage listed dwellings. The proposed ancillary dwelling has also been reviewed by the City's Heritage Officers and is supported in the context of the North Fremantle Heritage Area.
- The overall height and building bulk of the building is ameliorated through the use of a skillion rather than pitched roof.
- Sunlight access to major openings and habitable rooms will be generally maintained due to lot orientation.
- Views of significance are not considered to be unduly compromised due to the location of the addition behind an existing two storey dwelling.

Ancillary Dwelling Area

Element	Requirement	Proposed	Extent of Variation
Plot ratio area	70m ²	103m ²	33m ²

The area of the ancillary dwelling is considered to meet the Design principles of the R-Codes in the following ways:

- The dwelling is not considered to result in an undue building bulk impact due to its built form and will not limit sunlight access to neighbouring sites or the subject property itself.
- For the reasons considered in accordance with setbacks and building height, the amenity impact of the ancillary dwelling is not considered to be significantly detrimental to the immediate locality or adjoining properties.
- The dwelling provides for semi-independent living without precluding future subdivision of the parent lot.
- It is noted that in 2018 a single storey ancillary dwelling addition was considered by the City and approved. This addition was assessed as having a plot ratio area of 94m².

CONCLUSION

In accordance with the above considerations, aspects of the proposal which vary the statutory planning requirements are considered to appropriately address the relevant discretionary criteria of LPS4, the R-Codes and Council Policy. The proposed ancillary dwelling addition is not considered to be detrimental to existing developments in the immediate locality. Accordingly, the proposal is recommended for approval, subject to conditions.

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

COMMITTEE DECISION ITEM PC1906 - 6

Moved: Cr Bryn Jones

Seconded: Cr Jenny Archibald

Planning committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, additions (Two Storey Ancillary Dwelling) to existing Single house at No. 4a (Lot 500) John Street, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 26 March 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**
- 2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**

Advice notes:

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

Carried: 6/0
Cr Andrew Sullivan, Cr Jenny Archibald
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume

**PC1906 -9 COVENTRY PARADE, NO. 4 (LOT 16), NORTH FREMANTLE -
DEMOLITION OF A SINGLE HOUSE - (NB DA0116/19)**

Meeting Date: 5 June 2019
Responsible Officer: Manager Development Approvals
Decision Making Authority: Committee
Attachments: 1: Development Plans
2: Site Photos

SUMMARY

Approval is sought for the demolition of a heritage listed Single house at No. 4 Coventry Parade, North Fremantle.

The proposal is referred to the Planning Committee (PC) as the application involves demolition of a level 3 heritage listed building. However, the street front facing portion of house has been altered such that it is now of little heritage significance.

The application is recommended for conditional approval.

PROPOSAL

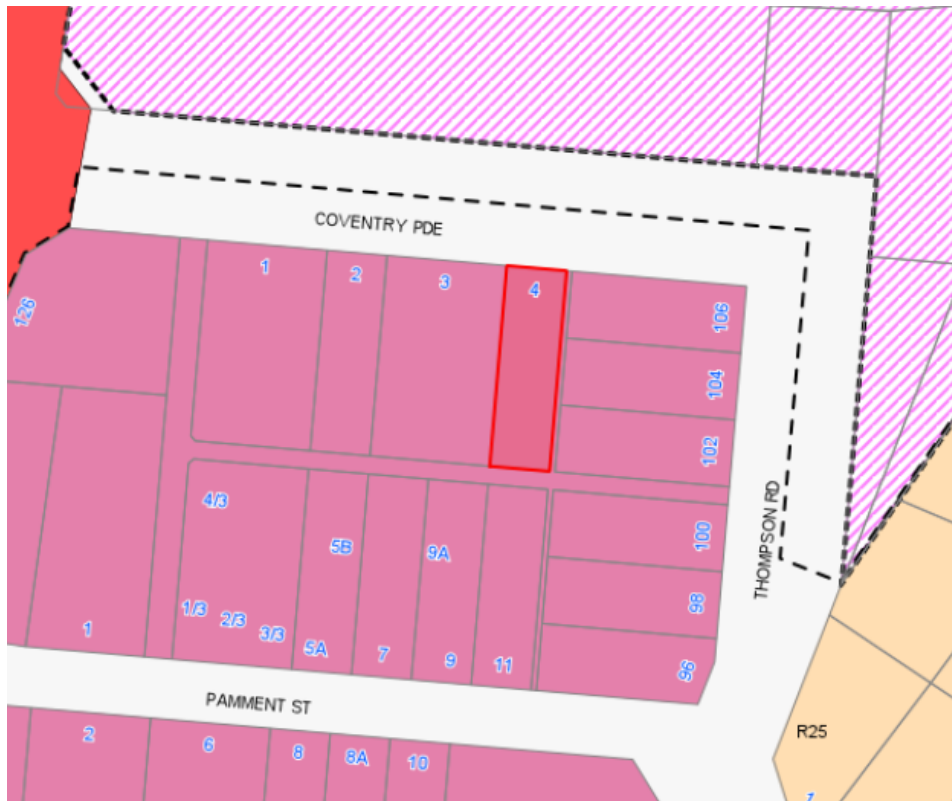
Detail

Approval is sought for demolition of the existing Single house at the subject site.

Development plans are included as Attachment 1.

Site/application information

Date received: 29 March 2019
Owner name: Martin Grounds
Submitted by: Martin Grounds
Scheme: Mixed Use – R25
Heritage listing: Individually Listed Category 3,
North Fremantle Heritage Area
Existing land use: Single house
Use class: n/a
Use permissibility: n/a



CONSULTATION

External referrals

Nil required.

Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as demolition of a heritage listed place was proposed. The advertising period concluded on 3 May 2019, and one submission was received in support of the proposal.

OFFICER COMMENT

Statutory and policy assessment

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

Background

The lot is located on the southern side of Coventry Parade between Stirling Highway and Thompson Road in North Fremantle. The site has a land area of approximately 336m². The site is zoned 'Mixed Use' and has a density coding of R25.

The lot is improved by the addition of a single storey Single house. The place is individually heritage listed as management category level 3, and is also located within the North Fremantle Heritage Area.

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

- In 1983, the City issued a building permit for alterations to the front rooms of the house, including a street facing brick screen wall.

Heritage Comment

No.4 Coventry Parade is included on the City of Fremantle Heritage List under LPS4 and is classified as a management category Level 3 site on the Municipal Heritage Inventory (MHI). This means that the City has identified this place as being of some cultural heritage significance for its contribution to the heritage of Fremantle in terms of its individual or collective aesthetic, historic, social or scientific significance, and /or its contribution to the streetscape, local area and Fremantle. Its contribution to the urban context should be maintained and enhanced.

The Statement of Significance included with the MHI listing describes the House, 4 Coventry Parade, as a small single storey timber and iron cottage. The MHI listing notes that the front of the house has been altered. The house is described as having an asymmetrical façade with walls clad with large timber shingles. It also states that the house is located behind a high face brick wall.

The City's Heritage Coordinator has reviewed the proposal and the state of the existing house, and provides the following assessment:

It is now not possible to see the front façade of the original house because an infill addition stands between the front of the house and a high face brick wall that stands on the front boundary. The wall has three small stained glass windows and an arched opening that contains the front door. It is assumed that the door has been relocated from the original house.

The infill additions would have included the demolition of the front verandah. Consequentially, the house's contribution to its urban context and streetscape has been severely compromised by the front additions. Furthermore, the extent and manner of the construction of these additions means that their removal would not reveal sufficient evidence for a reasonably accurate reconstruction.

It is considered that the current state of 4 Coventry Parade means that it is now of little significance and no longer justifies inclusion at management category Level 3 on the Municipal Heritage Inventory or on Municipal Heritage List.

Demolition of the place is therefore supported under clause 4.14 of LPS4, as the historic alterations mean that the house now has limited or no cultural heritage significance, and does not make a significant contribution to the broader heritage significance and character of the locality.

As the place no longer has heritage significance, if the proposed demolition is supported a Part B to the Officers recommendation is included to remove the property from the City's Heritage List and amended its management category to 'Historic Record Only' on the City's Municipal Heritage Inventory.

STRATEGIC IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

LEGAL IMPLICATIONS

Nil

COMMITTEE DECISION ITEM PC1906 -9

Moved: Cr Bryn Jones

Seconded: Cr Dave Hume

Planning committee acting under delegation 1.2:

A. APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, demolition of the existing Single house at No. 4 (Lot 16) Coventry Parade, North Fremantle, subject to the following condition(s):

- 1. This approval relates only to the development as indicated on the approved plans, dated 28 March 2019. It does not relate to any other development on this lot and must substantially commence within four years from the date of this decision letter.**

ADVICE NOTE:

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

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

Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the *Health (Asbestos) Regulations 1992* and the *Environmental Protection (Controlled Waste) Regulations 2001*. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All

asbestos removal is to be carried out in accordance with the *Occupational Safety and Health Act 1984* and accompanying regulations and the requirements of the *Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)]*;

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

- B. That, 4 Coventry Parade, North Fremantle be removed from the Heritage List and amended to a new management category 'Historic Record Only' on the Municipal Heritage Inventory.**

Carried: 6/0

**Cr Andrew Sullivan, Cr Jenny Archibald
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume**

PC1906 -10 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.

COMMITTEE DECISION ITEM PC1906 -10

Moved: Cr Bryn Jones Seconded: Cr Andrew Sullivan

That the information is noted.

Carried: 6/0
Cr Andrew Sullivan, Cr Jenny Archibald
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume

PC1906 -11 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.

COMMITTEE DECISION ITEM PC1906 -11

Moved: Cr Bryn Jones

Seconded: Cr Andrew Sullivan

That the information is noted.

Carried: 6/0
Cr Andrew Sullivan, Cr Jenny Archibald
Cr Bryn Jones, Cr Adin Lang, Cr Sam Wainwright, Cr Dave Hume

10.3 COUNCIL DECISION

Nil

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12. URGENT BUSINESS

Nil

13. LATE ITEMS

Nil

14. CONFIDENTIAL BUSINESS

Nil

15. CLOSURE

The Presiding Member declared the meeting closed at 8.28 pm.



MINUTES ATTACHMENTS

Planning Committee

Wednesday, 5 June 2019, 6.00 pm

