



# Minutes

## Planning Committee

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Wednesday, 6 March 2019, 6.00pm



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## **PLANNING COMMITTEE**

Minutes of the Planning Committee  
held in the Council Chambers, Fremantle City Council  
on **6 March 2019** at 6.00 pm.

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### **1. OFFICIAL OPENING, WELCOME AND ACKNOWLEDGEMENT**

The Presiding Member declared the meeting open at 6.00 pm.

#### **2.1. ATTENDANCE**

Dr Brad Pettitt	Mayor (arrived 6:09pm)
Cr Jon Strachan	Presiding Member / South Ward
Cr Bryn Jones	North Ward / Deputy Presiding Member
Cr Ingrid Waltham	Deputy Mayor / East Ward
Cr Adin Lang	City Ward
Cr Jeff McDonald	Hilton Ward
Cr Dave Hume	Beaconsfield Ward
Mr Philip St John	Chief Executive Officer
Mr Paul Garbett	Director Strategic Planning and Projects
Ms Julia Kingsbury	Manager Development Approvals
Mr Tom Geddes	Planning Officer
Ms Kayla Beall	Meeting Officer

*There were approximately 17 members of the public in attendance.*

#### **2.2. APOLOGIES**

Nil

#### **2.3. LEAVE OF ABSENCE**

Nil

### **3. DISCLOSURES OF INTERESTS**

Nil

### **4. RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE**

Nil

### **5. PUBLIC QUESTION TIME**

**The following members of the public spoke in favour of the Officer's Recommendation for item PC1903 -1:**

Abdul Mousli  
Jose Sanchez

**The following member of the public spoke in favour of the Officer's Recommendation for item PC11903 - 2:**

Brett Montgomery

**The following member of the public spoke against the Officer's Recommendation for item PC1903 - 2:**

Trevor Hayes

**The following member of the public spoke in favour of the Officer's Recommendation for item PC1903 - 3:**

David Marshall

**The following members of the public spoke against the Officer's Recommendation for item PC1903 - 3:**

Emma Herrick  
Chris Bong  
Martin Cox  
Brendan Foster

**The following member of the public spoke in favour of the Officer's Recommendation for item PC1903 - 5:**

Ross Drennan

**The following member of the public spoke in favour of the Officer's Recommendation for item PC1903 -7:**

David Smith

**The following member of the public spoke against the Officer's Recommendation for item PC1903 - 7:**

Max Ashford

**6. PETITIONS**

Nil

**7. DEPUTATIONS**

Nil

**8. CONFIRMATION OF MINUTES**

**COMMITTEE DECISION**

**Moved: Cr Jon Strachan**

**Seconded: Cr Bryn Jones**

**That the minutes of the Planning Committee dated 6 February 2019 as listed in the Council agenda dated 27 February 2019 be confirmed as a true and accurate record.**

**Carried: 6/0**

**Cr Jon Strachan, Cr Ingrid Waltham,  
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume**

**9. ELECTED MEMBER COMMUNICATION**

Nil

## 10. REPORTS AND RECOMMENDATIONS

### 10.1 DEFERRED ITEMS

**PC1903 -1 DEFERRED ITEM - FIFTH AVENUE, NO. 22 (LOT 14)  
BEACONSFIELD - ANCILLARY DWELLING AND GARAGE  
ADDITION TO EXISTING SINGLE HOUSE (NB DA0448/18)**

**Meeting Date:** 6 March 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Amended Development Plans  
2: Original Development Plans  
3: Site Photos

#### SUMMARY

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

The application was presented to the January Planning Committee (PC) due to submissions received that could not be addressed through a condition of development approval regarding the proposed lot boundary setback variation.

At the meeting, PC resolved to:

*Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the Ancillary dwelling and garage addition at 22 Fifth Avenue, Beaconsfield, based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal in order to reduce the length of the boundary wall along the southern boundary and/or increase the setback of the wall from the southern boundary.*

Amended plans were submitted on 12 February 2019 lowering the floor level of the addition, and therefore the overall height, by 150mm and proposing a new 1.8m high colorbond fence with an additional 500mm lattice to the southern boundary to match the existing fence and provide a more uniform look when viewed from the neighbouring property.

The application is recommended for conditional approval.

#### PROPOSAL

##### Detail

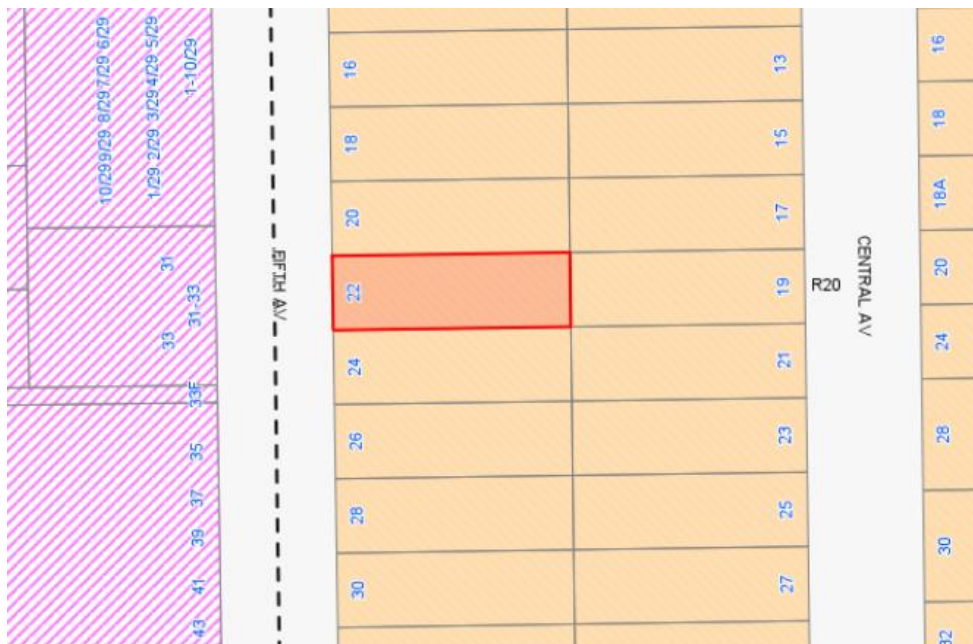
Approval is sought for:

- Ancillary dwelling, two-car garage and workshop addition
- 1.8m high southern boundary fence with 500mm of lattice above (*Note: Fencing and lattice height comply with Schedule A of LPS4 and therefore do not require planning approval*)

- Retaining walls along the southern and eastern boundary.

**Site/application information**

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



**CONSULTATION**

**External referrals**

Nil required.

**Community**

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

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

The above comments are addressed below.

The amended plans did not require advertising as no new discretion was sought.

## OFFICER COMMENT

### Statutory and policy assessment

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

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

- lot boundary setback.

The above matter is discussed below.

### Background

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

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

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

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

The application was presented to the January Planning Committee (PC) due to submissions received that could not be addressed through a condition of development approval regarding the proposed lot boundary setback variation.

At the meeting, PC resolved to:

*Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the Ancillary dwelling and garage addition at 22 Fifth Avenue, Beaconsfield, based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal in order to reduce the length of the boundary wall along the southern boundary and/or increase the setback of the wall from the southern boundary.*

### Amendments

In response to the PC's resolution, the applicant has submitted amended plans on 12 February 2019. The revised plans include the following changes:

- lowering the floor level of the addition, and therefore the overall height, by 150mm

- a new 1.8m high colorbond fence with an additional 500mm lattice to the southern boundary to match the existing fence and provide a more uniform look when viewed from the neighbour property.
- confirmation that the proposed materials and finishes of the boundary wall are cream and red face brick, which is similar in colour to the finish of the existing dividing fence.

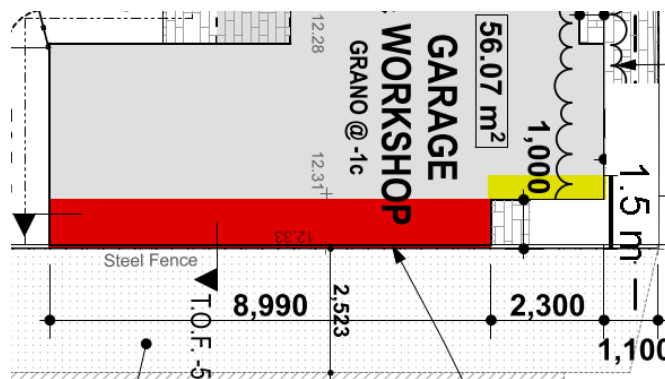
In addition to the above changes the applicant has advised that further changes to the proposal cannot be made due to the following site constraints:

- The subject site contains a sewer line running along the rear of the property which prevents the addition being located further east towards the rear boundary of the site or reducing the finished floor level any further than amended.
- Due to the siting of the existing house, including the existing narrow vehicle access leg, options to manoeuvre in and out of the proposed garage addition are limited. This limits the ability to increase the setback of the garage from the southern boundary or reduce the length of the proposed boundary wall.

**Lot boundary setback**

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

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



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

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

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

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

The boundary wall is supported for the following reasons:

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

## **CONCLUSION**

As detailed above, the applicant has reduced the height of the proposed boundary wall by reducing the finished floor level of the addition. In addition the revised plans propose to install a dividing fence with additional lattice in front of the boundary wall to minimise the change to the view of the addition from the neighbouring property to the south.

In addition to the officer's assessment against the criteria of LPP2.4 and the R-Codes above, the proposed changes are considered to minimise the impacts on the neighbouring property and the officer's original recommendation for approval is still applicable.

## **STRATEGIC IMPLICATIONS**

Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

**COMMITTEE DECISION ITEM PC1903 -1**

**Moved: Cr Dave Hume    Seconded: Cr Bryn Jones**

**The Planning committee acting under delegation 1.2:**

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

- 1. This approval relates only to the development as indicated on the approved plans, dated 12 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. Notwithstanding condition 1 above, the fencing and lattice shown on the approved plans do not form part of this approval.**
- 3. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 4. Prior to occupation of the development hereby approved, the boundary wall located on the southern boundary shall be of a clean finish in any of the following materials:
  - coloured sand render,**
  - face brick,**
  - painted surface,**and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. 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 2, the fencing and lattice as shown on the approved plans comply with the height requirements of Schedule A of the Local Planning Scheme No. 4 and are therefore exempt from requiring planning approval.**
- ii. It is recommended that the applicant liaise with the adjoining property owner (s) regarding the possible retention or replacement of the existing dividing fence along the common lot boundary. Please refer to the Dividing Fences Act 1961 for the rights and responsibilities of land owners regarding**

**dividing fences. Information is available at the following website:**  
[http://buildingcommission.wa.gov.au/bid/Dividing\\_Fences.aspx](http://buildingcommission.wa.gov.au/bid/Dividing_Fences.aspx).

**Carried: 6/0**  
Cr Jon Strachan, Cr Ingrid Waltham,  
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume

Mayor, Brad Pettitt arrived at 6:09 pm prior to consideration of the following item.

**PC1903 -2 DEFERRED ITEM- CADD STREET,NO. 21 (LOT 45), BEACONSFIELD  
- TWO, TWO STOREY GROUPED DWELLINGS - (CJ DA0416/18)**

**Meeting Date:** 6 March 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Revised development plans  
2: Original development plans  
3: Site photos

## **SUMMARY**

Approval is sought for two, two storey Grouped dwellings at No. 21 Cadd Street, Beaconsfield (subject site).

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. The original proposal included the following discretionary assessments:

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

The original application was referred to PC and an Ordinary Council Meeting (OCM) in January where Council resolved to refer the application to the Administration and invite the application to consider amending the proposal in order to comply with the street setback requirements of LPP 2.9 Residential Streetscape Policy.

In response to Council's resolution, the applicant submitted revised plans amending the primary street setback of the front dwelling. The revised proposal has removed the primary street setback variation however the following discretionary assessments remain:

- Lot boundary setback (boundary walls)
- Land use

The revised proposal is considered to improve the development as viewed from the street and further minimise any potential impact on the neighbouring property and is recommended for conditional approval.

## PROPOSAL

### Detail

Approval is sought for two, two storey Grouped dwellings at the subject site which is currently vacant.

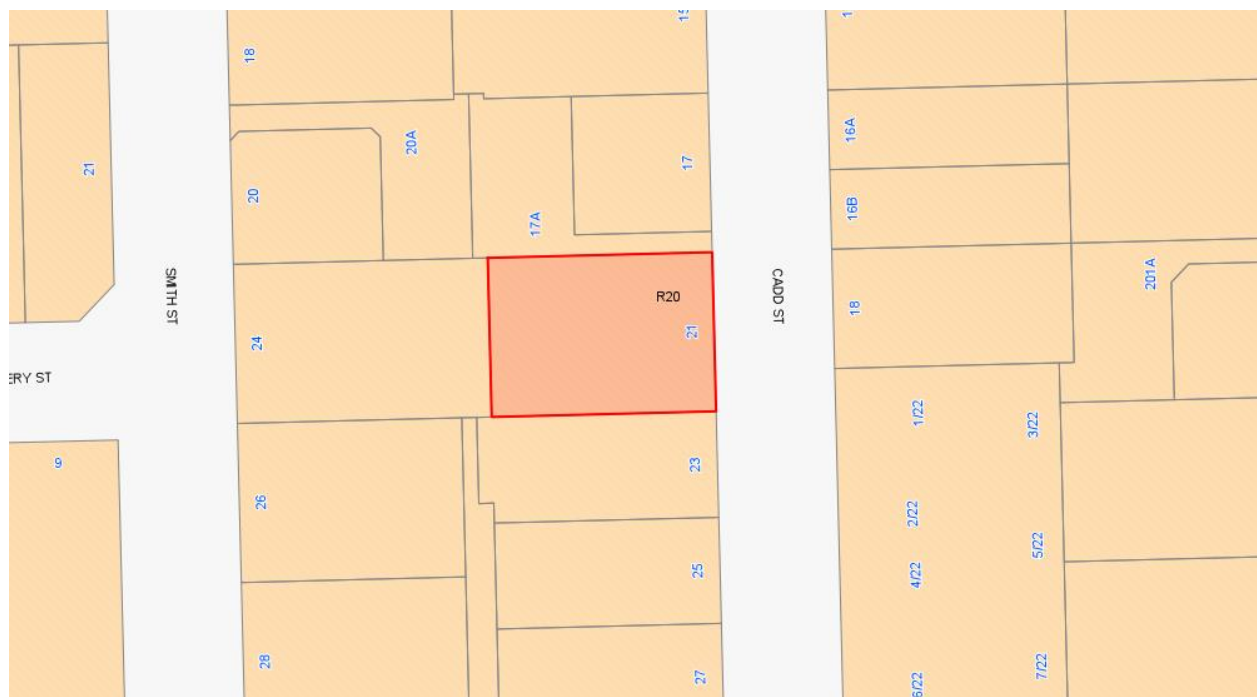
The applicant submitted revised plans (dated 8 February 2019) including the following amendments:

- Reconfiguration of the front dwelling to:
  - Increase the primary street setback of the ground floor from 6m to 7m;
  - Increase the primary street setback of the upper floor from 5.7m to 16.3m;
  - Remove an element of previously non-compliant wall height
- Reduction in the overall height of the roof pitch of both dwellings

The amended plans are included as attachment 1. The plans of the originally submitted to PC are included as attachment 2.

### Site/application information

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



## **CONSULTATION**

### **External referrals**

Nil required.

### **Community**

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

- Impact of the two storey dwellings on the streetscape.
- Homes are too large.
- Privacy impacted.
- Will lose access to northern sunlight.
- Lack of green space, particularly in front yard.

In response to the submission received, the applicant made a number of changes to the plans including, but not limited to, reducing the external wall height and amending the design to ensure the overshadowing meets the deemed to comply requirements. These plans were considered at the January PC and OCM Meetings and are included in Attachment 2.

In addition to the above, the amended plans the subject of this report have also reduced the height of the roof pitch slightly and increased the setback back of the front dwelling to comply with the relevant requirements. These amendments are considered to further minimise the potential impact on the adjoining neighbour.

As no new discretions have arisen from the current revised plans in accordance with LPP1.3 – Public Notification of Planning Proposals, re-advertising of the proposal was not required in this instance.

In response to the comments raised during the consultation on the original proposal and the amended plans the following Officer comments are provided:

- The proposal now complies with LPP 2.9 in regard to its primary street setback.
- Proposed building height now complies.
- Visual privacy meets deemed to comply requirements of the R-Codes.
- It is acknowledged that northern sunlight may be impacted by the development, however the development complies with all relevant criteria, including overshadowing.
- There is no requirement to landscape the development, however an advice note is recommended to encourage the applicant to consider deep planting zones on site.

## OFFICER COMMENT

### Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, the R-Codes and relevant Council local planning policies. Where a proposal does not meet the Deemed-to-comply requirements of the R-Codes, an assessment is made against the relevant Design principles of the R-Codes. Not meeting the Deemed-to-comply requirements cannot be used as a reason for refusal. The original proposal included the following discretionary assessments:

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

The original application was referred to PC and an Ordinary Council Meeting (OCM) in January where Council resolved to refer the application to the Administration and invite the application to consider amending the proposal in order to comply with the street setback requirements of LPP 2.9 Residential Streetscape Policy.

In response to Council's resolution, the applicant submitted revised plans amending the primary street setback of the front dwelling. The revised proposal has removed the primary street setback variation however the following discretionary assessments remain:

- Lot boundary setback (boundary walls)
- Land use

The above matters are discussed below.

### Background

The subject site is located on the western side of Cadd Street in the Beaconsfield Local Planning Area. The site has a land area of approximately 1012m<sup>2</sup> and is currently a vacant site. The site is zoned Residential and has a density coding of R20. The site is not individually heritage listed, nor is it located within a Heritage Area.

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

The application was previously referred to PC in January 2019 with an Officer recommendation for refusal due to negative streetscape impact as a result of the non-compliant primary street setback. The matter was subsequently deferred at OCM in January 2019 as follows:

*Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the two, two storey grouped dwellings at 21 Cadd Street, Beaconsfield, based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal in order to comply with the street setback requirements of LPP 2.9 Residential Streetscape Policy.*

In response to Council's resolution, the applicant has submitted revised plans (dated 8 February 2019) for consideration. An assessment of these plans is detailed below.

### Land Use

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

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

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

### Primary street setback

#### *Previous plans*

<b>Element</b>	<b>Deemed to comply</b>	<b>Provided</b>	<b>Extent of Variation</b>
Ground floor (wall less than 4m in height)	7m (min)	6m (not including Carport)	1m
Upper floor (walls 4m or greater in height)	10m (min)	5.7m	4.3m

*Revised (Current) plans*

Element	Requirement	Proposed	Extent of Variation
Ground floor (wall less than 4m in height)	7m (min)	7m (not including Carport)	Nil
Upper floor (walls 4m or greater in height)	10m (min)	16.3m	Nil

As detailed above, the revised plans comply with the requirements of LPP 2.9 Residential Streetscape Policy and are supported.

**Lot boundary setbacks (boundary walls)**

Element	Deemed to comply	Provided	Extent of Variation
West (rear dwelling)	1.5m	Nil	1.5m
South- Garage (rear dwelling)	1m	Nil	1m

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

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

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

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

## Building height

### *Previous plans*

Element	Deemed to comply	Provided	Extent of variation
External wall height	6m	2.8-6.55m	0.55m

### *Revised (Current) plans*

Element	Deemed to comply	Provided	Extent of variation
External wall height	6m	5.7m (maximum)	Nil

The amended plans have removed the previously sought wall height discretion of the front dwelling, with the revised proposal meeting the deemed to comply requirements of the R-Codes.

Although previously compliant with the ridge height requirements, the roof pitch of both dwellings, in part, has also been lowered by approximately 300mm in the revised proposal.

## Vehicle sightlines

### *Previous plans*

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

### *Revised (current) plans*

Element	Deemed to comply	Provided	Extent of Variation
Front dwelling adjoining carport	Truncated or reduced to 750mm height	Area clear of structures	Complies
Rear dwelling battleaxe leg	Truncated or reduced to 750mm height	Truncated and clear of fence	Complies

The revised plans have removed a section of fence that abuts the Carport, ensuring that the design now meets deemed to comply requirements for sightlines.

### **Crossovers and Driveways**

As detailed above, the subject site has conditional subdivision approval from the WAPC dated 8 August 2018 for a survey strata subdivision with no common property. The proposal was assessed by the City and at the time, a second crossover servicing the front dwelling was supported. Following the issue of the conditional subdivision approval, the applicant lodged a DA, the subject of this report, in September 2018.

On 28 November 2018, Council resolved to endorse the proposed amendments to Local Planning Policy 2.9: Residential Streetscape Policy and refer the amended Policy to the WAPC for approval. At the time writing this report no approval has been received from the WAPC.

Although the subject proposal does not specifically comply with the Draft Policy in regard to driveway and crossover requirements, as conditional subdivision approval has been granted that would result in a second crossover for the newly created front lot and a DA, the subject of this report, which is consistent with the approved lot layout was lodged prior to the adoption of the Draft Policy, changes to the proposed vehicle access to require a single crossover to service both dwellings cannot reasonably be required in this instance.

### **CONCLUSION**

The applicant has positively responded to Officers' and Council concerns, and has made significant changes to the primary street setback. The changes have resulted in a proposal that complies with all relevant deemed to comply and/or design principles and is therefore recommended for conditional approval.

### **STRATEGIC IMPLICATIONS**

#### Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

#### Green Plan 2020

Encourage the retention of vegetation on private land.

1. The site has been cleared.

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

**COMMITTEE DECISION ITEM PC1903 - 2**

**Moved: Cr Dave Hume**

**Seconded: Cr Bryn Jones**

**Planning committee acting under delegation 1.2:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two, two storey Grouped dwellings at No. 21 (Lot 45) Cadd Street, Beaconsfield, 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. Prior to the occupation of the development hereby approved, vehicle crossovers shall be approved and constructed in either paving block or concrete, and thereafter maintained to the satisfaction of the City of Fremantle.**
- 4. Prior to occupation of the development hereby approved, the boundary wall located on the western elevation shall be of a clean finish in any of the following materials:
  - coloured sand render,**
  - face brick,**
  - painted surface, or**
  - colorbond custom orb surfmist and acrylic texture coat render**and be thereafter maintained to the satisfaction of the City of Fremantle.**
- 5. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.**

**Advice notes:**

- i. The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council's specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.**
- ii. The applicant is advised that the approved development shall be wholly located within the cadastral boundaries of No. 21 Cadd Street, Beaconsfield including any footing details of the development.**

**iii. 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](mailto: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.**

**iv. New crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. For the City's crossover specifications, FAQ's, permits etc refer to <https://www.fremantle.wa.gov.au/crossovers>**

**Carried: 5/2**

**For**

**Mayor, Brad Pettitt, Cr Jon Strachan, Cr Ingrid Waltham,  
Cr Bryn Jones, Cr Adin Lang,**

**Against**

**Cr Jeff McDonald, Cr Dave Hume**

**PC1903 -3 DEFERRED ITEM - CADD STREET, 1 (LOT 37) BEACONSFIELD - TWO STOREY GROUPED DWELLING (JCL DA0365/18)**

**Meeting Date:** 6 March 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Amended Development Plans  
 2: Original Development Plans  
 2: Site Photo's

**SUMMARY**

Approval is sought for a two storey Grouped dwelling at No. 1 Cadd Street, Beaconsfield. The application is presented to Planning Committee (PC) due to submissions received that cannot be addressed through a condition of development approval. The original proposal included the following discretionary assessments:

- Wall built up to lot boundary (west)
- Open space
- Building height
- Site works
- Retaining walls (east/south)
- Visual privacy (south)
- Storage

The original application was referred to PC at its meeting held in February 2019 where it was resolved to:

*'Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the two storey grouped dwelling at 1 Cadd Street, Beaconsfield, based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal in order to address concerns relating to overlooking from the open space area and the building bulk impacts on the western and southern neighbours.'*

The applicant has lodged amended plans in response to the resolution of PC. The amended proposal has been assessed against the Local Planning Scheme No.4 (LPS4), Residential Design Codes (R-Codes) and local planning policies and has removed the boundary wall, open space, retaining wall and visual privacy variations. The following discretionary assessments remain:

- Building height;
- Site works; and,
- Storage.

The amended application has been reviewed against the relevant Design principles of the R-Codes for the above elements and is recommended for conditional development approval.

## PROPOSAL

### Detail

Approval is sought for a two storey Grouped dwelling at No. 1 (Lot 37) Cadd Street, Beaconsfield.

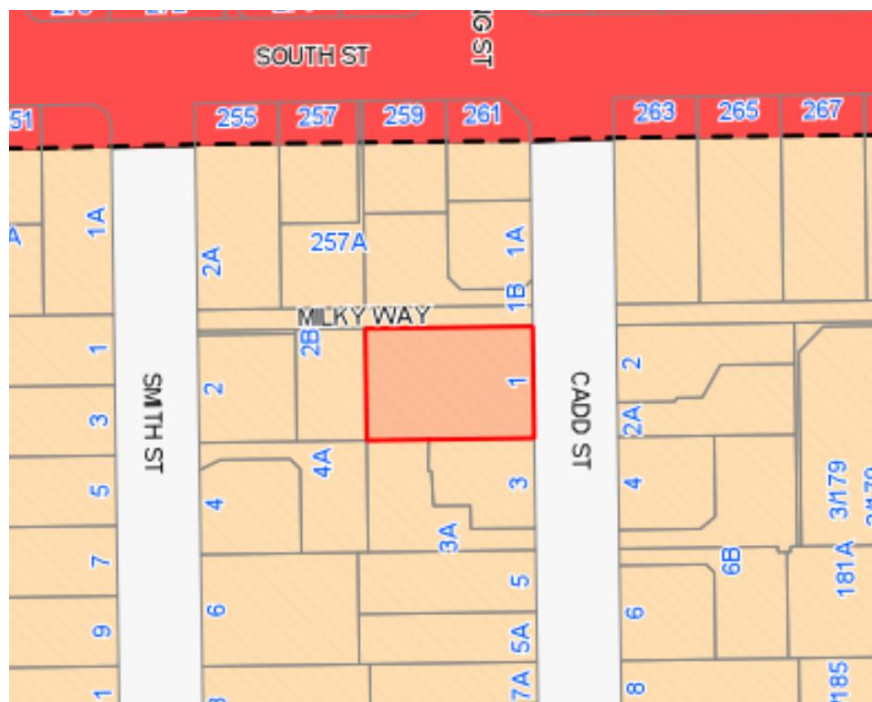
The applicant submitted amended plans in response to PC's resolution outlined above including the following changes:

- Provision of a 1m setback between garage wall and the western lot boundary;
- Removal of retaining to the southern lot boundary.
- Lowering of the ground level of the rear outdoor living area, thereby removing the visual privacy variation;
- Reducing the height of the alfresco area to below 0.5m above natural ground level, thereby rendering the alfresco as open space;
- Minor interior alterations (no variations posed);
- Minor alterations to windows (no variations posed);
- Minor reduction in the height of the roof pitch.

The amended plans are included as attachment 1. The plans of the originally submitted to PC are included as attachment 2.

### Site/application information

Date received: 15 August 2018  
 Owner name: Chillair Services Pty Ltd  
 Submitted by: David Marshall  
 Scheme: Residential (R20)  
 Heritage listing: Not Listed  
 Existing land use: Single house  
 Use class: Grouped dwelling.



## CONSULTATION

### External referrals

Nil required.

### Community

The original application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015. The advertising period concluded on 17 September 2018, and five submissions were received, all objecting to the proposal. The original concerns raised were as follows:

- Objection to the wall built to the western lot boundary.
- Objection to the east and western lot boundary setback variations on building bulk, visual privacy, solar access, ventilation, and amenity grounds.
- Objection to building height on visual amenity and building bulk grounds, in addition to its being inconsistent with the prevailing development context and blocking views of significance.
- Objection to visual privacy variations to north, south, east, and western boundaries.
- Objection to open space variation as it may be insufficient to serve needs of the residents of the proposed dwelling, may impact on solar access for proposed dwelling, and is inconsistent with prevailing development context. In addition, the outdoor living area does not optimise the northern aspect of the site.
- Objection to the height of the proposed retaining wall and site works due to amenity, solar access, bulk, and visual privacy impacts. The cumulative effect of the retaining and fill, in addition to the building height will result in the development having a significant height difference relative to adjoining properties, impacting on amenity.
- Potential fencing on top of the retaining wall is viewed with concern due to potential amenity impacts.
- Concern was raised that the outdoor living area is insufficient for the number of residents housed by the dwelling, thereby resulting in amenity impacts due to a concentration of activity in one area.
- Concerns regarding the proposal utilising the right-of-way (Milky Way) due to increased traffic, in addition to the legality of the subject site gaining access to Milky Way. Comment was made regarding the impact of traffic on the surrounding properties' use of Milky Way for visitor parking.
- Concern with regard to cumulative impact of overshadowing.

In response to above it is noted that:

- The development complies with the Deemed to comply requirements of the R-Codes in relation to the overshadowing and an outdoor living area.
- The rights and responsibilities of land owners regarding dividing fences are governed by the Dividing Fences Act 1961. An appropriate advice note has been included in the officer's recommendation.
- The subject site has access rights for the use of Milky Way in accordance with the *Transfer of Land Act 1893*.

In addition to the above, the amended plans have removed a number of previously sought variations that were raised as concerns in the submissions received; notably being the west facing boundary wall, retaining as a result of site works and visual privacy.

As no new discretions have arisen from the revised plans, in accordance with LPP1.3 – Public Notification of Planning Proposals, re-advertising of the proposal was not required in this instance.

Other relevant matters are discussed further in this report.

## **OFFICER COMMENT**

The amended proposal has been assessed against the relevant provisions of Local Planning Scheme No. 4 (LPS4), the Residential Design Codes (R-Codes), and relevant 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 is not a valid reason for refusal. With regard to the subject application, the elements below do not meet the relevant Deemed-to-comply or local planning policy provision, and require assessment under the Design Principles:

- Building height;
- Site works; and,
- Storage

The above matters are discussed below.

## **Background**

The subject site contains a Single house located within the Beaconsfield Local Planning Area (Local Planning Area 5). The proposal includes the retention of the existing dwelling and the construction of a second dwelling on the western portion of the subject site. The new dwelling will gain vehicle access from the adjacent Right of Way known as Milky Way.

A subdivision application has been conditionally approved by the WAPC on 3 February 2019. It is noted that the applicant has increased the proposed lot boundary for the new dwelling, however it is noted that the dimensions of the lot are generally the same.

The portion of the site where the proposed dwelling is to be constructed has a 2.8m north-south slope falling to the south, and a cross-fall of 0.8m falling from east to west. The highest spot height on the subject site is 8.41. See Figures 1 and 2 for a visual representation of the extent of sloping (noting that the annotations round the measurements up).

Milky Way is the private road name of the right of way that is located adjacent to the subject site. In accordance with the *Transfer of Land Act 1893* as the plan or diagram for the original subdivision of the area included the subject right of way on the plan, the subject site is considered to have an 'implied right' easement enabling access to be obtained directly from the right of way. This easement benefit is appropriately noted on the Certificate of Title for the subject site.

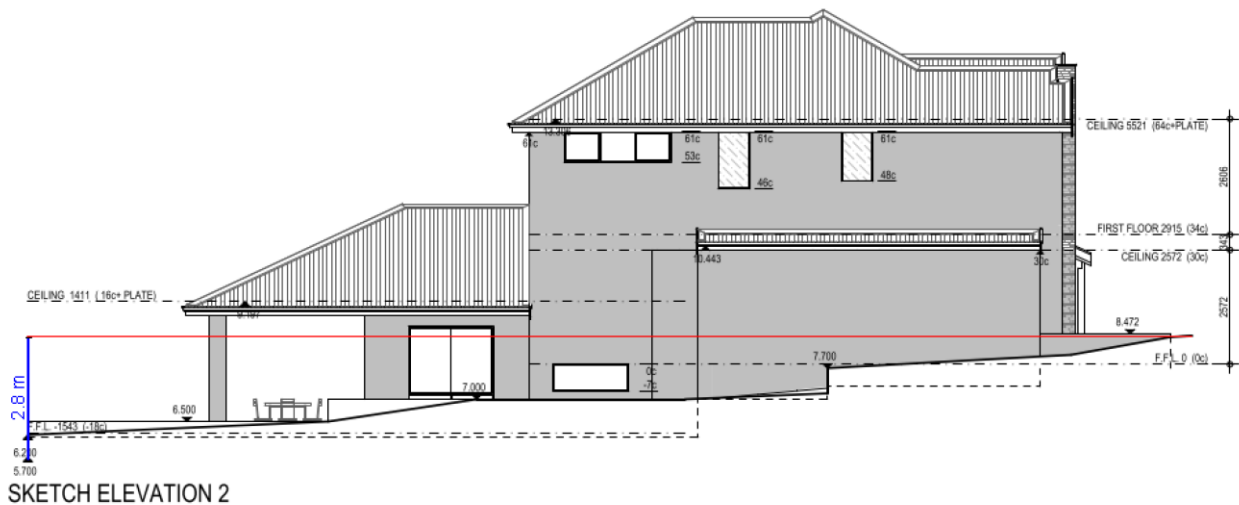


Figure 1: Slope from north to south of subject site (measurements round up).

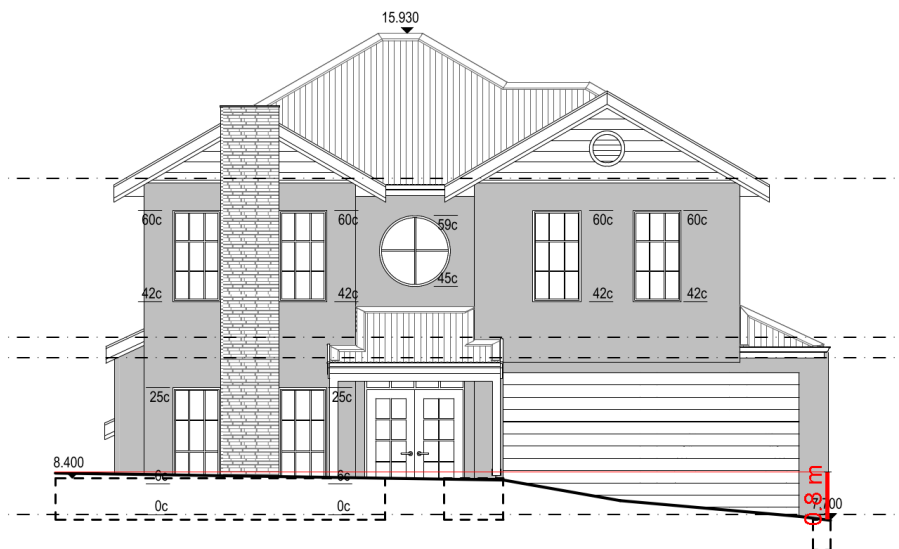


Figure 2: Slope from east to west (measurements round up)

**Boundary Wall**  
*Previous plans*

Element	Required	Proposed	Variation
Boundary wall (West)	1.1m	Nil	1.1m

**Revised (Current) plans**

Element	Required	Proposed	Variation
Boundary wall (West)	1m	1m	Nil

The western boundary wall which formed part of the original application has been deleted in the amended proposal, with the garage wall being setback 1m from the western lot boundary in compliance with the setback requirements of Table 2a of the R-Codes.

**Open space**  
*Previous plans*

Element	Required	Proposed	Variation
Open space	50%	46.1%	3.9%

*Revised (Current) plans*

Element	Required	Proposed	Variation
Open space	50%	55%	Nil

The amended plans comply with the Deemed-to-comply criteria of the R-Codes applicable to open space. Compliance has resulted from the finished floor level of the alfresco being reduced to below 0.5m above natural ground level (and therefore being able to be considered as open space) and the setback of the garage.

**Building height**

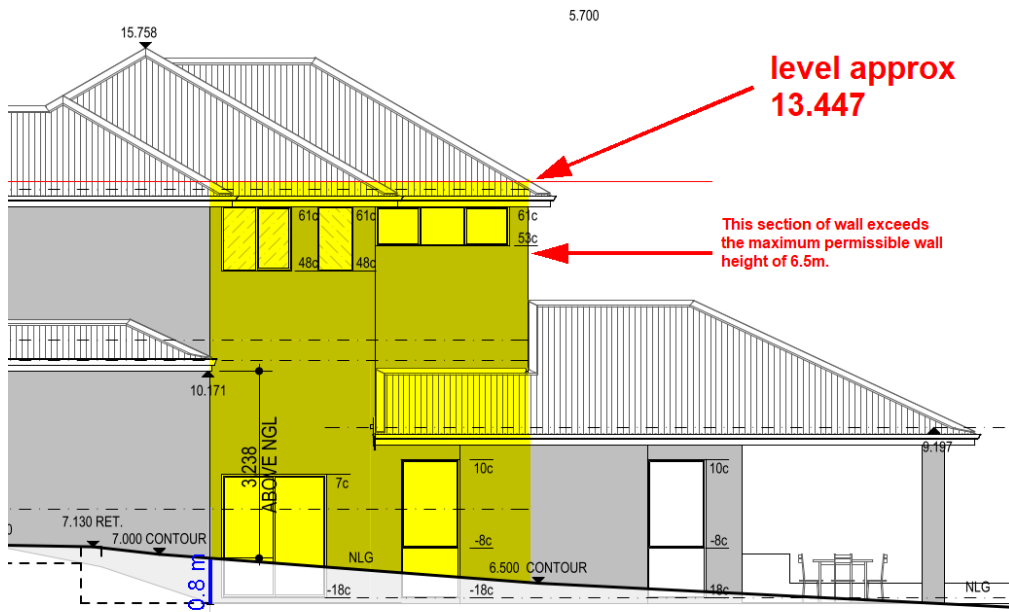
Element	Permitted	Proposed	Variation
Wall height (west and south)	6.5m*	Up to 7.1m	0.6m

\*It is noted that cl. 4.8.1.2 of LPS4, permits a development to exceed the building height requirement of Schedule 8 where there is a variation in the ground level across the footprint of the development of more than 1m and the height that exceeds the requirement is not located on the higher side of the site. In this instance the permitted wall height can be increased to 6.5m in accordance with this clause.

These variations are considered to satisfy the relevant Design Principles of the R-Codes for the following reasons:

Western wall

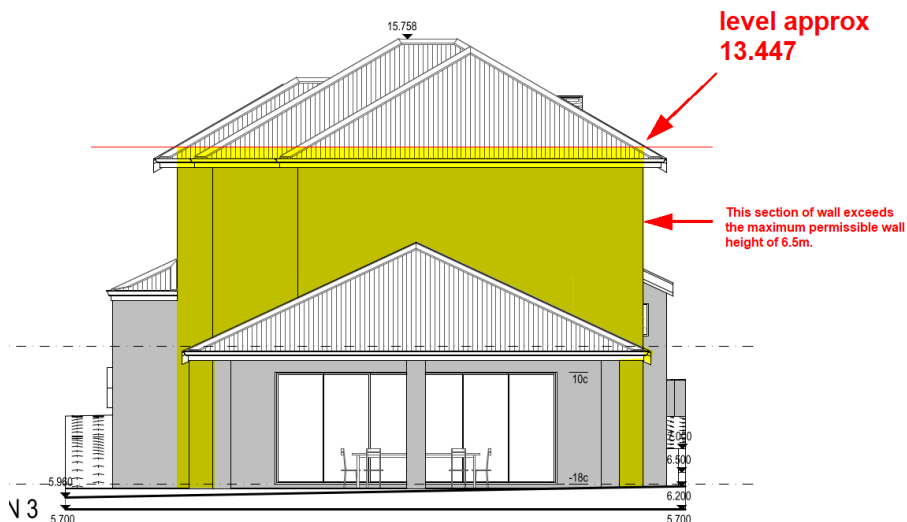
- The 5.5m long section of wall impacting the western lot boundary has a maximum height of 7.1m above natural ground level (ngl) (see image highlighted yellow below in Figure 3). The wall height variation impacting the western portion of the site is confined to a 5.5m section of the mid-western portion of the dwelling due to the slope of the site. This section of the wall is setback approximately 11.1m from the southern boundary at its closest point. To the west, the wall is set back a minimum of 2.39m (at the corner of the walk in wardrobe wall), 3.1m for a length of 2.9m, and 4.9m for a length of 2.6m from the western boundary due to the wall staggering away from the lot boundary. This section of wall is illustrated in Figure 3 below.



**Figure 3:** Western section of wall exceeding 6.5m above natural ground level directly below (figures round up).

**Southern wall**

- As a result of the significant slope (north to south) combined with the east to west cross fall, the two storey southern elevation of the dwelling exceeds the 6.5m allowable height, reaching a maximum height of 7.1m above existing NGL (see image highlighted yellow below Figure 4). This section of wall is set back between 11.2m-16.7m from the southern lot boundary. Moreover, the wall is set back 2.39m from the western lot boundary at its closest point.



**Figure 4:** Southern section of wall exceeding 6.5m above natural ground level directly below (figures round up).

- The staggered setback of the over-height walls of the proposed dwelling from the southern and western lot boundaries minimises the impact of building bulk on neighbouring properties. Moreover, it is not considered to significantly impact on the daylight and ventilation access to the adjoining properties due to the development complying with the lot boundary setback and solar access to adjoining sites Design Elements of the R-Codes. Moreover, the removal of the western garage boundary wall further reduces the building bulk impact on the western neighbour and its existing outdoor living area.
- The building height variation is not considered to adversely impact any identifiable views of significance captured by adjoining properties.

### Site works

#### *Previous plans*

Element	Permitted	Proposed	Variation
Fill (south-west)	0.50m	0.71m	0.21m

#### *Revised (current) plans*

Element	Permitted	Proposed	Variation
Excavation	0.50m	0.724m (north east corner of development, closest to Milky Way)	0.224m

The amended plans have removed the previously proposed fill against the rear (southern) boundary of the lot by reducing the level of the proposed alfresco to be lower than that proposed dwelling.

The amendments have resulted in an area of excavation located in the north east corner of the portion of the lot where the second dwelling is proposed. This variation is considered to satisfy the Design Principles of the R-Codes for the following reasons:

- Given the irregular topography of the site, the proposed level of excavation is considered to reasonably respond to the significant slope and cross fall of the site, whilst allowing for an appropriate FFL for the construction of the dwelling, in addition to providing a level area of open space, thereby allowing for an appropriate outdoor living area at the southern portion of the site with minimal fill required.

### Retaining walls

#### *Previous plans*

Element	Permitted	Proposed	Variation
Retaining wall (south)	0.5m	0.982m	0.482m
Retaining wall (east)	0.5m	0.971m	0.471m

#### *Revised (current) plans*

Element	Permitted	Proposed	Variation
Retaining wall (south)	0.5m	Nil	Nil
Retaining wall (east)	0.5m	0.857m	N/A

The amended plans have removed all previously sought variations posed by retaining walls, thereby minimising any adverse impacts caused to neighbouring properties.

It is noted that sections of proposed retaining with a height above 0.5m are proposed to the eastern portion of the development, however given that these retaining walls are located internal to the parent lot, no variation is posed. Moreover, the small end section of retaining which abuts the southern neighbour is less than 0.5m in height.

### Visual Privacy *Previous plans*

Element	Required	Proposed	Variation
Unenclosed outdoor space (south)	7.5m	Up to Nil	Up to 7.5m

The amended plans remove the visual privacy variation posed by the raised outdoor living area through reducing the retained level height of the outdoor living area to a maximum of 0.453m above natural ground level at its greatest height.

### Storage

Element	Required	Provided
Storage area	4m <sup>2</sup> Storage Area	Nil provided

No enclosed, lockable storage area has been proposed, which is required for a Grouped dwelling. It is noted that a 4m<sup>2</sup> colourbond shed has been indicated on the survey plan, however given it is not included on the floor plans or elevations, it will not form part of this determination.

It is noted that sufficient space on site is available for the provision of a storage area in the future should one be required by the residents, thereby satisfying the requirements of Local Planning Policy 2.1 - *External storage areas for Grouped and Multiple dwellings*.

## CONCLUSION

Approval is sought for the construction of a two storey Grouped dwelling at No. 1 Cadd Street, Beaconsfield.

Amended plans have been submitted addressing areas of concern relating to the location of retaining walls and boundary walls and overlooking. Whilst the amended proposal still proposes variations to building height, excavation and storage, the impact on neighbouring properties has been reduced and these remaining variations are supported through a Design Principle assessment, or addressed through imposing conditions. The amended proposal is recommended for conditional approval.

## STRATEGIC IMPLICATIONS

### Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **OFFICERS RECOMMENDATION**

**Moved: Cr Dave Hume**

**Seconded: Cr Jeff McDonald**

The Planning Committee acting under delegation 1.2:

APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, two storey Grouped dwelling at No. 1 (Lot 37) Cadd Street, Beaconsfield, subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans, dated 12 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. The approved development shall be wholly located within the cadastral boundaries of 1 Cadd Street, Beaconsfield including any footing details of the development.
3. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.
4. Prior to the issue of a Building Permit a Construction Management Plan shall be submitted to the satisfaction of the City of Fremantle addressing the following matters:
  - Protection of infrastructure and street trees within the road reserve;
  - Access to site by construction vehicles;
  - Contact details;
  - Noise - Construction work and deliveries;
  - Sand drift and dust management;
  - Waste management;
  - Traffic management;
  - Works affecting pedestrian areas; and
  - Impact on the access to and from the Right of Way.

## **ADVICE NOTES:**

- i. The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council's specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.
- ii. The colourbond shed indicated on the survey plan does not form part of this approval and may be subject to a separate application for Planning Approval.

- iii. The owner is advised that an obstruction permit may be required from the City for any future obstruction of the Milky Way road reserve. An application for obstruction permit can be found via <https://www.fremantle.wa.gov.au/treesandverges>.
- iv. It is recommended that the applicant liaise with the adjoining property owner (s) regarding the possible retention or replacement of the existing dividing fence along the common lot boundary. Please refer to the Dividing Fences Act 1961 for the rights and responsibilities of land owners regarding dividing fences. Information is available at the following website:  
[http://buildingcommission.wa.gov.au/bid/Dividing\\_Fences.aspx](http://buildingcommission.wa.gov.au/bid/Dividing_Fences.aspx).
- v. 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.
- vi. It is recommended complete removal of the pool:
  - If the pool is in excess of 40m<sup>2</sup>, an Application for a Demolition Permit is required.
  - Once the pool is removed/decommissioned, the property owner is to advise the City so that the Officer Authorised by the City can conduct an inspection.
  - If the building permit application is uncertified, the plans and engineering documents should be clear that there was an existing pool and the soil has been compacted to the satisfaction of the design engineer, and suitable for the dwelling to be constructed.
- vii. Fire separation for the proposed building works must comply with Part 3.7.1 of the Building Code of Australia.
- viii. Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>. A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:

<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>

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

**Lost: 2/5**  
**For**  
Cr Jon Strachan, Cr Bryn Jones  
**Against**  
Mayor, Brad Pettitt, Cr Ingrid Waltham,  
Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume

**COMMITTEE RECOMMENDATION ITEM PC1903 - 3**

**Moved: Cr Dave Hume**

**Seconded: Cr Jeff McDonald**

***Refer the application to the Administration with the advice that the Planning Committee is not prepared to grant planning approval to the application for the two storey grouped dwelling at 1 Cadd Street, Beaconsfield, based on the current submitted plans, and invite the applicant, prior to the next appropriate Planning Committee meeting, to consider amending the proposal to comply with the deemed to comply requirements relating to building height and storage.***

**Carried: 4/3**

**For**

**Cr Jeff McDonald, Cr Dave Hume,  
Cr Bryn Jones, Mayor, Brad Pettitt,**

**Against**

**Cr Ingrid Waltham, Cr Adin Lang, Cr Jon Strachan,**

**The above item is referred to the Ordinary Meeting of Council for determination in accordance with the City of Fremantle Delegated Authority Register which requires that at least 5 members of the committee vote in favour of the Committee Recommendation in order to exercise its delegation.**

## 10.2 COMMITTEE DELEGATION

### PC1903 -5 SOUTH TERRACE, NO. 92 (LOT 5), FREMANTLE - CHANGE OF USE (TAVERN) AND ADDITIONS AND ALTERATIONS TO EXISTING BUILDING - (TG DA0572/18)

**Meeting Date:** 6 March 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:**  
1: Development Plans  
2: Site Photos  
3: Applicant Design Detail

## SUMMARY

Approval is sought for a change of use to the subject site from Hotel to Tavern. In addition, a works component is proposed to create a rooftop deck, multi-level 'beer garden' to the rear of the existing Synagogue building and various internal and external works to modify the existing buildings on site located at No. 92 South Terrace, Fremantle (subject site).

The development site is listed on the State Register of Heritage Places. The content of the proposal has been referred to the State Heritage Office and the application is supported, subject to the submission of additional information for review by the Development Committee and the Director Heritage Development, Heritage Services, Department of Planning, Lands and Heritage.

The subject site is not zoned under the provisions of the Local Planning Scheme No.4 (LPS4) and as such the provisions of LPS4 for the City Centre zone are utilised for guidance purposes only in the planning assessment of this application.

Accordingly, the application requires consideration in relation to:

- Land use (Tavern)
- Car parking
- Bicycle parking

The proposal has been assessed against and is considered to address the relevant statutory provisions of LPS4 for City Centre zoned land and accordingly the application is recommended for conditional approval.

## PROPOSAL

### Detail

Approval is sought for a change of land use for the subject site from Hotel to Tavern. As a previous development approval included the 'Hotel' land use and was acted upon (substantially commenced), this land use applies to the site.

The application details four separate tenancies for the existing site, being:

- A beer garden to be developed in the existing partially constructed basement level.
- A basement bar under the existing synagogue.
- A front bar in the existing shop tenancies.

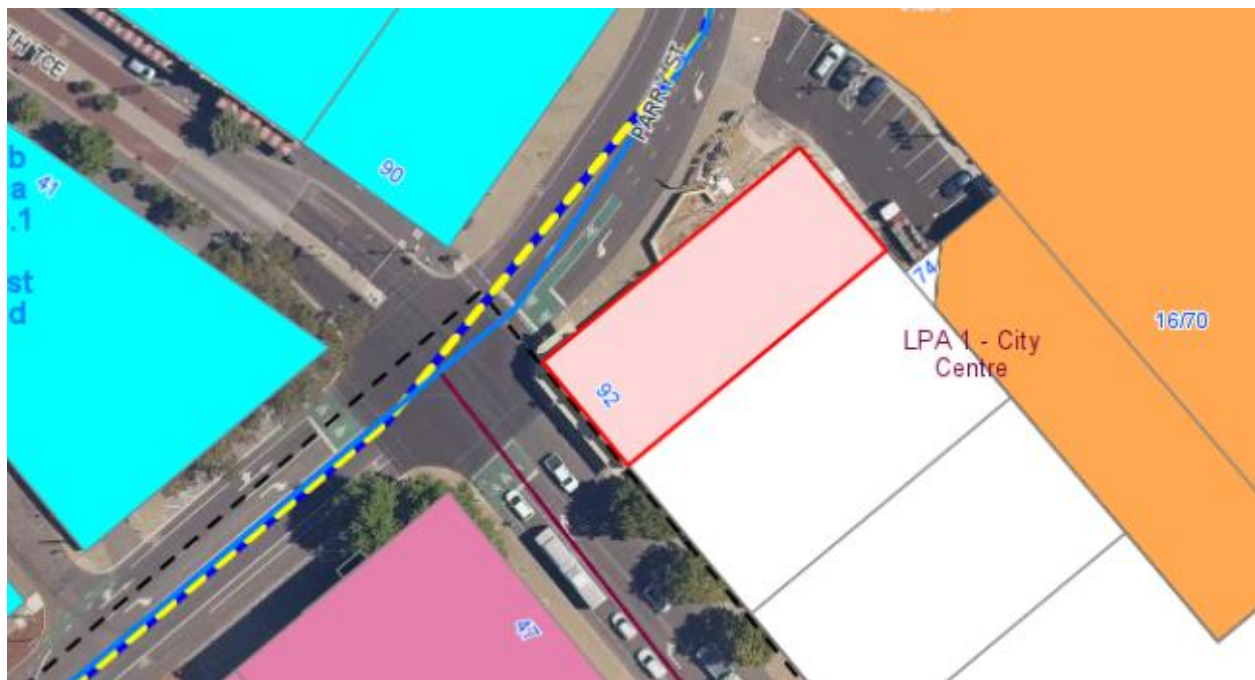
- A restaurant/dining area in the existing synagogue, including the construction of a mezzanine dining level.

These four main tenancies are supported by a common kitchen area, storage and services. Each tenancy includes various areas specified on the proposal plans (such as 'roof deck'). The proposal involves a works component, altering the existing building as well as constructing additional floors above the constructed basement level to the rear of the existing building and creating a roof deck above the existing shopfronts to South Terrace.

Indicative signage is shown on the proposal plans, however specific signage detail has not been finalised as tenants have not yet been found for the development.

**Site/application information**

Date received: 14 December 2018  
 Owner name: 2018 Onward Pty Ltd  
 Submitted by: R Drennan  
 Scheme: Not Zoned  
 Heritage listing: 1A (SHO Place Number 1010)  
 Existing land use: Existing former Synagogue, shopfronts and basement (vacant) – Approved for use as Hotel.  
 Use class: Tavern  
 Use permissibility: N/A (Unzoned Land)



**CONSULTATION**

**External referrals**

The application relates to a place that is registered on the Heritage Council of Western Australia's Register of Heritage Places.

The Statement of Significance for the place refers to it being an important component in a group of loosely spaced, contemporary buildings of considerable townscape importance that together define the southern edge of Fremantle's West End, which includes Markets, Scots Church, Victoria Pavilion and Fremantle Technical College.

Accordingly the application was referred to the State Heritage Office (SHO) for assessment with SHO responding on 31 January 2019 advising the following:

- *The proposed development scheme for the adaptive re-use of the former Fremantle Synagogue has been well considered and overall will not have an adverse impact on the cultural significance of the place. The location of the kitchen, services and facilities to the new addition at the rear is a positive aspect of the proposal.*
- *The proposed new mezzanine level and rooftop bar will potentially have some physical impact on the significant fabric; however, the Development Committee is satisfied that alternatives for these structures have been investigated and overall the impact is acceptable.*
- *The extant original windows to the 1932 shopfront are identified as some significance, and their removal would have a negative impact on the authenticity of the place.*

As such, the SHO advised that they supported the proposal subject to the submission of:

- a revised scheme for the shopfront openings which retains and conserves the original windows and doors and provides additional details of how non-original doors and openings will be replaced;
- further details of how the proposal may be impacted by the National Construction Code;
- a schedule of conservation works;
- a schedule of final materials, colours and finishes;
- a signage and lightning schedule; and
- an interpretation strategy.

The SHO have confirmed that they are comfortable for this information to be submitted following the determination of this development application. These conditions have been included in the Officers Recommendation.

### **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 scope of the proposal. The advertising period concluded on 1 February 2019, and 17 submissions, 12 submissions in support and 5 submissions raising an objection to the proposal.

The following comments were received in support of the proposal:

- Supportive of the adaptive reuse of an existing heritage building.
- Supportive of the proposed land use and the potential for the proposal to provide a venue attractive to tourists, visitors and local residents.
- Supportive for the potential for the proposal to bring additional visitors to Fremantle, thereby supporting other businesses was also raised in support of the proposal.

The following concerns were raised:

- Fremantle already too many restaurants and bars, to the point that some have closed down. The site should be used for retail development.
- Any structure attached to the Synagogue should be sympathetic to the current architecture rather than a modern appearance.
- Noise from the site may unduly impact the use of nearby hotel rooms.
- The proposal involves a significant shortfall in onsite parking, exacerbating an existing lack of car parking in the locality.
- Stairs to up to the roof deck at the corner of South Terrace need to be kept as transparent as possible so as not to limit the visibility of the Old Synagogue.

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

- The proposal needs to be considered on its merits as submitted. The City is not able to control the content of the development applications submitted for its consideration.
- The proposed development has been considered by the State Heritage Office and the City's internal Heritage technical officers and considered to be an appropriate response to the existing built form on site.
- Noise from the site will be subject to compliance with the *Environmental Health (Noise) Regulations 1997*.
- Car parking, in addition to alternative modes of transport, are considered to be readily available (notably the 155 bay Cappuccino Strip public car park directly adjoining the site on South Terrace) and accordingly the proposal is supported in this regard.
- The applicant advised the following in relation to the stairs to the roof deck: *"The stair is proposed as a concrete formed surface to the middle landing and light weight steel and perforated mesh balustrade that would allow views through and back to the Synagogue. It is intended that the stair will be read as a light and translucent shadow like structure that is engineered to appear as fine and thin as possible."*

## OFFICER COMMENT

### Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4 and relevant Council local planning policies. In its determination of this application, Council's primary matters for considerations relate to the:

- 1) Proposed change of Land use to Tavern,
- 2) Onsite Car parking provision, and
- 3) Heritage matters relating to the Synagogue Building.

In addition to the above it must be outlined that the provisions of the City's Local Planning Scheme No.4 (LPS4) do not statutorily apply to the assessment of this application, but rather the provisions of LPS4 are being utilised for the orderly and proper planning assessment of the proposal. This assessment approach is consistent with the approach taken in dealing with previous applications relating to this site, including the 2015 approval for hotel use and additions/alterations.

The above matters are discussed below.

## **Background**

The property at No. 92 South Terrace, Fremantle is located on the eastern corner of the South Terrace and Parry/Norfolk Street intersection. The car parking area to the rear (north-east) of the site is part of the Parry Street road reserve. To the south-east is the City's 'Cappuccino Strip' public car park.

The development site, which is privately owned, contains a former Synagogue, shopfronts and an exposed, partially constructed basement area to the rear of the site.

### *Heritage Listings*

The Synagogue site is listed on the State Register of Heritage Places under the Heritage of Western Australia Act 1990. It is also included on the City's Heritage List and is on the City's Municipal Inventory of Heritage Places (management category 1A). The surrounding locality contains various properties on the SRHP, including:

- Scots Presbyterian Church;
- Fremantle Markets;
- Fremantle Prison (World Heritage Listed).

The site is also partly located within *DGF14 - West End Conservation Area*. Section 75(1) of the *Heritage Act 2018* requires that a decision-making authority to not take any action which might affect to a significant extent a registered place unless that action is consistent with advice received from the Heritage Council. The SHO has supported the proposal, subject to additional information providing additional detail in relation to the finished proposal being submitted for review including the details of the development outcome in relation to the shopfront windows onto South Terrace.

### *Planning Application History*

The site has been the subject of numerous planning applications including several changes of use as well as alterations. Most recently (in 2015), the change of use to a hotel and three storey additions and alterations to the site were approved by the Planning Committee, subject to conditions. As this development approval was subsequently acted upon, the approved 'hotel' land use applies to the site.

### *Planning Framework*

The site is zoned Central City Zone under the Metropolitan Region Scheme (MRS). The land is not zoned under Local Planning Scheme No 4 (LPS4) and as such, Council is acting under delegated authority from the Western Australian Planning Commission (WAPC) to determine the planning application under the MRS. In doing so, Council is required to have due regard to the provisions of LPS4 in accordance with orderly and proper planning principles.

## **Land Use**

A Tavern is an 'A' use in the City Centre Zone, which means that the use is not permitted unless the Council has exercised its discretion by granting planning approval after undertaking consultation in relation to the proposal. 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 proposed land use and development is consistent with existing businesses in the City Centre area and is consistent with the objectives of the City Centre Zone.
- The proposed development is not considered to unduly impact adjoining properties by way of its scale or appearance. As a corner lot adjoining only car parking areas, the proposal presents limited ability to impact the locality.
- Consultation undertaken by the City has found that responses to the proposal have been generally favourable and supportive of the proposed land use and works.

In considering the above, it is noted that the subject site is not zoned and accordingly the above assessment has been made in accordance with the principle of orderly and proper planning.

### **Built Form**

With regard to built form, the additions to the existing building are considered to be subservient to the existing Synagogue buildings on site. The proposal has been reviewed by the SHO and internal heritage technical officers and the additions are not considered to unduly impact the heritage significance of the existing buildings on the site and in the locality. The additions are considered to be of simple design and are well separated from the existing buildings on site and on adjoining lots.

The additions are considered to be consistent with the objectives of the West End Conservation Area Policy (D.G.F14), being sympathetic to the existing buildings on site and the proposal generally preserving and enhancing the historic elements on site.

In accordance with the above considerations, the proposal is considered to be of an appropriate scale so as to not unduly impact adjoining properties and the locality and is therefore considered worthy of support.

### Vehicle parking

Although the proposal as a whole is considered to be a Tavern, in considering car parking provision for the site, it is considered appropriate to utilise the parking requirement for a 'Restaurant' in addition to a 'Tavern' in accordance with Local Planning Scheme No. 4 to inform the calculation of required bays. It has been considered that the tenancy located in the Synagogue building will be more consistent with the operation of a 'Restaurant' and therefore this car parking standard will be appropriate.

Required	Provided	Extent of variation
Tavern - 1:2.5m <sup>2</sup> of public bar (120.8m <sup>2</sup> public bar area)	Nil	24.16 bays
Tavern - 1:5m <sup>2</sup> of lounge / garden area (363.4m <sup>2</sup> of outdoor garden area)	Nil	72.68 bays
Restaurant - 1:5m <sup>2</sup> dining area (98.8m <sup>2</sup> of dining area)	Nil	19.76 bays
Delivery bay 1:service/storage area (1)	Nil	1 delivery bay
	<b>Total</b>	<b>116.6 (117) bays and 1 delivery bay</b>
<i>Bicycle bays</i>		
Tavern		
Class 1:1 per 25m <sup>2</sup> bar floor area & 1:100m <sup>2</sup> lounge and beer garden area	Nil	8.4 (9) class 1 bays
Class 3: 1 per 25m <sup>2</sup> bar floor area & 1:100m <sup>2</sup> lounge and beer garden area	11	Nil (8 class 3 bays provided outside Synagogue and 3 in basement storeroom)
Restaurant		
Class 1 or 2: 1 per 100m <sup>2</sup> public area	3 for 98.8m <sup>2</sup> of dining area	Nil (3 class 2 bays provided in ground floor storeroom)
Class 3: two	3 for 98.8m <sup>2</sup> of dining area	Nil (8 class 3 bays provided outside Synagogue.

In addition to the above, it is noted that the City may support additional bicycle parking bays in the Parry Street road reserve.

In accordance with clause 4.7.3.1 Council may waive or reduce car parking requirements subject to the following –

*i) The availability of car parking in the locality including street parking:*

Public parking is available in nearby streets, as well as larger public car parks (Fremantle Oval, Queensgate, Cappuccino Strip & Collie Street Car park) within a reasonable walking distance.

*ii) The availability of public transport in the locality;*

The City Centre is well serviced by bus and rail transport, as well as Taxis.

For the reasons above, the Change of Use to Tavern is supported with no onsite car parking. It is also noted that the proposed lack of onsite parking encourages the use of alternative modes of transport for a land use which is likely to result in the consumption of alcohol.

Clause 5.7.3.3 of LPS4 allows Council to waive class 1 and 2 bicycle racks requirements of Table 2 when a proposal involves a minor change of use. In this instance, whilst it can be considered this is relevant to the existing Synagogue portion of the building onsite, given a significant beer garden area is also proposed, the bicycle rack provisions generated by this component of the development should be accommodated onsite.

The waiving of the class 1 bike racks is supported as the proposal includes appropriate areas for additional secure bicycle parking on site. The proposal includes multiple internal storage spaces could accommodate class 1 bicycle racks.

With regard to Class 3 rack provisions, it is noted that several racks already exist within close proximity of the site (Norfolk Hotel and on South Terrace). These racks are already well utilised by other business occupants and as such additional racks are considered warranted in this situation. The proposal includes on site bicycle parking bays and the potential to provide additional bays within the public land.

#### **Access Management – Deliveries and Waste**

The proposed development intends to make use of the adjoining area of road reserve to the north of the site (currently used by the City as a public car park) for deliveries to the site and waste management. This arrangement is consistent with the previous approval for the site, issued in 2015.

In order to ensure that use of this land does not result in undue safety concerns or conflict with the users of the City's car park, it is to be a requirement that the applicant submit a waste management plan and delivery management plan which appropriately addresses the

Any future redevelopment of car park to the north would involve consultation with the landowners of the subject site and any impact to the delivery capabilities of the site could be considered at this time.

#### **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 Taxi ranks to allow for safe transport to and from the site without significantly disrupting through traffic. The adjoining footpaths and streets are well lit to allow for adequate safety for patrons late at night. The proposed Tavern is also adjacent to civic, retail and other hospitality uses and has sufficient separation from residential uses and tourist accommodation 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 application to the Department of Racing, Gaming and Liquor WA for appropriate liquor license approval. Any such application will be referred to the City for comment to ensure that the site has the appropriate land use approval.

### **Alfresco Area**

It is noted that the applicant intends to pursue the development of an alfresco area within the Parry Street road reserve. This will be considered through a separate application, however it is noted that this use has been considered in principle by the City's technical officers and is worthy of support.

### **CONCLUSION**

Noting that the site is not zoned under the Local Planning Scheme No.4 (LPS4) and that the provisions of LPS4 have only been used for guidance purposes for the planning statutorily assessment of the application, the application has been assessed against and is generally considered to address the relevant requirements of LPS4 and relevant Council local planning policies.

The proposal has been referred to and supported by the SHO subject to specific conditions which are included as part of the Officers Recommendation.

Accordingly, the proposal is recommended for approval, subject to conditions.

### **STRATEGIC IMPLICATIONS**

#### Strategic Community Plan 2015-25

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

#### Green Plan 2020

Encourage the retention of vegetation on private land.

1. No existing trees are affected by this development.

#### Alcohol Management (SG50)

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

### **FINANCIAL IMPLICATIONS**

Nil

### **LEGAL IMPLICATIONS**

Nil

**COMMITTEE DECISION ITEM PC1903 - 5**

Moved: Cr Adin Lang

Seconded: Cr Dave Hume

**The Planning Committee acting under delegation 1.2:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the Change of Use (Tavern) and Alterations and Additions to Existing Building at No. 92 (Lot 5) South Terrace, Fremantle, as detailed on plans dated 14 December 2018 and 6 February 2019, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 14 December 2018 and 6 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. Storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 3. Prior to the issue of a Building Permit, a revised scheme for the shopfront openings shall be provided for the consideration of the Development Committee of the Heritage Council of Western Australia, to the satisfaction of the City of Fremantle, that addresses the following:**
  - a) Remaining original windows and doors to the shopfront shall be retained and conserved.**
  - b) Replacement of non-original windows with a modified, openable window type could be considered provided they respond to the original fenestration. That is, highlight windows above large glazed openings with a mullion and transom.**
  - c) The door located at the truncated corner may be replaced with glazing based on the original arrangement, or a new door.**
  - d) The removal of the entry doors/window and replacement with new awning windows to the northwest elevation of the shopfront is to be deleted from the scheme, as this is an original element. A new openable sash within the largest glazed panel of this element to create the 'new takeaway coffee window' could be considered if detailed to minimise impact on the original fabric.**
  - e) Details on proposed window type and materials for replacement windows and/or door are to be provided.**
- 4. Prior to the issue of a Building Permit, further information and plans shall be submitted for the consideration of the Director Heritage Development, Heritage Services, Department of Planning, Lands and Heritage, to the satisfaction of the City of Fremantle that addresses the following:**
  - a) The impact on the heritage fabric from the installation of services and compliance with the National Construction Code.**
  - b) Engineering methodology for the mezzanine level and rooftop bar.**
  - c) Conservation works schedule.**
  - d) A schedule of materials, colours and finishes.**

- e) Signage and lighting schedule.
- f) Interpretation Strategy informing the developed design for the fitout.

5. Prior to issue of a building permit for the development hereby approved, the owner is to submit a waste and delivery management plan for approval detailing the storage and management of the waste generated by the development, access for deliveries and waste management to be implemented and maintained for the life of the development to the satisfaction of the City of Fremantle.

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

7. Prior to the issue of a Building 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 within the road reserve;
- c) Security fencing around construction sites;
- d) Access to site by construction vehicles;
- e) Contact details;
- f) Site offices;
- g) Forward works for the site;
- h) Delivery of materials and equipment to the site;
- i) Storage of materials and equipment on the site;
- j) Parking arrangements for contractors and subcontractors;
- k) Sand drift and dust management;
- l) Noise - Construction work and deliveries;
- m) Construction Waste management;
- n) Traffic management; and
- o) Works affecting pedestrian areas; and
- p) other matters likely to impact on the surrounding properties;

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

8. Prior to occupation 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.

9. All air-conditioning plant, satellite dishes, antennae and any other plant and equipment to the roof of the building shall be located to be not visible from the street, and where visible from other buildings or vantage points

shall be suitably located, screened or housed, to the satisfaction of the City of Fremantle.

10. The access gates, as indicated on the approved plans, shall open into the subject site only and shall not impede the road reservation adjoining the subject site.
11. Where any of the preceding conditions has a time limitation for compliance, if any condition is not met by the time requirement within that condition, then the obligation to comply with the requirements of any such condition (other than the time limitation for compliance specified in that condition), continues whilst the approved development continues.

#### Advice notes

- i. The proponent must make application to establish the food business so that the premises comply with the Food Act, Regulations and the Food Safety Standards incorporating AS4674-2004 *Design, construction and fit-out of food premises*. Submit detailed architectural plans and elevations to the City's Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For enquiries and a copy of the application form contact the City's Environmental Health Services by email [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au) or telephone 9432 9856.
- ii. The proponent must make application during the Building License application stage to the City's Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the Health (Public Buildings) Regulations 1992. For enquiries and a copy of the application form contact the City's Environmental Health Services by email [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au) or telephone 9432 9856.
- iii. The proponent must make application during the building license application stage to the City's Environmental Health Services via *Application for a Liquor Control Act Section 39 Certificate* as a requirement of the Liquor Control Act 1986. For enquiries and a copy of the application form contact the City's Environmental Health Services by email [health@fremantle.wa.gov.au](mailto:health@fremantle.wa.gov.au) or telephone 9432 9856.
- iv. Applicant is advised that this approved development shall be wholly located within the cadastral boundaries of 92 South Terrace (Lot 5), Fremantle including any footing details of the development.
- v. Further to condition (5), the applicant is advised that the delivery and waste management plan should include, but not be limited to, the following matters:
  - Access arrangements and vehicle management for the use of the adjoining property,
  - Delivery and waste collection times

- The applicant is advised that the City is unlikely to support the use of the car park during peak occupation times.
  - Safety considerations
  - Details of bins to be used for the development
  - Access arrangements for contractors to collect the waste
  - The applicant is advised that the City is unlikely to support the storage of bins in the adjacent car park and bins should be collected from, and returned to within the boundaries of the site.
- vi. All mechanical service systems including air-conditioners and pool filters etc are to be designed and installed to prevent emitted noise levels from exceeding the relevant decibel levels as set out in the Environmental Protection (Noise) Regulations 1997 (as amended).
- vii. 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](mailto:health@fremantle.wa.gov.au).
- viii. 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.
- ix. The applicant is advised that signage shall be the subject of a separate planning application.
- x. Local Planning Policy 1.10 Construction Sites can be found on the City's web site via <http://www.fremantle.wa.gov.au/development/policies>.

A copy of the City's Construction and Demolition Management Plan Proforma which needs to be submitted with building and demolition permits can be accessed via:

<https://www.fremantle.wa.gov.au/sites/default/files/Construction%20and%20Demolition%20Management%20Plan%20Proforma.pdf>

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

**Carried: 7/0**  
Mayor, Brad Pettitt, Cr Jon Strachan, Cr Ingrid Waltham,  
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume

**PC1903 -7 STIRLING HIGHWAY, NO. 82-84 (LOTS 11 AND 12) AND ALFRED ROAD, NO. 5 (LOT 5) - ALTERATIONS, UPPER FLOOR ADDITION, AND ADDITIONAL USE OF OFFICE IN AN EXISTING COMMERCIAL BUILDING - (NB DA0332/18)**

**Meeting Date:** 6 March 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Development Plans  
2: Site Photos

## **SUMMARY**

Approval is sought for additions and alterations to an existing commercial building comprising:

- upper floor addition and additional uses of Office
- first floor extension
- ground floor parking area
- internal layout changes
- external cladding
- signage.

The application seeks discretion under the City of Fremantle Local Planning Scheme No. 4 (LPS4) for the following:

- wall height
- on-site car parking
- objectives of the zone.

The application is referred to Planning Committee (PC) due to submissions received raising concerns in relation to the building height and setback of the development, which cannot be addressed via the imposition of planning conditions.

The application is recommended for conditional approval.

## **PROPOSAL**

### **Detail**

Approval is sought for the following alterations to an existing commercial building:

- Delete the existing basement Warehouse uses to create additional parking bays
- Rear extension of the first floor and an internal configuration change
- Shop and Showroom uses on ground floor
- New upper floor addition comprising 12 Office units (870m<sup>2</sup> total)
- External cladding and new stairs
- Pylon signage.



## **Community**

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as discretion was sought under the provisions of LPS4. The advertising period concluded on 5 October 2018, and four (4) submissions were received, one of which was in full support of the proposal. The remaining three raised the following issues:

- Lack of adequate on-site parking for tenants and visitors may exacerbate parking issues in the nearby neighbourhood
- Building height overwhelms the adjoining residential properties
- The development is inconsistent with the streetscape and heritage feel of North Fremantle

In response, the applicant submitted amended plans adding landscaping to the portion of building facing the northern residential properties in the form of rooftop planters and wire trellis for vegetation cover as well as a space for artwork.

An additional late comment was received on 8 February 2019 raising the following issues:

- The building presents unacceptable privacy and overshadowing impacts to adjoining residential properties.
- Any north facing windows should be frosted or highlight windows to ensure privacy to adjoining residences.
- A dilapidation report should be carried out on nearby residences.

The above comments are addressed 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 need to be assessed against the provisions of LPS4:

- wall height
- car parking
- objectives of the zone.

The above matters are discussed below.

### **Background**

The site is located on Stirling Highway just south of Alfred Road and is composed of three lots, two of which front Stirling Highway and the third of which fronts Alfred Road as shown in Figure 1 below.



**Figure 1:** Lot layout and location

The site is located within the North Fremantle Heritage Area but is not individually heritage listed.

The ground level slopes approximately 3 m from Stirling Highway to the rear of the site. A vehicle ramp along the southern side sits within the lot boundaries of the adjoining southern site (which contains the Rose Hotel) but contains an access easement granting legal right of access for the subject development. This easement connects from Stirling Highway along the south of the site, then north through lot 5 to meet Alfred Road.

The lot is improved by an existing two storey Commercial building with the ground floor portion built into the natural slope of the lot so as to present as a single storey building when viewed from Stirling Highway. The first floor contains a Shop and two Showrooms. Two Warehouses currently take up the basement portion of building.

A review of the property files reveals the relevant planning history:

- On 6 February 1985, the City approved a two storey grower's market and shop (DA83/82).
- On 18 November 1987, the City approved a change of use to Restaurant (DA334/87).
- On 24 August 2004, the City approved a change of use to Retail – Local Convenience and signage (DA498/04).
- On May 2011, the City approved a change of use from Restaurant to Showroom in the rear ground floor unit (DA0189/11).
- On 10 January 2012, the City approved Signage, and Additions and Alterations, including a change of use to Showroom in the rear ground floor unit (DA0558/11).

### Wall height

Element	Permitted	Provided	Variation
Wall height	7.5	7.5m to 8 m	Complies
Additional wall height under cl. 4.8.1.2 of LPS4	0.5 m additional height to the lower ground level portion	0.5m additional to rear of site	

Clause 4.8.1.2 of LPS4 states:

*Where there is a variation in ground level over a development footprint of greater than one metre, Council may increase the specific height requirements of Schedule 8 subject to—*

- a) no portion of external wall of the building exceeding the maximum external wall height requirement of Schedule 8 by greater than 0.5 metres, and*
- b) no portion of external wall of the building that exceeds the maximum external height requirement of Schedule 8 being situated on the higher side of the development footprint as measured from natural ground level.*

The development complies with both points above for the following reasons:

- a) The lot slopes approximately 3 m beneath the footprint of the development.
- b) The upper floor addition has been constructed to be entirely contained within a 'mansard' roof, which enables the development to comply with height restrictions due to the fact that the parapet wall along the northern and southern boundary does not exceed the required 7.5 m and 8 m maximums.

The wall height is measured to the top of the parapet wall. The office units have been designed to be contained within the proposed mansard roof and will therefore not count towards the wall height limit.

### Minor Projections

Clause 4.8.1.3 of LPS4 states:

*Excluding development within the Residential zone, Council may permit a minor projection above the highest part of a development, subject to the development satisfying both of the following criteria—*

- a) The minor projection being no more than 4 metres above the highest part of the main building structure; and*
- b) The cumulative area of the minor projection being no more than 10 per cent of the total roof area of the building.*

*For the purpose of this clause, 'minor projection' will be interpreted as including plant and equipment such as air conditioning units, lift overrun rooms, flagpoles, aerials and decorative architectural features, but not rooms or other facilities intended for regular human use such as rooftop decks or swimming pools.*

The screening on the Stirling Highway elevation of the building is considered to be a decorative architectural feature of a maximum 2.4 m above the wall height and is therefore compliant with the above requirements.

### Car parking

Use	Required	Provided	Shortfall
Showrooms (346m <sup>2</sup> )	1:50m <sup>2</sup> gla (min. 4) = 7 bays	46 bays	23 bays (12 bays as per dot point 4 below)
Shop x 2 (511m <sup>2</sup> )	1:20m <sup>2</sup> nla (min. 2) = 26 bays		
Offices x 12 (870 m <sup>2</sup> )	1:30m <sup>2</sup> gla (min. 3) = 29 bays (Min. 3/office = 36 bays)		
<b>TOTAL</b>	69 bays		

It is also recommended that the first two parking bays on either side adjoining the easement near the Stirling Road intersection be deleted. This is to prevent the likelihood of vehicles from having to queue on Stirling Highway while waiting for other vehicles reversing out of the parking bays. A condition has been added in this regard.

The car parking shortfall is supported for the following reasons:

- The site is located approximately 177 m from the North Fremantle train station and within 160 m of a bus stop serving three different routes.
- The development proposes to increase the existing on-site car parking by replacing the current basement land uses with parking bays. This sufficiently reduces some of the intensity of the land use while increasing parking availability.
- The Office units are relatively modest in size and are unlikely to require the minimum 3 bays required under LPS4.
- The above calculations do not include the additional 9 bays (after deletion of 2 as discussed above) located within the Main Roads road reserve and which will remain in place until the Stirling Highway realignment works are undertaken.

### Delivery bays

Use	Required	Provided	Shortfall
Showroom (646m <sup>2</sup> )	2:unit = 2 bays	3 bays	1 bay
Shop (211m <sup>2</sup> )	n/a		
Offices x 12 (870 m <sup>2</sup> )	1:500m <sup>2</sup> = 2 bays		
<b>TOTAL</b>	4 delivery bays		

The delivery bay shortfall is supported because the on-site delivery bays are shared among all land uses and sufficient bays exist to cater for demand.

### Bicycle parking

Use	Required	Provided	Shortfall
Showrooms (646m <sup>2</sup> )	class 1: 1 per 750 m <sup>2</sup> nla = 1 class 3: 1 per 1000 m <sup>2</sup> nla = 1	Class 1 = 3 Class 2 = 5 Class 3 = 1	Complies
Shop (211m <sup>2</sup> )	class 1: 1 per 300 m <sup>2</sup> gla = 1 class 3: 1 per 500 m <sup>2</sup> gla		

	(over 1000 m <sup>2</sup> gla) = nil		
Offices x 12 (870 m <sup>2</sup> )	class 1 or 2: 1 per 200 m <sup>2</sup> gla = 5 class 3: 1 per 750 m <sup>2</sup> gla over 1000 m <sup>2</sup> gla = nil		
<b>TOTAL</b>	Class 1 = 2 Class 2 = 5 Class 3 = 1		

The above bicycle facilities are included as a condition of approval.

*End of Trip Facilities*

Based on the number of bike racks required, one male and one female shower (or 2 unisex), and eight lockers are required and included as a condition of approval.

**Objectives of the zone**

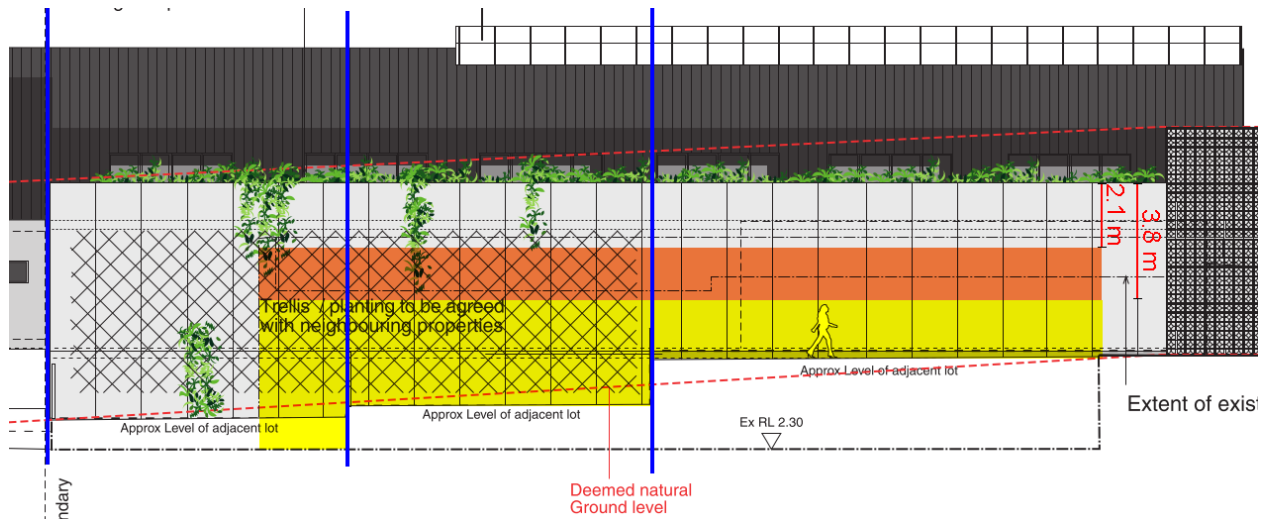
LPS4 provides the following objectives for development in Local Centre Zones:

*Development within the local centre zone shall—*

- (i) provide for weekly and convenience retailing including small-scale shops, showrooms, cafes, restaurants, consulting rooms, entertainment, residential (at upper levels), recreation, open spaces, local offices, cottage industry, health, welfare and community facilities which serve the local community, consistent with the local-serving role of the centre,*
- (ii) encourage the provision of suitable and accessible services to residents of the locality,*
- (iii) ensure that development is not detrimental to the amenity of adjoining owners or residential properties, and*
- (iv) conserve places of heritage significance the subject of or affected by the development.*

The land uses of Showroom and Shop are of a scale that is consistent with the local-serving role of the centre and are not, as land uses, detrimental to the amenity of adjoining owners or residential properties and are supported.

The proposed development will be located 12 m from the eastern adjoining lots and will not present excessive bulk or overlooking to these lots. The southern elevation faces the Rose Hotel site, which is comprised predominantly of commercial uses with the residential units at the rear having no major openings facing the subject site. The primary amenity consideration is with respect to the two residential lots to the north of the subject site. Figure 2 below shows the northern elevation with the existing development highlighted.

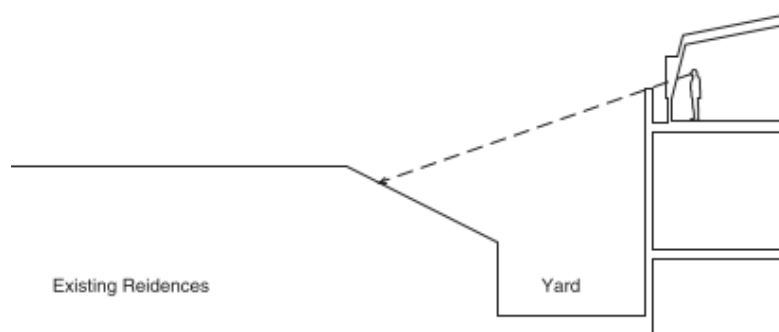


**Figure 2:** Northern elevation – Yellow is the existing dividing fence. Orange is the wall of the existing building (2m boundary setback). Blue lines delineate the two residential lot boundaries.

The application proposes a two storey wall on the northern boundary, which is an increase of 3.8m to the existing boundary fence and an additional 2.1 m from the existing wall of the building (which itself is currently set back 2m from the boundary) adjoining Nos 1 and 2 Alfred Road. Nos. 3 and 4 Alfred Road currently only have a standard height dividing fence at the rear of the property.

There are no prescribed lot boundary setbacks for the subject site, with the only requirement being sub-clause (iii) above. To this end, the boundary wall is supported for the following reasons:

- Half of the length of the boundary wall abuts an existing commercial property and will have minimal impact on the residential lots.
- The proposed wall is located on the southern boundary of the residential lots and will have minimal impact on northern sunlight to outdoor living areas.
- A trellis for vegetation has been proposed on the boundary wall to soften the appearance of the wall. This vegetation is to be conditionally included as part of the landscaping plan and to be maintained for the life of the development.
- The upper floor offices will be setback from the boundary and screened by planter boxes such that all views to the residential lots will be to the roofs. No overlooking will be down to the private outdoor living areas, as shown in Figure 3 below.



**Figure 3:** Sightline from upper floor offices.

## **Signage**

The proposed pylon sign is a maximum of 7m high, which exceeds the 6m maximum of policy LPP 2.14: Advertisement Policy. The variation is supported under clause 3.1 for the following reasons:

- The cumulative effect of the signage does not negatively impact on the surrounding locality by way of visual clutter. The two existing pylon signs will be combined into a single pylon sign.
- The scale and design of the sign is subservient to the building to which it relates, as well as the adjoining commercial developments, particularly the Rose Hotel site.
- The sign will not dominate the view of the building from the street.

## **STRATEGIC IMPLICATIONS**

### Strategic Community Plan 2015-25

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

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **COMMITTEE DECISION ITEM PC1903 - 7**

**Moved: Cr Bryn Jones**

**Seconded: Cr Dave Hume**

### **The Planning committee acting under delegation 1.2:**

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, alterations, upper floor addition, and additional use of office in an existing commercial building at Nos. 82-84 (Lots 11 and 12) Stirling Highway, and No. 5 (Lot 5) Alfred Road, North Fremantle, subject to the following condition(s):**

- 1. This approval relates only to the development as indicated on the approved plans, dated 20 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. Notwithstanding condition 1 above, the four car parking bays (two on either side) adjacent to the easement and near the Stirling Highway road reserve do not form part of this approval and are deleted.**

- 3. All storm water discharge shall be contained and disposed of on site or otherwise approved by the City of Fremantle.**
- 4. The development hereby approved, including any footings, shall be wholly located within the cadastral boundaries of the subject site Nos. 82-84 (Lots 11 and 12) Stirling Highway, and No. 5 (Lot 5) Alfred Road, North Fremantle.**
- 5. The design and construction of the development is to meet the 4 star green star standard as per Local Planning Policy 2.13 or alternatively to an equivalent standard as agreed upon by the City of Fremantle. Any costs associated with generating, reviewing or modifying the alternative equivalent standard is to be incurred by the owner of the development site. Twelve (12) months after practical completion of the development, the owner shall submit either of the following to the City to the satisfaction of the City of Fremantle:**
  - a) a copy of documentation from the Green Building Council of Australia certifying that the development achieves a Green Star Rating of at least 4 Stars, or**
  - b) a copy of agreed equivalent documentation certifying that the development achieves a Green Star Rating of at least 4 Stars.**
- 6. Prior to the issue of a Building Permit, Nos. 82-84 (Lots 11 and 12) Stirling Highway, and No. 5 (Lot 5) Alfred Road, North Fremantle 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, with the lots to be amalgamated no later than 2 years from the issue of a Building Permit, to the satisfaction of the City of Fremantle.**
- 7. 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.

8. Prior to the issue of a building permit, a detailed landscaping plan, including information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces (including the rooftop planter boxes depicted in the elevations and section, trellis vegetation, etc), shall be submitted to and approved by the City of Fremantle.
9. Prior to the issue of a Building Permit, two (2) Class 1 and five (5) Class 2 bicycle racks shall be provided, to the satisfaction of the City of Fremantle.
10. Prior to the issue of a Building Permit, an end of trip facility consisting of one male and one female (or two unisex) showers shall be provided, to the satisfaction of the City of Fremantle
11. Prior to the issue of a Building Permit, eight (8) lockers shall be provided, to the satisfaction of the City of Fremantle.
12. Prior to the issue of a Building Permit, an updated Waste Management Plan is to be submitted to include all proposed uses and depicting that all waste collection will occur within the site in forward gear via the access easement or from Alfred Road. No waste collection will be permitted on Stirling Highway. The management plan is to be approved by the City of Fremantle on advice from Main Roads.
13. Prior to the occupation of the development hereby approved, landscaping shall be completed in accordance with the approved plans or any approved modifications thereto to the satisfaction of the City of Fremantle. All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Fremantle.
14. Prior to occupation of the development hereby approved, the boundary wall located on the northern 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.
15. 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.

16. 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.
17. Prior to the occupation of the development hereby approved, the redundant northern-most crossover on Stirling Highway and related kerbs shall be removed and the verge reinstated at the expense of the applicant and to the satisfaction of the City of Fremantle on advice from Main Roads WA.
18. The signage hereby permitted shall not contain any flashing, pulsating, chasing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure. Any illumination must be of a low level not exceeding 300cd/m<sup>2</sup>.
19. 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. All works within the road reserve require separate approval from the City's Infrastructure and Project Delivery Directorate. Applicants must first receive approval from Main Roads (refer below).

New crossover(s) shall comply with the City's standard for standard crossovers, which are available on the City of Fremantle's web site. Prior to commencing construction of the crossover(s), the developer is to contact the Engineering Project Officer on 9432 9999 to arrange an inspection or alternatively via [ibs@fremantle.wa.gov.au](mailto:ibs@fremantle.wa.gov.au). For crossover specifications, FAQ's, permits, etc refer to <https://www.fremantle.wa.gov.au/crossovers>.

- ii. The applicant must obtain approval from Main Roads before all works are undertaken within the Stirling Highway Road reserve. The applicant seeking access to the Main Roads network will be required to submit an Application Form to Undertake Works within the Road Reserve.
- iii. Application Forms can be found on the Main Roads website >"Our Roads">"Conducting Works on Roads >"Application Form to Undertake Works within the Road Reserve.
- iv. Main Roads does not allow commercial waste collection from a Primary Regional Road where alternative access to a side street or easement is available. It is noted from the street view imagery that bins are already

situated at the rear of this site and at Alfred Street. It is not considered appropriate nor safe to have a waste collection vehicle 'stand' on the major road (and in close proximity to a signalised intersection) which results in undesirable traffic hazards and impedes traffic flows.

- v. This property is affected by land reserved in the Metropolitan Region Scheme as shown on the Main Roads Drawing land Protection Plan 1.3340/4 and will be required for road purposes at some time in the future.

The existing car parking located at the front of the site affected by the future road widening is to be viewed as 'temporary and surplus parking' only to the actual parking requirements as defined under the City of Fremantle's TPS No.4.

The applicant is advised that when the Stirling Highway upgrades occur, the Easement access to and from Stirling Highway will be converted to a left-in, left-out movement only.

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

**Carried: 7/0**

**Mayor, Brad Pettitt, Cr Jon Strachan, Cr Ingrid Waltham,  
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume**

**ITEMS APPROVED “EN BLOC”**

The following items were adopted unopposed and without discussion “En Bloc” as recommended.

**COMMITTEE DECISION**

Moved: Cr Jon Strachan

Seconded: Cr Jeff McDonald

The following items be adopted en bloc as recommended:

PC1903 – 4  
PC1903 – 6  
PC1903 – 8  
PC1903 – 9  
PC1903 – 10

**Carried: 7/0**

Mayor, Brad Pettitt, Cr Ingrid Waltham, Cr Bryn Jones, Cr Adin Lang,  
Cr Jeff McDonald, Cr Jon Strachan, Cr Dave Hume

## 10.1 DEFERRED ITEMS

**PC1903 -4      ATTFIELD STREET, NO. 119 (LOT 2), SOUTH FREMANTLE - TWO STOREY SINGLE HOUSE (SINGLE BEDROOM DWELLING) - (TG DA0445/18)**

**Meeting Date:** 6 March 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Development Plans

### SUMMARY

Approval is sought for a two storey Single house (single bedroom dwelling) to a vacant lot at No. 119 Attfield Street, South Fremantle (subject site). The application is referred to Planning Committee for consideration due to the nature of the discretion exercised in determining the application.

The application seeks discretion against the street setback requirements of Local Planning Policy 2.9, the boundary wall requirements of Local Planning Policy 2.4, the fencing requirements of Local Planning Policy 2.8, and the single bedroom dwelling size, visual privacy, garage width, building height, and lot boundary setback requirements of the Residential Design Codes.

The application is recommended for refusal.

### PROPOSAL

#### Detail

Approval is sought for a two storey single house to a vacant lot at No. 119 Attfield Street, South Fremantle. Development of the subject site is limited to a single bedroom dwelling in accordance with a restrictive covenant on the property title, imposed at subdivision.

The application for the new dwelling includes a bedroom, bathroom, living area, single garage, and outdoor living areas.

The applicant has provided additional plans supporting their argument in favour of a reduced upper floor street setback for the dwelling which demonstrate the upper floor setbacks in the wider context of Attfield Street. These plans are included as attachment 3.

Development plans are included as attachment 1.

**Site/application information**

Date received: 3 October 2018  
Owner name: R Ward  
Submitted by: Richard Hammond Architect  
Scheme: Residential  
Heritage listing: Limestone Feature(s), 28 Charles Street  
The City's mapping does not show these limestone features as being located on the subject site.  
Existing land use: Vacant Land  
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 sought discretion against the requirements of the R-Codes and Local Planning Policies. The advertising period concluded on 9 November 2018, 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
- Lot boundary setback (north)
- Boundary walls (north and south)
- Single bedroom dwelling plot ratio area
- Building height
- Visual privacy (north and south)
- Garage width
- Fencing height

The above matters are discussed below.

### Background

The subject site is located on the western side of Attfield Street in South Fremantle. The subject site was created by subdivision in 2000 (WAPC 162-00 refers), with a restrictive covenant required limiting development on the subject site to a single bedroom dwelling (as proposed). The site is located within Local Planning Area 4 (Sub area 4.3.1) of Local Planning Scheme 4.

### Street Setback

Element	Permitted	Proposed	Discretion
Local Planning Policy 2.9 - Residential Streetscape	<ul style="list-style-type: none"> <li>• Ground floor setback 7m</li> <li>• Upper floor setback 10m</li> </ul>	<ul style="list-style-type: none"> <li>• Ground floor setback 6.050m</li> <li>• Upper floor setback 4.2m</li> </ul>	<ul style="list-style-type: none"> <li>• Ground floor 0.95m</li> <li>• Upper floor 5.8m</li> </ul> <p><i>note 'balcony' is shown as enclosed on proposal plans with a solid front wall &amp; 1.6m high side walls. 5.4m setback to bedroom</i></p>

In accordance with Local Planning Policy 2.9, in considering a reduced street setback, consideration is given to the prevailing streetscape, being in this case the adjoining dwelling at 28 Charles Street and 113 to 117 Attfield Street. The street setbacks of these dwellings are considered below, including the dwelling at 111 Attfield Street due to its location in the context of the subject site.

Property	Street setbacks
113 Attfield Street	Ground floor – 7.6m Upper floor – 9.2m
115 Attfield Street	Ground floor – 7m (approx.) Upper floor – N/A – single storey
117 Attfield Street	Ground floor – 5m (2.5m to open verandah) Upper floor – 8.7m
28 Charles Street	Corner lot (secondary street) Ground Floor - 6m (dwelling wall) Upper floor – 6m (dwelling wall) Noted in accordance with 1.2(v) of LPP 2.9
Note only: 111 Attfield	<b>Does not form part of prevailing streetscape per policy definition.</b> Ground Floor – 5m (garage) Upper Floor - 6.73m (front wall, balcony excluded).

In accordance with the above prevailing streetscape, it is considered that an argument may be made in favour of a reduced street setback (i.e. the full 10m upper floor setback may not be required), however it is considered that the proposed upper floor setback of 4.2m results in an excessively projecting streetscape element and is therefore inconsistent with the prevailing streetscape.

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

Consideration	Officer Comment
The applicant provided an analysis of the subject street (outside of the 'prevailing streetscape'), finding that a majority of dwellings were set back <7m from the primary street.	The ground floor setback as proposed is considered worthy of support in accordance with the prevailing streetscape. The upper floor setback is considered inconsistent with this prevailing streetscape. LPP 2.9 limits the consideration of setbacks in the streetscape generally.
The subject site is smaller than other sites in the locality and the required setbacks would result in a loss of amenity in designing to them.	As discussed above, the City as able to consider a reduced upper floor setback, however not to the extent proposed. The applicant has been advised to consider amending the proposal to better align with the prevailing street setback.

Good solar access would be limited by compliance with the required setbacks as moving the upper floor back would limit the utility of the proposed courtyard.	A redesign of the dwelling does not have to unduly affect this portion of the development however it is noted that further amendments to the ground floor may be required as a result of increasing the street setback.
A 10m setback would create a visual 'hole' in the street.	This is noted and it is not contended that the dwelling need achieve a 10m upper floor setback per the above assessment. It is considered that the proposed upper floor setback results in a projecting streetscape element.
A wider streetscape analysis finds that multiple dwellings with upper floors achieve a setback of less than 10m.	These dwellings are noted but do not form a part of the prevailing streetscape.
Street vegetation will screen the development from view.	It is noted that street trees are located to the north and south of the subject site on Attfield Street, however this consideration is not relevant to an assessment under LPP 2.9.
The upper floor setback of the dwelling achieves a median between the setback of the front verandah of the property to the north and the upper floor of the property to the south.	This is only the case if the setback of the ground floor verandah of the dwelling to the north be considered its setback.  The upper floor of the dwelling to the north is well set back from the street boundary.  It is noted that the proposed upper floor sits forward of both directly adjoining properties due to the inclusion of a solid balcony front wall.

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

<b>5.1.2 – Street setbacks</b>	
<b>Design Principles</b>	<b>Complies</b>
P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:	
<ul style="list-style-type: none"> <li>contribute to, and are consistent with, an established streetscape;</li> </ul>	No – the balcony and remaining front façade of the upper floor project into the streetscape.
<ul style="list-style-type: none"> <li>provide adequate privacy and open space for dwellings;</li> </ul>	Yes – the development complies with open space requirements and satisfies the relevant design principles with regard to visual privacy per the below assessment.

<ul style="list-style-type: none"> <li>• accommodate site planning requirements such as parking, landscape and utilities; and</li> </ul>	Yes – Readily accommodated on site.
<ul style="list-style-type: none"> <li>• allow safety clearances for easements for essential service corridors.</li> </ul>	Yes – unaffected by the proposed development.
<b>P2.2 Buildings mass and form that:</b>	
<ul style="list-style-type: none"> <li>• uses design features to affect the size and scale of the building;</li> </ul>	No – the proposed balcony element is considered to increase the bulk impact of the reduced setback.
<ul style="list-style-type: none"> <li>• uses appropriate minor projections that do not detract from the character of the streetscape;</li> </ul>	N/A – no minor projection proposed.
<ul style="list-style-type: none"> <li>• 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</li> </ul>	Yes – limited area of blank wall and appropriate provision of vehicle parking supply provided.
<ul style="list-style-type: none"> <li>• positively contributes to the prevailing development context and streetscape as outlined in the local planning framework.</li> </ul>	<p>No – the development is considered inconsistent with the required street setbacks and to result in an undue projecting element into the streetscape.</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 street setbacks are therefore are not supported on the basis that it is not considered to satisfy the relevant development requirements.

### Plot Ratio

Element	Permitted	Proposed	Discretion
Plot Ratio	70m <sup>2</sup>	81.6m <sup>2</sup>	11.6m <sup>2</sup>

The proposed dwelling size is considered to address the design principles of the R-Codes for the following reasons:

- The development provides for an alternative housing option with limited amenity impact to the locality.
- The applicant has provided an area plan for the dwelling confirming an internal area of 70m<sup>2</sup>
- The additional plot ratio area comprises areas of wall which do not unduly increase the size of the subject dwelling.

This aspect of the proposal, considered in isolation, is considered to appropriately address the relevant R-Codes design principle in not impinging upon neighbouring amenity.

### Visual Privacy

Element	Permitted	Proposed	Discretion
Bedroom 01 (North)	4.5m	1.4m	3.2m
Balcony (North and South)	7.5m	4m (N) 3.3m (S)	3.5m (N) 4.2m (S)

The proposal involves overlooking to the properties to the north and south behind the street setback line. The variation is considered to satisfy the design principles of the R-Codes for the following reasons:

- The impacted areas are not considered to be sensitive areas as illustrated in the figure below.
- To the south the dwelling overlooks a paved area between an existing wall and the subject site boundary.
- To the north, an area of roof is overlooked, the adjoining verandah has a solid wall. The areas overlooked are circled below.



Figure 1: Areas of potential overlooking circled in red

### Garage Width

Element	Permitted	Proposed	Discretion
Garage Width	50%	63%	13% (0.93m)

In relation to the current design, the projecting ‘balcony’ element could be considered to appropriately ameliorate the perceived dominance of the garage in accordance with the Design Principles of the R-Codes. However, as the upper floor setback is not supported in accordance with LPP 2.9, it is not considered appropriate to support the garage width variation on this basis.

It is however noted that, the design perspectives indicate that the garage door will not present to the street as a standard garage door, which assists in reducing its streetscape impact and the impression of garage dominance. Should the upper floor setback be amended, this variation may still be considered acceptable subject to an assessment against the Design Principles of the R-Codes of any revised proposal.

### Building Height

Element	Permitted	Proposed	Discretion
Wall height	6m	6.92m	0.92m

This variation is supported for the following reasons:

- The maximum over height portion comprises a front parapet wall. The majority of the high side of the skillion roof is approximately 6.5m in height. This aspect of the proposal is considered to meet the relevant design principles as:
- The shade cast by the over height portion of the dwelling is well within the permissible shade cast by a 9m high roof ridge to the centre of the lot due to the limited lot width. The proposal also complies with the deemed-to-comply overshadowing requirement (R-Codes 5.4.2).
- The over height portion of the development does not cast shade over adjoining major openings, shading roof area only.
- The additional height is considered to be consistent with general building height in the locality and is not unduly out of character. Two-storey high properties are located to either side of the site.
- The adjoining sites are not considered to have access to views of significance which would be impacted by the over height portion of the development.

Accordingly the over height portion of the building is considered appropriate and does not contribute to the streetscape impact of the reduced street setback. Local area policy DG S2 specifies that generally development should be single storey, however in accordance with this policy the impact of the two storey dwelling will be consistent with R-Codes Design principles. The two storey height is consistent with the limitation placed under Local Planning Area 4.3.3 of LPS3.

### Lot boundary setback (north)

Element	Permitted	Proposed	Discretion
North Upper floor	2.5m	1.4m	1.1m

The proposed reduced setback is considered appropriate and to address the relevant R-Codes design principles for the following reasons:

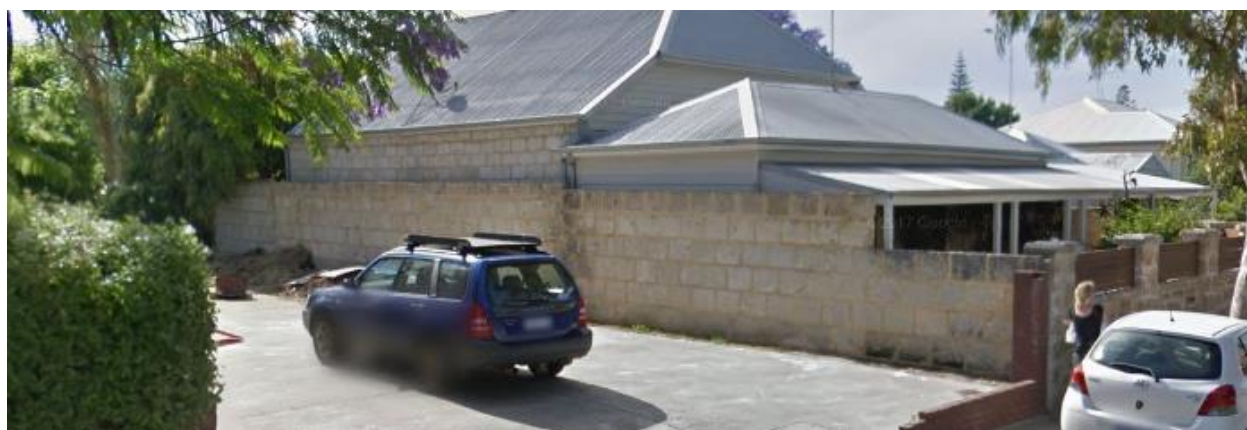
- The wall is provided with openings which appropriately ameliorate building bulk. The wall adjoins an area of roof with no way for the residents of the property to readily view the wall (refer image 2 below).
- As considered above the visual privacy impact of the development is considered to address the relevant design principles.
- Light and ventilation is considered to be maintained through the proposed setback and lot orientation ensures that winter shade will fall to the south.

### Boundary walls – LPP 2.4

Element	Permitted	Proposed	Discretion
Ground (North)	1m	Nil	1m
Ground (South)	1.5m	Nil	1.5m

It is noted that the northern walls are partially matched by an adjoining boundary wall development (refer image 2 below). These walls are considered to meet the relevant design principles per the below assessment:

- The proposed boundary walls are considered to comprise an effective use of space for a very constrained lot. Were the dwelling to be set off the boundaries, a significant portion of the site would be unavailable for use by residents.
- The walls are single storey and thereby of limited bulk impact, either affecting adjoining boundary walls or side access area. The upper floor balcony of 28 Charles street will not be impacted unduly by the ground floor wall.
- The walls do not impact adjoining privacy as they do not contain windows or bring overlooking windows unduly close to the property boundary.
- Light and ventilation are appropriately provided for in the proposed setbacks. The open roofed pergolas will permit light and ventilation access on site. Due to lot orientation, the walls to the north 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.



**Figure 2:** Adjoining boundary wall

### Front Fencing – LPP 2.8

Element	Permitted	Proposed	Discretion
Maximum solid portion of wall	1m	1.8m	0.8m

Similar fencing to the north was removed from consideration due to the presence of a suitable fence on the adjoining property.

This solid fencing is considered appropriate as it will follow the rear boundary of the adjoining corner lot and this site would be permitted to build a similar fence as of right. The fencing provides for screening to a bin storage area and does not impact adjoining sightlines.

The remaining fencing across the frontage is to be 70% visually permeable per correspondence with the applicant, thereby complying with relevant deemed-to-comply criteria with respect to vehicle sightlines and providing an appropriate streetscape outcome.

### **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**

#### Strategic Community Plan 2015-25

- Increase the number of people living in Fremantle

#### Green Plan 2020

- Encourage the retention of vegetation on private land.

### **FINANCIAL IMPLICATIONS**

Nil.

### **LEGAL IMPLICATIONS**

Nil.

### **OFFICER'S RECOMMENDATION**

**Moved: Cr Jon Strachan**

**Seconded: Cr Doug Thompson**

The Planning Committee acting under delegation 1.2:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey Single house (single bedroom dwelling) at No. 119 (Lot 2) Attfield Street, South Fremantle, as detailed on plans dated 3 and 19 October 2018, 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.

### **PROCEDURAL MOTION**

**At 6.35pm the following procedural motion was moved:**

**Cr Dave Hume requested the item be referred to the Ordinary Meeting of Council.  
Seconded by Mayor, Brad Pettitt.**

**Carried: 6/1**

**For**

**Mayor, Brad Pettitt, Cr Ingrid Waltham,  
Cr Rachel Pemberton, Cr Doug Thompson, Cr Jeff McDonald, Cr Dave Hume**

**Against**

**Cr Jon Strachan**

### **ADDITIONAL OFFICERS COMMENT**

Following the Planning Committee Meeting held on 6 February 2019, the applicant has submitted revised plans in response to Officer's concerns. The revised plans include the removal of the front balcony structure in order to increase the setback of the dwelling from the street.

In addition to the amended plans, the applicant has provided the following written comments in support of the amended proposal:

- The amendments reduce the visual bulk of the building whilst maintaining surveillance of the streetscape.
- The dwelling is of a reduced scale when compared to the adjoining dwellings due to its limited width and skillion roof form. It is therefore considered to have a minimal impact on the streetscape by way of building bulk.
- The amended upper floor is set back behind the line of the two balcony structures of the property to the south, therefore the proposed setback will provide a mediating setback line between these balcony structures and the ground floor of the property to the north.
- The 740mm overhang of the upper floor serves to ameliorate the bulk of the façade and reduce the visual impact of the garage door.
- Further increasing the upper floor setback of the dwelling would compromise the proposed floor plan.

Officers have reviewed the amended plans and provide the following details of its assessment:

### Visual Privacy (revised plans)

Element	Permitted	Proposed	Discretion
R-Codes 5.4.1 – Visual Privacy	Bedroom visual privacy setback 4.5m (min)	Bedroom 01 - 3.4m (south)	1.1m (south)

The proposed deletion of the upper floor balcony has resulted in the potential for the east facing opening of Bedroom 01 to overlook the property to the south (28 Charles Street) behind its street setback line. This new variation is considered to satisfy the design principles of the R-Codes as the impacted area is not considered to be sensitive being a paved area between an existing wall and the subject site boundary.

The amended bedroom opening overlooks only the primary street setback of the property to the north and therefore meets the deemed-to-comply requirements of the R-Codes.

### Street Setback (revised plans)

Element	Permitted	Proposed	Discretion
Local Planning Policy 2.9 - Residential Streetscape	Ground floor setback 7m (min)	6.050m	0.95m
	Upper floor setback 10m (min)	5.3m (previously 4.2m)	4.7m

In accordance with Local Planning Policy 2.9, in considering a reduced street setback, consideration is given to the prevailing streetscape, in this case being the adjoining dwelling at 28 Charles Street and Nos. 113, 115 and 117 Attfield Street.

While the open balcony structures of 28 Charles Street are noted, the wall of this dwelling is deemed to be the building setback line for the purposes of assessing the prevailing streetscape.

In accordance with the prevailing streetscape outlined in the original assessment, the revised upper floor setback of the proposed dwelling is still considered to result in a projecting element within the existing streetscape, as it is located forward of the upper floors of the immediately adjoining properties.

The result is considered to be inconsistent with the prevailing streetscape. As such, the Officer's recommendation for refusal (below) is still applicable.

## **OFFICER'S RECOMMENDATION**

**Moved: Cr Jon Strachan**

**Seconded: Cr Ingrid Waltham**

The Planning Committee acting under delegation 1.2:

REFUSE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey Single house (single bedroom dwelling) at No. 119 (Lot 2) Attfield Street, South Fremantle, as detailed on plans dated 3 and 19 October 2018, 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.

Lost: 1/12

For:

**Cr Jon Strachan,  
Against**

**Mayor, Brad Pettitt, Cr Doug Thompson, Cr Bryn Jones, Cr Ingrid Waltham,  
Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang, Cr Hannah Fitzhardinge,  
Cr Jenny Archibald, Cr Sam Wainwright, Cr Jeff McDonald, Cr Dave Hume**

## **COUNCIL DECISION ITEM PC1902-3**

**Moved: Mayor, Brad Pettitt**

**Seconded: Cr Andrew Sullivan**

**The application be referred to the next meeting of the Planning Committee to enable a recommendation for approval with appropriate conditions, to be prepared for the Committee's consideration, and for the application to be determined by the Committee under delegated authority.**

**Carried: 13/0**

**Mayor, Brad Pettitt, Cr Ingrid Waltham, Cr Doug Thompson, Cr Bryn Jones, Cr Jon Strachan,  
Cr Andrew Sullivan, Cr Rachel Pemberton, Cr Adin Lang, Cr Hannah Fitzhardinge,  
Cr Jenny Archibald, Cr Sam Wainwright, Cr Jeff McDonald, Cr Dave Hume**

## Reason for change

To enable a recommendation for approval with appropriate conditions, to be prepared for the Committee's consideration.

## ADDITIONAL OFFICERS COMMENT

Following the Council Meeting held on 27 February 2019, the proposal was to be referred back to Planning Committee with an alternative recommendation for approval. An appropriate recommendation is provided below.

## COMMITTEE DECISION ITEM PC1903 - 4

Moved: Cr Jon Strachan

Seconded: Cr Jeff McDonald

Planning committee acting under delegation 1.2:

**APPROVE, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, the two storey Single house (single bedroom dwelling) at No. 119 (Lot 2) Attfield Street, South Fremantle, subject to the following conditions:**

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. Prior to the occupation of the development hereby approved, vehicle crossovers shall be constructed in either paving block, concrete, or bitumen and thereafter maintained to the satisfaction of the City of Fremantle.
4. Prior to occupation of the development hereby approved, the boundary walls located on the northern and southern boundaries shall be of a clean finish in any of the following materials:
  - coloured sand render,
  - face brick,
  - painted surfaceand be thereafter maintained to the satisfaction of the City of Fremantle.
5. Prior to the issue of a building permit, all fencing to the front property boundary shall be visually permeable above 1.2 metres above natural ground level as per clause 5.2.4 C4 of the Residential Design Codes and thereafter maintained to the satisfaction of the City of Fremantle.

Advice Notes

- i. A building permit is required to be obtained for the proposed building work. The building permit must be issued prior to commencing any works on site.**
- ii. The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of 119 Attfield Street, Fremantle including any footing details of the development.**
- iii. In regards to condition 2 ‘Visually permeable’ is defined as:  
In reference to a wall, gate, door or fence that the vertical surface has:**

**Continuous vertical or horizontal gaps of at least 50 mm 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.**

**Visual Permeability Based on Size of Slats**

<b>Slat Size</b>	<b>Gap Size</b>
<b>Slats less than 50 mm wide</b>	<b>Gap size equal to or greater than twice the slat size</b>
<b>Slats 50 mm wide and greater</b>	<b>Gap size equal to or greater than slat size</b>

**Or a surface offering equal or lesser obstruction to view.**

- iv. The City strongly encourages deep planting zones that should be uncovered, contain a retained or planted tree to Council’s specification, have a minimum dimension of 3.0m and at least 50% is to be provided on the rear 50% of the site.**

**Carried en bloc: 7/0**  
Mayor, Brad Pettitt, Cr Jon Strachan, Cr Ingrid Waltham,  
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume

## 10.2 COMMITTEE DELEGATION

### **PC1903 -6      RULE STREET, NO. 25 (LOT 16), NORTH FREMANTLE - ADDITIONS (SINGLE STOREY) TO THREE STOREY SINGLE HOUSE (TG DA0527/18)**

**Meeting Date:** 6 March 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** 1: Development Plans  
2: Site Photos

#### **SUMMARY**

Approval is sought for the addition of a studio above the existing garage at No. 25 Rule Street, North Fremantle (subject site). The development plans also depict a permeable shade structure to the dwelling roof deck, however this structure does not require development approval. The application is referred to Planning Committee due to 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:

- Secondary street setback (Fay Street); and
- Boundary wall (west).

The application is recommended for conditional approval

#### **PROPOSAL**

##### **Detail**

Approval is sought for additions to the existing dwelling at No. 25 Rule Street, North Fremantle (subject site). The application includes the addition of a studio above the existing garage and a triangular pergola structure above the existing upper floor deck which does not require approval. Existing balustrading to the upper floor is to be realigned and replaced with a 1600mm high privacy screen.

Further to submissions received during the neighbour notification period the applicant has provided updated plans and additional site photos.

The updated plans clarified the extent of the proposed studio addition in relation to the existing boundary masonry fence to confirm that the addition will not extend above the height of the existing fence. It is noted that this was inaccurately illustrated on the original plans.

On 13 February 2019, the applicant provided further updated plans amending the structure to the upper floor of the dwelling from a patio roof to a water permeable structure which does not require development approval.

Development plans are included as attachment 1.

**Site/application information**

Date received: 26 November 2018  
 Owner name: D G Anthony  
 Submitted by: B Brackenridge  
 Scheme: Urban  
 Heritage listing: Not listed Note: Limestone features (demolished) on Municipal Inventory / 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 the exercise of discretion in relation to street setbacks, boundary walls and building height. The advertising period concluded on 13 December 2018, and two submissions were received. The following issues were raised:

- The shade structure will result in additional building bulk which will unduly impose on the landscape.

- The proposed studio will take up the only open garden area on the block and will increase the area of hard stand across the site.
- The studio addition is too close to the street and neighbouring properties
- The proposed plans do not accurately depict the side fence between the properties.
- The increase in boundary wall height was supported on the basis of several conditions.
- The roof of the studio structure was not supported to be accessible.

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

- The shade structure has been amended to be water permeable pergola structure based on the most recently submitted plans. A structure of this nature does not require development approval, however it is noted that the structure is not considered overly bulky as amended.
- The site will remain compliant with the open space requirements of the R-Codes following the installation of the proposed studio. There are no landscaping requirements for single houses under the requirements of the R-Codes.
- The studio addition is considered to meet the relevant design principles of the R-Codes with regard to street setbacks.
- The applicant has provided amended plans demonstrating the studio being of lesser dimension than the existing adjoining retaining wall.
- Conditional support for these works is a civil matter to be resolved between landowners. The applicant has been advised of these conditions.
- The studio roof is not proposed to be readily accessible for use per correspondence from the applicant.

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:

- Secondary street setback (Fay Street); and
- Boundary wall (west).

The above matters are discussed below.

### **Background**

The subject site is located on the north-west corner of Rule Street and Fay Street in North Fremantle. The site has a land area of approximately 415m<sup>2</sup> and is currently used as a single house. The site is zoned Residential and has a density coding of R25. The site is not individually heritage listed but is located within the North Fremantle Heritage Area.

### Secondary street setback

Element	Requirement	Proposed	Extent of Variation
Street setback	1.5m	Nil	1.5m

The secondary street setback of the studio addition is considered to meet the Design principles of the R-Codes in the following ways:

- It is consistent with the existing streetscape being located in line with existing walls and retaining walls.
- In addition to the above, it is considered that the wholly glazed façade of the studio, angled away from the boundary, will not present an overly bulky built form to the street.
- It does not limit access to car parking or impact utility provision.
- The addition does not impact any easements.
- The addition will be screened by the existing dividing fencing and retaining wall.
- The glazed façade minimises the area of blank wall facing the street.
- The addition is not considered to unduly impact the local development context or streetscape.

### Boundary wall

Element	Requirement	Proposed	Extent of Variation
Boundary Wall (west)	1m	Nil	1m

The boundary wall is considered to meet the Design principles of the R-Codes and Local Planning Policy 2.4 in the following ways:

- The addition makes effective use of space on site.
- The wall is wholly screened by the existing boundary masonry fence and accordingly will not impact the amenity of the neighbouring outdoor living area and pool.
- The wall does not result in privacy impacts, overlooking only the subject site and street.
- The wall does not cast shade over the adjoining property, being lower than the existing fence.
- The glazed front façade of the addition is considered to contribute to the streetscape without introducing undue building bulk.

## 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 PC1903 -6

Moved: Cr Jon Strachan

Seconded: Cr Jeff McDonald

The Planning Committee acting under delegation 1.2:

**APPROVE**, under the Metropolitan Region Scheme and Local Planning Scheme No. 4, Additions to existing single house at No. 25 (Lot 16) Rule Street, North Fremantle, subject to the following condition(s):

1. This approval relates only to the development as indicated on the approved plans, dated 13 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.

### Advice notes

- i. The applicant is advised that this approved development shall be wholly located within the cadastral boundaries of 25 Rule Street (Lot 16) including any footing details of the development.

**Carried en bloc: 7/0**  
Mayor, Brad Pettitt, Cr Jon Strachan, Cr Ingrid Waltham,  
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume

**PC1903 -8 SOLOMON STREET, NO. 145 (LOT 5), BEACONSFIELD -  
DEMOLITION OF SINGLE HOUSE - (TG DA0020/19)**

**Meeting Date:** 6 March 2019  
**Responsible Officer:** Manager Development Approvals  
**Decision Making Authority:** Committee  
**Attachments:** Attachment 1: Development Plans  
Attachment 2: Site Photos  
Attachment 3: Heritage Report

**SUMMARY**

**Approval is sought to demolish the existing single house at No. 145 Solomon Street, Beaconsfield (subject site). Development approval is required due to the site being located within the South Fremantle Heritage Area.**

**The proposal is referred to the Planning Committee (PC) as delegation 3.22 to officers excludes applications for the demolition of dwellings in heritage areas. The dwelling is considered to be of limited or no cultural heritage significance and does not make a significant contribution to the broader cultural heritage significance and character of the locality, therefore the application is recommended for approval.**

**PROPOSAL**

**Detail**

Approval is sought for the demolition of the existing single house, associated outbuildings and the front fence on the subject site. The site is intended to be cleared.

Development plans are included as attachment 1.

**Site/application information**

Date received: 18 January 2019  
Owner name: V and A Pasquarelli  
Submitted by: M W Urban  
Scheme: Residential R25  
Heritage listing: Not individually listed / Located in South Fremantle Heritage Area  
Existing land use: Existing single house and outbuildings  
Use class: P  
Use permissibility: P



## CONSULTATION

### External referrals

Nil required.

### Community

The application was advertised in accordance with Schedule 2, clause 64 of the Planning and Development (Local Planning Schemes) Regulations 2015, as the proposal involved the demolition of a dwelling in a heritage area. The advertising period concluded on 11 February 2019, and no submissions were received.

## OFFICER COMMENT

### Statutory and policy assessment

The proposal has been assessed against the relevant provisions of LPS4, and relevant Council local planning policies. In this particular application the following area requires the consideration of the Planning Committee:

- Demolition of dwelling in heritage area.

The above matter is discussed below.

### Background

The subject site is located on the western side of Solomon Street in Beaconsfield. The site has a land area of approximately 718m<sup>2</sup> and is currently occupied by a single house and associated outbuildings. The site is zoned Residential and has a density coding of R25.

The site is not individually heritage listed but is located within the South Fremantle Heritage Area.

The site adjoins other residential dwellings to the side and rear. A search of the property file has revealed no relevant history for the site.

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

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

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

*(a) has limited or no cultural heritage significance, and*

*(b) does not make a significant contribution to the broader cultural heritage significance and character of the locality in which it is located.”*

The City’s heritage assessment found that the dwelling was of limited or no cultural heritage significance and did not make a significant contribution to the broader cultural heritage significance and character of the locality. It was noted in the assessment that the dwelling is not currently heritage listed and it was not considered to justify future listing.

Accordingly the demolition of the dwelling is not considered detrimental to the character of the heritage area and is therefore supported.

## **CONCLUSION**

In accordance with the above, the dwelling is not considered to be of individual cultural heritage significance, nor contribute to the heritage significance or character of the locality. Accordingly its demolition is recommended for approval.

## **STRATEGIC IMPLICATIONS**

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## **LEGAL IMPLICATIONS**

Nil

## **COMMITTEE DECISION ITEM PC1903 - 8**

**Moved: Cr Jon Strachan**

**Seconded: Cr Jeff McDonald**

**Planning committee acting under delegation 1.2:**

**APPROVE under the Metropolitan Region Scheme and Local Planning Scheme No. 4 the demolition of Single house and outbuildings at No. 145 Solomon Street (Lot 5) Solomon Street, Beaconsfield subject to the following conditions:**

1. This approval relates only to the development as indicated on the approved plans, dated 20 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.

**Advice Notes**

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

Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a license and in accordance with the *Health (Asbestos) Regulations 1992* and the *Environmental Protection (Controlled Waste) Regulations 2001*. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the *Occupational Safety and Health Act 1984* and accompanying regulations and the requirements of the *Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)]*;  
Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce. <http://www.docep.wa.gov.au>

**Carried en bloc: 7/0**

Mayor, Brad Pettitt, Cr Jon Strachan, Cr Ingrid Waltham,  
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume

**PC1903 -9      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 PC1903 - 9**

**Moved: Cr Jon Strachan**

**Seconded: Cr Jeff McDonald**

**That the information is noted.**

**Carried en bloc: 7/0**  
**Mayor, Brad Pettitt, Cr Jon Strachan, Cr Ingrid Waltham,  
Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume**

**PC1903 -10 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 PC1903 - 10**

**Moved: Cr Jon Strachan**

**Seconded: Cr Jeff McDonald**

**That the information is noted.**

**Carried en bloc: 7/0**  
**Mayor, Brad Pettitt, Cr Jon Strachan, Cr Ingrid Waltham,**  
**Cr Bryn Jones, Cr Adin Lang, Cr Jeff McDonald, Cr Dave Hume**

### **10.3 COUNCIL DECISION**

Nil

### **11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

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

Nil

### **12. URGENT BUSINESS**

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

Nil

### **13. LATE ITEMS**

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

Nil

### **14. CONFIDENTIAL BUSINESS**

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

Nil

### **15. CLOSURE OF MEETING**

**The Presiding Member declared the meeting closed at 7:40 pm.**



# MINUTES ATTACHMENTS

## Planning Committee

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Wednesday, 6 March 2019, 6.00 pm

