



LG Ref: DAP007/17
DAP Ref: DAP/17/01316
Enquiries: (08) 6551 9919

Mr Peter Simpson
PTS Town Planning Pty Ltd
PO Box 538
INGLEWOOD WA 6932

Dear Mr Simpson

**METRO SOUTH-WEST JDAP - CITY OF FREMANTLE - DAP APPLICATION -
DAP007/17 - DETERMINATION**

Property Location:	Lots 2073 (31) and 535 (45) Henderson Street, Fremantle
Application Details:	Mixed Use Commercial and Hotel

Thank you for your Form 1 Development Assessment Panel (DAP) application and plans submitted to the City of Fremantle on 30 October 2017 for the above-mentioned development.

This application was considered by the Metro South-West JDAP at its meeting held on 19 March 2018, where in accordance with the provisions of the City of Fremantle Local Planning Scheme No.4, it was resolved to **approve** the application as per the attached notice of determination.

Should the applicant not be satisfied by this decision, an application may be made to amend or cancel this planning approval in accordance with regulation 17 and 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011*.

Please also be advised that there is a right of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*. Such an application must be made within 28 days of the determination, in accordance with the *State Administrative Tribunal Act 2004*.

Should you have any queries with respect to the conditions of approval, please contact Mr Nathan Blumenthal on behalf of the City of Fremantle on 9432 9981.

Yours sincerely,

DAP Secretariat

23 March 2018

Encl. DAP Determination Notice
Approved Plans

Cc: Mr Nathan Blumenthal
City of Fremantle



Planning and Development Act 2005

City of Fremantle Local Planning Scheme No.4

Metro South-West Joint Development Assessment Panel

**Determination on Development Assessment Panel
Application for Planning Approval**

Property Location: Lots 2073 (31) and 535 (45) Henderson Street, Fremantle
Application Details: Mixed Use Commercial and Hotel

In accordance with regulation 8 of the *Planning and Development (Development Assessment Panels) Regulations 2011*, the above application for planning approval was **granted** on 19 March 2018, subject to the following:

Approve DAP Application reference DAP/17/01316 and accompanying plans DA4 – DA30, DA32, DA34, DA36, DA38, DA40, DA42, DA43 in accordance with Clause 68 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the City of Fremantle Local Planning Scheme No. 4 subject to the following conditions:

1. This approval relates only to the development as indicated on the approved plans dated 22 February 2018. It does not relate to any other development on this lot and must substantially commence within 4 years from the date of the decision letter.
2. All storm water discharge shall be contained and disposed of on site or otherwise approved by the Chief Executive Officer, City of Fremantle.
3. This approval does not relate to any works within the road reserves. Such works will be the subject of a separate agreement between the applicant/owner and the City's Infrastructure and Project Delivery Services.
4. Prior to the issue of a building permit, detailed drawings and specifications for all aspects of the conservation works; including the materials, colours and finishes, are to be submitted and approved. These drawings are to be accompanied by a report justifying all aspects of the conservation processes. The above drawings and report are to be to the satisfaction of the Chief Executive Officer, City of Fremantle.
5. Where there is to be demolition of walls of primary/considerable significance for new openings, a minimum of 450mm wall nibs and a substantial downstand is to be retained where practical to the satisfaction of the Chief Executive Officer, City of Fremantle, on advice from the State Heritage Office. Details of the wall nibs are to be submitted and approved prior to the issue of a building permit.
6. Any internal and external alterations and additions for the proposed commercial/retail use of the Warders' Cottages (Block B) do not form part of this application for approval and is subject to a separate application for Planning Approval.



7. The existing verandah and balustrade to the west elevation of Block D shall be retained and the proposed glazing be installed inside the balustrade to the satisfaction of the Chief Executive Officer, City of Fremantle, on advice from the State Heritage Office. Final details of the verandah and the balustrade are to be submitted and approved prior to the issue of a building permit.
8. The proposed openings to the south elevation of Block D are considered to have a negative impact on the significant fabric and are to be deleted from the proposal to the satisfaction of the Chief Executive Officer, City of Fremantle, on advice from the State Heritage Office.
9. The proposed glazed canopy that sits proud of the Courthouse shall be pulled back to be at a minimum in line with the building to the satisfaction of the Chief Executive Officer, City of Fremantle, on advice from the State Heritage Office. Final details of the canopy are to be submitted and approved prior to the issue of a building permit.
10. Prior to the issue of a building permit, final details are to be provided of the location of 'green walls' and grassed areas that are proposed in close proximity to significant fabric, having regard for the potential impact of rising damp and biological damage. Details are to be provided that illustrate the proposed plantings being located sufficiently away from the buildings to minimise this impact, and provision should be made for the disposal of water away from the base of the buildings to the satisfaction of the Chief Executive Officer, City of Fremantle, on advice from the State Heritage Office.
11. Prior to the issue of a building permit, the following information is to be provided to the Chief Executive Officer, City of Fremantle, on advice from the State Heritage Office:
 - a) Further information on the construction and methodology for the structural strengthening required to the 1978 police station, and any potential impact on adjacent structures including Blocks C and E.
 - b) A photographic archival record of the place prior to any works occurring, according to the Guide to Preparing an Archival Record.
 - c) Further information on compliance with the National Construction Code and the impact on heritage fabric as a result of compliance.
 - d) Further information on the impact on the fabric as a result of the installation of electrical, hydraulic and mechanical services.
 - e) Conservation works schedule, including information on materials and methodology.
 - f) Materials and colour schedule for new built structures.
 - g) Signage strategy that provides for a coordinated approach to the provision of signage within the development.
 - h) Lighting strategy that provides for a coordinated approach to the provision of lighting within the development, and ensures that installation is sensitive to the aesthetic value and physical fabric.
 - i) Archaeological Management Plan to provide for the appropriate documentation, excavation and monitoring of potential archaeological evidence across the site.
 - j) Interpretation Strategy for the overall site that communicates the former history and use of the place, and includes implementation timelines.
 - k) Landscape Plan including guidelines for future landscape work, detailing plantings and materials.
 - l) Arboricultural report including survey and recommendations for managing existing mature trees which are being retained.



12. Prior to the issue of a building permit, final details of the external materials, colours and finishes of the proposed Hotel building, new infill buildings and hard landscaping areas, including a physical sample board or materials is to be submitted and approved to the satisfaction of the Chief Executive Officer, City of Fremantle.
13. Prior to the issue of a building permit a landscaping plan is to be submitted and approved. Prior to the occupation of the development approved, the approved landscaping shall be completed and maintained on an ongoing basis for the life of the development on the site to the satisfaction of the Chief Executive Officer, City of Fremantle.
14. Prior to the issue of a building permit, the applicant shall submit the following information to the satisfaction of the Chief Executive Officer, City of Fremantle having regard to advice from the Design Advisory Committee:
 - a) Revised details of the connection between the Court House building and the proposed pavilion addition, with the connection being recessive rather than expressive at its south-east (internal) and north-western (Henderson Street) ends, in order to allow greater legibility of the architectural detail of the Court House.
 - b) Details of the pedestrian connection from Parry Street into the Hotel Reception including the ramp details and design and surface treatments.
 - c) Final details of the materials and finishes of the hard and soft landscaping of the pedestrian spaces throughout the site.
 - d) Details of the Parry Street loading/servicing area showing the area adequately screened from view.
15. Prior to the issue of a building permit, an updated environmental acoustic report prepared by a suitably qualified consultant, which specifies the necessary attenuation measures required to achieve a compliant internal noise level for all the proposed Hotel rooms located within Blocks D, E and F is to be submitted and approved, to the satisfaction of the Chief Executive Officer, City of Fremantle. Any recommendations of the approved acoustic report are to be implemented to the satisfaction of the Chief Executive Officer, City of Fremantle.
16. Prior to the issue of a building permit, an environmental acoustic report and noise management plan, prepared by a suitably qualified consultant, which specifies the necessary attenuation measures required for Tenancies T1, T2, T3, T4, T5 and Block A (Courthouse) to comply with the *Environmental Protection (Noise) Regulations 1997* is to be submitted and approved, to the satisfaction of the Chief Executive Officer, City of Fremantle. Any recommendations of the approved acoustic report are to be implemented to the satisfaction of the Chief Executive Officer, City of Fremantle.
17. Prior to occupation of the development, a Notification pursuant to Section 70A of the *Transfer of Land Act 1893* shall be prepared to the satisfaction of the City of Fremantle and registered against the Certificate of Title(s) to notify owners and prospective purchasers the land may be affected by activities and noise from existing surrounding land uses, including the Fremantle Markets, Fremantle Oval and the Drill Hall. All costs and incidentals relating to the preparation of and registration of the Section 70A notification, including related City of Fremantle Solicitors' costs, shall be met by the owner of the land.



18. Prior to occupation of the development, a Hotel Management Plan to be submitted and approved to the satisfaction of the Chief Executive Officer, City of Fremantle. The management plan is to include information about parking and alternative transport options, specific details as to how the hotel operator will inform guests about potential noise from activities and events at nearby sources including the Fremantle Markets, Fremantle Oval and the Drill Hall. The approved Management plan is to be implemented, thereafter to the satisfaction of the Chief Executive Officer, City of Fremantle.
19. In addition to the lighting strategy required in Condition 11, prior to occupation of the development, the outdoor lighting plan is to be designed, baffled and located to prevent any increase in light spill onto the adjoining properties, to the satisfaction of the Chief Executive Officer, City of Fremantle.
20. The design and construction of the Hotel building (Block F) 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 Chief Executive Officer, 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 Chief Executive Officer, 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.
21. Prior to the issue of a Building Permit, the design and materials of the development for any new buildings (Block F – Hotel, T1, T2, T3, T5, Courthouse Pavilion) shall adhere to the requirements set out within City of Fremantle policy L.P.P2.3 - Fremantle Port Buffer Area Development Guidelines for properties contained within Area 2. Specifically, the development shall provide the following:
 - Glazing to windows and other openings shall be laminated safety glass of minimum thickness of 6mm or “double glazed” utilising laminated or toughened safety glass of a minimum thickness of 3mm.
 - Air conditioners shall provide internal centrally located ‘shut down’ points and associated procedures for emergency use.
 - Roof insulation in accordance with the requirements of the Building Codes of Australia.
22. Prior to the issue of a building permit, details of the proposed on-site delivery and loading area including vehicle sweep paths that demonstrate the safe entry and egress of vehicles using the area are to be submitted and approved to the satisfaction of the Chief Executive Officer, City of Fremantle.
23. Prior to occupation of the development, 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 Chief Executive Officer, City of Fremantle.



24. 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 Chief Executive Officer, City of Fremantle.
25. 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 TECHSERVICES@fremantle.wa.gov.au.
26. Prior to the occupation of the development, any redundant crossovers and kerbs shall be removed and the verge reinstated at the expense of the applicant and to the satisfaction of the Chief Executive Officer, City of Fremantle.
27. Prior to the issue of a building permit, the plans hereby approved being modified to include 13 class 1 or class 2, and 11 class 3 bicycle parking bays and associated end-of-trip facilities consisting of:
 - 4 male and 4 female showers, OR
 - 4 unisex showers

in accordance with clause 5.16.1 of Local Planning Scheme No.4. The bays and end-of-trip facilities shall be provided and thereafter maintained to the satisfaction of the Chief Executive Officer, City of Fremantle.
28. Prior to issue of a building permit, the owner/developer is to submit a waste management plan for approval detailing the storage and management of the waste generated by the development. The approved waste management plan is to be implemented and maintained for the life of the development to the satisfaction of the Chief Executive Officer, City of Fremantle.
29. Prior to occupation of the development, the owner shall contribute a monetary amount equal in value to one percent of the estimated development cost, as indicated on the Form of Application for Planning Approval, to the City of Fremantle for development of public art works and/or heritage works to enhance the public realm consistent with the City's LPP 2.19 and to the satisfaction of the Chief Executive Officer, City of Fremantle. Based on the estimated cost of the development being \$10 million the contribution to be made is \$100,000.
30. Prior to the issue of a Building Permit, Lot.535 Henderson Street and Lot. 2073 Henderson Street are to be legally amalgamated or alternatively the owner may enter into a legal agreement with the City of Fremantle, drafted by the City's solicitors at the expense of the owner and be executed by all parties concerned prior to the commencement of the works. The legal agreement will ensure that the amalgamation is carried out and an application for a new Certificate of Title to the amalgamated lots is submitted to the Registrar of Titles within twelve (12) months of the issue of the Building Permit for the development, to the satisfaction of the Chief Executive Officer, City of Fremantle.



31. Prior to the issue of a Building Permit or Demolition Permit, a Construction Management Plan shall be submitted to the satisfaction of the Chief Executive Officer, City of Fremantle addressing the following matters:
- a) The protective measures for significant fabric during construction
 - b) Use of City car parking bays for construction related activities;
 - c) Protection of infrastructure and street trees within the road reserve;
 - d) Security fencing around construction sites;
 - e) Gantries;
 - f) Access to site by construction vehicles;
 - g) Contact details;
 - h) Site offices;
 - i) Noise - Construction work and deliveries;
 - j) Sand drift and dust management;
 - k) Waste management;
 - l) Dewatering management plan;
 - m) Traffic management; and
 - n) Works affecting pedestrian areas
32. 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 relation to the public art contribution, the applicant is advised that Council may waive the requirement for the public art/heritage work contribution in accordance with clause 6 of LPP 2.19 where the development incorporates public art in the development to the same value as that specified in Condition 10 that is located in a position clearly visible to the general public on the site of the development. In determining the appropriateness and artistic merit of the public art, council shall seek relevant professional advice.
- ii. With regard to the condition for an updated acoustic consultant report, the applicant is advised that they are strongly encouraged to investigate methods of noise attenuation for the Hotel rooms that would achieve a higher level of attention above the minimum standard.
- iii. 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>. The Infrastructure Engineering department can be contacted via TECHSERVICES@fremantle.wa.gov.au or 9432 9999.
- iv. In regards to the wall nibs, the Heritage Council further resolves that any variation to the minimum requirement of retention of wall nibs will be dealt with under delegation by the Department, following the submission of further information and perspectives where required.
- v. The paving and landscaping depicted outside the boundaries of the subject property do not form part of this approval. For further queries relating to verge infrastructure modifications please contact the Infrastructure Engineering department via TECHSERVICES@fremantle.wa.gov.au or 9432 9999.



- vi. The Restaurant premises must comply with the *Food Act 2008*, regulations and the *Food Safety Standards* incorporating AS 4674-2004 *Design, construction and fit-out of food premises*. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the *Food Act 2008*. For further information contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- vii. The proponent must make application during the Building License application stage to Environmental Health Services via Form 1 - *Application to construct, alter or extend a public building* as a requirement of the *Health (Public Buildings) Regulations 1992*. For further information and a copy of the application form contact Environmental Health Services on 9432 9856 or via health@fremantle.wa.gov.au.
- viii. 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>.
- ix. 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.
- x. Work on construction sites shall be limited to between 7am and 7pm on any day which is not a Sunday or Public Holiday. If work is to be done outside these hours a noise management plan must be submitted and approved by the Chief Executive Officer, City of Fremantle prior to work commencing.
- xi. Design and install all mechanical service systems, including air-conditioners, pool filter motors, gym weight equipment, amplified music, kitchen exhaust ducts and refrigeration motors, etc. to prevent noise levels from exceeding the relevant assigned levels as set out in the *Environmental Protection (Noise) Regulations 1997* (as amended). It is advised to seek the services of a competent acoustic consultant to assist the applicant to address the potential noise impacts on noise sensitive receivers.
- xii. With regard to the condition relating to the Green Star and the Fremantle Port buffer area, LPP2.13 and LPP 2.3 recognises that it may not be possible to achieve compliance with these requirements in cases where an application involves the adaptive reuse of a heritage listed building. The requirement may be waived on the submission of evidence that compliance would be detrimental to the heritage significance of the building.



Where an approval has so lapsed, no development shall be carried out without further approval having first been sought and obtained, unless the applicant has applied and obtained Development Assessment Panel approval to extend the approval term under regulation 17(1)(a) of the *Planning and Development (Development Assessment Panels) Regulations 2011*.