



MINUTES

Town Planning Committee

Tuesday, 1 May 2018 at 6.30pm

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Whilst the Committee has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting.

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MINUTES OF THE ORDINARY MEETING OF THE TOWN PLANNING COMMITTEE HELD AT THE EAST FREMANTLE TOWN HALL, 135 CANNING HIGHWAY, EAST FREMANTLE ON TUESDAY 3 APRIL 2018.

1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

Presiding member opened the meeting at 6:30pm and welcomed members of the gallery.

2. ACKNOWLEDGEMENT OF COUNTRY

"On behalf of the Council I would like to acknowledge the Whadjuk Nyoongar people as the traditional custodians of the land on which this meeting is taking place and pay my respects to Elders past and present."

3. RECORD OF ATTENDANCE

3.1 Attendance

The following members were in attendance:

Cr C Collinson Presiding Member

Mayor J O'Neill

Cr M McPhail

Cr D Nardi

Cr T Natale

Cr A White

The following staff were in attendance:

Mr A Malone Executive Manager Regulatory Services

Ms J May Minute Secretary

There were seven members of the public in the gallery.

3.2 Apologies

Cr J Harrington

3.3 Leave of Absence

Cr M McPhail advised that he will be absent for the July Town Planning Committee Meeting (away from June 21st to July 15th).

4. MEMORANDUM OF OUTSTANDING BUSINESS

Nil.

5. DISCLOSURES OF INTEREST

5.1 Financial

Nil.

5.2 Proximity

Nil.

5.3 Impartiality

Nil.

6. PUBLIC QUESTION TIME

6.1 Responses to previous questions from members of the public taken on notice

Nil.

6.2 Public Question Time

Nil.

7. PRESENTATIONS/DEPUTATIONS

7.1 Presentations

Nil.

7.2 Deputations

Nil.

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Town Planning and Building Committee (3 April 2018)

8.1 OFFICER RECOMMENDATION

Moved Nardi, seconded Cr McPhail

That the minutes of the Town Planning and Building Committee meeting held on Tuesday 3 April 2018 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

Nil.

10. REPORTS OF COMMITTEES

10.1 Community Design Advisory Committee

Prepared by: Andrew Malone Executive Manager Regulatory Services

Supervised by: Gary Tuffin, Chief Executive Officer

Authority/Discretion: Town Planning & Building Committee

PURPOSE

To submit the minutes of the Community Design Advisory Committee meeting held in April for receipt by the Town Planning Committee.

EXECUTIVE SUMMARY

The Committee, at its meeting held on 30 April 2018, provided comment on planning applications listed for consideration at the June Town Planning Committee meeting and other applications to be considered in the future. Comments relating to applications have been replicated and addressed in the individual reports.

Due to the date of the CDAC meeting the minutes will be tabled at the Town Planning Committee meeting.

There is no further action other than to receive the minute.

OFFICER RECOMMENDATION

That the Minutes of the Community Design Advisory Committee meeting held on 30 April 2018 be received.

Committee did not vote on the above item as the minutes were not available at the time of the meeting.

11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

11.1 Preston Point Road No. 27 (Lot 101) – Request for Second Crossover to Preston Point Road

Owner	S J Gaspar
Applicant	D Gaspar
File ref	P/PPT27
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Voting requirements	Simple Majority
Meeting date	1 May 2018
Documents tabled	Nil

Purpose

This report considers a request for a second crossover at No. 27 (Lot 101) Preston Point Road, East Fremantle.

Executive Summary

The following issues are relevant to the determination of this request for a second crossover.

- Maximum number of crossovers per lot: 1 permitted; 2 proposed.
- Heritage Listing and Category A rating (Federation Bungalow c1919).
- Pedestrian, cyclist and motorist safety.
- Parking within the street setback area.
- Pedestrian priority over vehicular access.
- Location of median island.
- Streetscape.
- Street tree.

Taking into consideration the heritage listing and high rating, streetscape, road safety, street tree and other site circumstances a second crossover is considered unnecessary and detrimental to the heritage property, pedestrian, cyclist and motorist safety, as well as the overall appearance of the streetscape and should not be supported. As such the application is recommended for refusal on the grounds that it does not comply with the provisions of the Residential Design Guidelines, the objectives of the Residential zone under the Planning Scheme and is contrary to the orderly and proper planning of the area.

Background

The owner wishes to apply for a second crossover on the following grounds:

"We are proposing a crossover to overcome the lack of parking for our house and area/hill in general.

We have a two car garage - however, nil other off-street access or street parking – which is very unusual. There is no parking on our corner allowed with the nearest visitor parking some 150 – 200 metres away.

At the time that we purchased the house in 2008 we were able to park across the road on Preston Point Road. This was subsequently taken away via Council road works in and around 2012.

We have previously proposed parking be made available on the Bolton Street verge - opposite our garage – however, this was declined and the verge there remains in an unattended eyesore.

The crossover we have proposed is beside our neighbour’s crossover- however, it’s higher on the hill which enables better viewing than their existing crossover.

The parking on our property in front of the house is behind our hedge and would not detract from the property aesthetics, which is very important to us.”

DETAILS

The proposed new crossover (~3 metres wide) when constructed and nearby to the adjoining neighbour’s crossover will result in two crossovers with a combined width of approximately 10.0 metres. As noted by the applicant the lot has a double garage accessed from Bolton Street.

The second crossover is sought to enable additional vehicle(s) to be parked in the front setback area off Preston Point Road. Once constructed it would be an added convenience for the owners.

LPS 3 Zoning: Residential R12.5
Site area: 776m²

Consultation

Advertising

Advertising was not required as the proposed crossover is wholly within the road reserve. Adjoining neighbours are not directly impacted.

Community Design Advisory Committee (CDAC)

The application was not referred to the CDAC as it will have no impact on the design or heritage elements of the place, in that the design of the dwelling will remain unchanged.

Statutory Environment

Planning and Development Act 2005
Town of East Fremantle Local Planning Scheme No. 3 (LPS 3)
LPS 3 - Heritage List

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016 (as amended)
Municipal Heritage Inventory – Category A
Port Buffer Zone – Area 3

Financial Implications

Nil

Strategic Implications

The Town of East Fremantle Strategic Community Plan 2017 – 2027 states as follows:

Built Environment

Accessible, well planned built landscapes which are in balance with the Town’s unique heritage and open spaces.

3.1 Facilitate sustainable growth with housing options to meet future community needs.

- 3.1.1 *Advocate for a desirable planning and community outcome for all major strategic development sites.*
- 3.1.2 *Plan for a mix of inclusive diversified housing options.*
- 3.2 *Maintaining and enhancing the Town's character.*
 - 3.2.1 *Ensure appropriate planning policies to protect the Town's existing built form.*
- 3.3 *Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.*
 - 3.3.1 *Continue to improve asset management practices.*
 - 3.3.2 *Optimal management of assets within resource capabilities.*
 - 3.3.3 *Plan and advocate for improved access and connectivity.*

Natural Environment

Maintaining and enhancing our River foreshore and other green, open spaces with a focus on environmental sustainability and community amenity.

- 4.1 *Conserve, maintain and enhance the Town's open spaces.*
 - 4.1.1 *Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*
 - 4.1.2 *Plan for improved streetscapes parks and reserves.*
- 4.2 *Enhance environmental values and sustainable natural resource use.*
 - 4.2.1 *Reduce waste through sustainable waste management practices.*
- 4.3 *Acknowledge the change in our climate and understand the impact of those changes.*
 - 4.3.1 *Improve systems and infrastructure standards to assist with mitigating climate change impacts.*

Site Inspection

April 2018

Comment

The preference for some land owners to accommodate additional vehicles on site and pave front setback areas as indicated in the applicant's submission has the potential to result in streetscapes becoming dominated by more and larger crossovers and driveways at the expense of heritage values, pedestrian, motorist and cyclist safety, landscaping, streetscape amenity, street trees and on-street parking. As a result the Town's Residential Design Guidelines (RDG) specifically addresses this issue under clause 3.7.14 where the RDG state the following as being one of the 'Desired Outcomes' for the Precinct:

- *maximum of one crossover per lot.*

and the RDG 'Performance Criteria' states, in part, that:

- *Pedestrian walk ways will take priority over vehicular access.*

also Clause 3.7.15.2.2 – 'Acceptable Development Provisions' states that:

- *A1.1 parking to be located at the rear of the block.*

There are a number of matters that are relevant to the consideration of this request for a second crossover, not the least of which is motorist, cyclist and pedestrian safety. The Policy of one crossover per lot is for the purpose of maximising the safety, comfort and convenience for pedestrians and cyclists and minimising the need for them to be overly cautious and vigilant on footpaths and roadways. Minimising the crossover points is therefore very important in maximising safety and amenity for residents and motorists.

Preston Point Road is a district distributor road recording between 6000 – 9000 vehicles per day (2016 figures) and is also a bus route, as such access points must be kept to a minimum. The location of the proposed crossover is just below the crest of the hill and a median island is almost directly behind the proposed crossover, making this location even more problematic for vehicles reversing on to the roadway. It will be extremely difficult for vehicles travelling north on Preston Point Road to see a vehicle entering or leaving the site until they have reached the crest of the hill (only ~30-40m) from the crossover point. It is also questionable whether the area set aside for the crossover and the vehicle parking area is large enough to provide a manoeuvring space within the front setback area. In the Town's opinion the proposed paved parking area would only be able to accommodate one vehicle and that vehicle would not have the manoeuvring area to enter the road in a forward direction. It is therefore not considered safe to allow the option to reverse onto Preston Point Road if it is not necessary.

Furthermore, parking in the front setback area would significantly detract from the category A rated heritage property. The property has been described in the Place Record Form as *"having exceptional aesthetic value as a Federation Bungalow. It retains a moderate to high degree of authenticity and a high degree of integrity."* The paved parking area is not supported by the Town as it would be highly visible and detract from the presence and appearance of the dwelling in the street. The rating of the property in the above regard would be significantly diminished if parking was permitted in the front setback area.

Double crossovers, or crossovers immediately adjacent to each other have an even greater visual impact, resulting in a greater proportion of paving as opposed to landscaping which in turn results in greater storm water run-off and overall less 'soft' landscaping. Also, a substantial tree on the property would need to be removed. Whilst Council cannot prevent this on private property it is disappointing to see this occur if not absolutely necessary. A substantial amount of landscaping on the property boundary would also need to be removed to provide for a sliding gate to run along the front fence line.

The request for a crossover (which is primarily not supported because of the proposed location almost at the crest of the hill and in front of the median island) is also not supported on the basis that the additional ~20m² of crossover paving on the verge is considered to detract from the streetscape and will effectively result in a triple crossover, when positioned next to the neighbour's crossover.

Also, of consideration in respect to this request is the location of a street tree approximately 1.0 metre away from the proposed crossover. The Town's Operations Manager has stated that a minimum 1.0 metre separation between a crossover and street tree is required. The proposed distance from the street tree is therefore considered to be only marginally acceptable. This tree is small and with growth it may become problematic in respect to sight lines. This is a further contributing factor as to why a second crossover should not be approved.

The applicant has commented that parking for visitors is limited but it is noted that on-street parking is available in Bolton Street and Reynolds Road (parking restrictions stop ~50 – 60 metres away from the pedestrian entrance to the applicant's property on Bolton Street and ~70 metres away on Preston Point Road. This is not considered too great a distance for visitors to walk even if parking is only available further afield. If there are mobility issues it is possible to use the garage off Bolton Street to enter the property.

Taking into consideration the above comments a second crossover to access a paved parking area is considered to be to the detriment of pedestrian and motorist/cyclist safety, as well as the overall appearance of the streetscape and heritage listed dwelling and should not be supported.

The application is recommended for refusal on the grounds that it does not comply with the provisions of the Residential Design Guidelines, the objectives of the Residential zone and is contrary to the orderly and proper planning of the area.

Conclusion

The request for a second crossover is not supportable and the application is recommended for refusal on the basis that the application does not comply with:

1. The *Acceptable Development Criteria* or the *Performance Criteria* of the Local Planning Policy Residential Design Guidelines 2016 with regard to:
 - (i) Clause 3.7.14 Footpaths and Crossovers in that a maximum of one crossover per lot is permitted and pedestrian walk ways will take priority over vehicular access;
2. Aims (b) and (f) of the Planning Scheme for a Residential zone, specifically:
 - to enhance the character and amenity of the Town, and to promote a sense of place and community identity within each of the precincts of the Town;
 - to ensure the safe and convenient movement of people throughout the Town, including pedestrians, cyclists, public transport users and motorists;
3. Also, as the proposed development conflicts with Clause 4.2 Objectives of the Zones - Residential Zone which, amongst other things, are to:
 - to recognise the importance of design elements such as the 'front yard' and the 'back yard' to the character, amenity and historical development of the Town and to the community; and
4. The proposed development also conflicts with the provisions of the Local Planning Scheme under clause 67 (Deemed Provisions) because it is incompatible with:
 - (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
 - (g) any local planning policy for the Scheme area (i.e. the Residential Design Guidelines);
 - (k) the built heritage conservation of any place that is of cultural significance;
 - (n) the amenity of the locality including the (ii) the character of the locality; and
 - (s) the proposed means of access to and egress from the site.

As such the application is recommended for refusal on the grounds that it does not comply with the provisions of the Residential Design Guidelines, the aims of the Planning Scheme, the objectives of the Residential Zone and is contrary to the orderly and proper planning of the area.

11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP010518

Moved Cr Nardi, seconded Cr White

That Council refuse the application for a second crossover at No. 27 (Lot 101) Preston Point Road, East Fremantle, as proposed in the request dated 26 March 2018 for the following reasons:

- (1) The proposed development does not comply with the requirements of the 'Acceptable Development Criteria' or the 'Performance Criteria' of Local Planning Policy 3.1.1 - Residential Design Guidelines 2016 (as amended) with regard to:
 - (i) Clause 3.7.14 Footpaths and Crossovers in that a maximum of one crossover per lot is permitted and the pedestrian walkways will take priority over vehicle access;
- (2) The proposed application does not comply with the following requirements of Local Planning Scheme No. 3 as the proposed development:
 - conflicts with Clause 1.6 - Aims of the Scheme;
 - conflicts with Clause 4.2 - Objectives of the Zones: Residential Objectives; and
 - the proposed application conflicts with the provisions of the Town of East Fremantle Local Planning Scheme No. 3 – Deemed Provisions Clause 67 (a), (g), (k), (n) and (s) because it would detrimentally impact on the amenity of the area; and
- (3) The proposed crossover does not comply with the orderly and proper planning of the area.

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 20 June 2017 this application deemed determined, on behalf of Council, under delegated authority.

11.2 Moss Street, No. 33 (Reserve 37909) – Change of Use from Day Therapy Centre to Short Term Residential Accommodation for up to 15 Persons – Request for Second Extension of Temporary Planning Approval

Applicant	M Stokoe on behalf of South Metropolitan Health Service
Landowner	State of WA - Minister of Public Health
File ref	P/MOSS33
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Voting requirements	Simple Majority
Documents tabled	Nil
Meeting date	1 May 2018

Purpose

The purpose of this report is for Council to consider a planning application for a second extension of a 12 month temporary planning approval for a change of use from day therapy centre to short term residential accommodation for up to 15 persons (Admission – Direction Service for Fremantle Hospital and Health Service).

Executive Summary

This application is for a second 12 month extension to the original approval. The following issues were noted as relevant to the determination of this application upon its initial assessment in 2016:

- Change of use from day therapy consulting rooms to short term accommodation;
- Residential amenity impacts and compatibility of use with surrounding residential uses;
- Car parking and access for clients, staff, visitors and service/delivery vehicles; and
- Use of 'Reserve' land with Management Orders stating the land is to be used for mental health services.

The application underwent two advertising periods in accordance with planning scheme provisions, including a public information session at Fremantle Hospital, letters to residents, signs on the site and individual ratepayer meetings with planning staff. A significant number of submissions objecting to the application were received primarily all focusing on the potential negative impact of the use on residential amenity and parking, traffic and access issues

The proposed accommodation use was, however, considered consistent with the reserve status of the land and the purpose of the 'gifting' to the Fremantle Hospital. The use of the building was also considered compatible with the surrounding residential area, particularly as it is intended for the occupants to live in a residential setting. Nonetheless a number of relevant planning issues and matters for consideration were raised in the submissions and by planning officers. These were addressed and conditions of planning approval were imposed as a result.

The time in which the current planning approval remains valid will expire on 16 May 2018. The applicant has requested a further extension of the planning approval for a second twelve month period. Since the initial approval was granted commencement of building work has been delayed in part due to the extent of the specifications required and the compliancy checks to ensure the completed works comply with the Town's requirements, heritage and building code applicable to a Class 9 building. There are no changes to the works proposed with the second application for extension of the approval.

No further public consultation is required at this stage because the applicant is only requesting a further extension of the approval already granted. There are no changes to the existing works planned for the

site, or the planning conditions imposed, or any change to the details of the initial application or the manner in which the facility will operate. There are no changes to the statutory/legislative assessment requirements used to determine this application either.

Full details in respect to the original application and initial request for the extension of the Council approval can be found in the Council Minutes of 17 May 2016 and 16 May 2017. The same conditions of approval are recommended to be imposed should Council resolve to grant a second extension of the planning approval for another 12 months.

The application for a second extension of the planning approval for another 12 months is supported under the same conditions as the current approval. The extension to the approval period to commence from the date of the Council's determination and the temporary planning approval to commence from the date the Occupancy Permit is issued.

Background

- 18 October 1982:** Council approved a change of use from general hospital to 'Psycho-geriatric Care Centre' for up to 16 persons.
- 20 August 1982:** Land denoted as 'Reserve' for 'mental health services' in Government Gazette.
- 25 June 2001:** South East Metropolitan Health Service advised that the property was to be used for a geriatric day therapy centre.
- 17 May 2016:** Council granted a 12 month temporary approval for the change of use to short term residential accommodation from day therapy centre. The 12 month approval period to commence from the date of issue of the Occupancy Permit.
- 16 May 2017** Council granted a 12 month extension of the original 12 month planning approval under the same conditions of planning approval.
- Current:** Vacant building.

The applicant has submitted a letter (refer to Attachment 3) in support of the request for a second extension of the original planning approval stating as follows:

"...Commencement of building work has been further delayed due to the extent of specifications required and the level of compliancy checks to ensure the completed works comply with the Town of East Fremantle requirements, heritage and building code applicable to a class 9 building.

We can confirm there has been no change in the works as approved in the original approved submission. The works have not progressed as yet while further consideration of the financial risk to the South Metropolitan Health Service is undertaken. The importance of providing a long term facility for the benefit of mental health patients' needs to be balanced against the risk of a half million dollar investment only being given temporary approval.

In the interim the facility at 33 Moss Street has and is being maintained, security alarm systems and fire alarm systems are operational and maintained."

Consultation

No community consultation required as the application is for a second request to extend the temporary planning approval. Should the facility commence operations the applicant is required to submit another planning approval application seeking Council's approval to continue to operate past the 12 month temporary approval. At that point further public consultation will be required.

Community Design Advisory Committee (CDAC)

Referral to the CDAC is not considered necessary given the application is for a change of use and there are no external changes to the heritage listed building proposed.

Statutory Environment

Planning and Development Act 2005

Town of East Fremantle Local Planning Scheme No. 3 (LPS No. 3)

LPS No. 3 – Heritage List – Category A

Crown Land Title – Management Order – Swan No. 37909

Policy Implications

Municipal Heritage Inventory – Category A

Fremantle Port Buffer Zone – Area 3

Financial Implications

Nil.

Strategic Implications

The Town of East Fremantle Strategic Community Plan 2017 – 2027 states as follows:

Built Environment

Accessible, well planned built landscapes which are in balance with the Town's unique heritage and open spaces.

3.1 Facilitate sustainable growth with housing options to meet future community needs.

3.1.1 Advocate for a desirable planning and community outcome for all major strategic development sites.

3.1.2 Plan for a mix of inclusive diversified housing options.

3.2 Maintaining and enhancing the Town's character.

3.2.1 Ensure appropriate planning policies to protect the Town's existing built form.

3.3 Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.

3.3.1 Continue to improve asset management practices.

3.3.2 Optimal management of assets within resource capabilities.

3.3.3 Plan and advocate for improved access and connectivity.

Natural Environment

Maintaining and enhancing our River foreshore and other green, open spaces with a focus on environmental sustainability and community amenity.

4.1 Conserve, maintain and enhance the Town's open spaces.

4.1.1 Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.

4.1.2 Plan for improved streetscapes parks and reserves.

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

4.3 Acknowledge the change in our climate and understand the impact of those changes.

4.3.1 Improve systems and infrastructure standards to assist with mitigating climate change impacts.

Site Inspection

April 2018

Comment

LPS 3 Zoning: Local Scheme Reserve – Public Purposes (Hospital)

MRS: Urban

Site area: 2,651m²

Statutory Assessment

The following issues were noted as relevant to the determination of this application upon its initial assessment in October 2016:

- Change of use from day therapy consulting rooms to short term accommodation;
- Residential amenity impacts and compatibility of use with surrounding residential uses;
- Car parking and access for clients, staff, visitors and service/delivery vehicles; and
- Use of 'Reserve' land with Management Orders stating that the land is to be used for mental health services.

The application underwent two advertising periods in accordance with planning scheme provisions, including a public information session at Fremantle Hospital, letters to residents and signs on the site. Nineteen (19) submissions were received in the initial period with 17 objecting, one in support and one being from a repeat submitter. A 32 signature petition objecting to the proposal was also received. Sixteen (16) of the signatories also made an individual submission. One (1) submission objecting to the proposal was received in the second advertising period.

- The following planning issues were raised in submissions:
- Increased traffic over a 24 hour period;
- 50% increase in number of clients from the current service at Hampton Road;
- Inadequate car parking provision, manoeuvring area and undersized bays;
- Pedestrian safety;
- Inadequate existing on-street parking;
- Non-residential nature of the use;
- Negative impact on residential amenity;
- Suitability of building for proposed use;
- Community consultation inadequate;
- Heritage listing of the site; and
- Issues with previous use of the site as a mental health facility.

The proposed accommodation use was considered consistent with the reserve status of the land and the purpose of the 'gifting' to the Fremantle Hospital. The building was also considered compatible with the surrounding residential area, particularly as it is intended for the occupants to live in a residential setting, however, the proposed scale of the service that is the number of clients, parking and access issues for clients, staff and service vehicles were points of concern. Of particular concern was the potential impact on residential amenity and the difficulty of assessing the impact in this location based on the operation of the existing facility in Hampton Road, Fremantle.

Taking into account the amenity, car parking, access and scale of the accommodation use it was recommended that the change of use be approved for 12 months only. It was thought that during that time if the Council determined the use failed to comply with the conditions of the approval, or if the change of use caused a nuisance or annoyance to surrounding residents as determined by Council the approval may be revoked. At the end of the 12 month period the applicant is required to submit

another planning approval application for the continuance of the use at which time the suitability of the use, the number of people accommodated at any one time and the car parking demand and provision would be reassessed.

Full details in respect to the original application and the first request for an extension of the temporary planning approval can be found in the Council Minutes of 17 May 2016 and 16 May 2017. Based on the consistency with the previous approval/conditions no further advertising was undertaken. The same conditions of approval are recommended to be imposed should Council resolve to grant a second extension of the planning approval for an additional 12 months only. The application for an extension of the planning approval for a further 12 months is therefore supported under the same conditions as the current approval. The extension to the approval period to commence from the date of the Council's determination and the temporary planning approval to commence from the date the Occupancy Permit is issued.

11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP020518

Moved Cr White, seconded Cr Natale

That Council grant a second 12 month extension to the 12 month temporary approval for a change of use from day therapy centre to short term residential accommodation for up to ten (10) persons and five (5) staff at No. 33 (Reserve 37909) Moss Street, East Fremantle subject to the following conditions:

- (1) No more than 10 persons and 5 staff at any one time to occupy the site (see Footnote (a) below). The approval for the number of occupants not to exceed ten (10) persons and for the number of staff not to exceed five (5) persons is valid for a period of 12 months only from the date of the issue of an occupancy permit and the applicant is required to seek a renewal of the development approval thereafter to enable the continuance of the use and for approval of the number of persons to be accommodated and the number of staff to be working at the site.**
- (2) A resident/client is not to be accommodated for any period longer than six (6) weeks in any one period of accommodation.**
- (3) The provision of vehicle and pedestrian sight lines to the satisfaction of the Chief Executive Officer in consultation with relevant officers at all pedestrian and vehicle entry and exit points to the site. The sight lines to be maintained to the Town's satisfaction and installed prior to the issue of a Building Permit for the site.**
- (4) The provision of a total of eleven (11) paved, drained and marked parking bays with adequate parking bay and manoeuvring dimensions that meet the relevant Australian Standards for clients, staff, delivery/service and disabled persons to the satisfaction of the Chief Executive Officer. The bays to be provided and marked before issue of the Occupancy Permit.**
- (5) Five (5) bays to be marked for staff use and three (3) bays to be marked for client use only. The bays to be provided and marked before issue of the Occupancy Permit.**
- (6) The provision of one (1) service/delivery bay that is marked for that purpose only and meets Australian Standards in terms of required dimensions and manoeuvring areas.**
- (7) The one (1) disabled bay and two (2) client bays in the front setback area off Moss Street to meet Australian Standards and the paving materials to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers, the details to be submitted with the Building Permit application.**
- (8) Any external alterations proposed to the main building or outbuildings considered by Council to have heritage significance to be subject to a separate development application to be submitted to Council for its consideration.**

- (9) An alternate bin storage area is to be located on site to the satisfaction of the Chief Executive Officer in consultation with relevant officers to be indicated on the plans to be submitted for a Building Permit application.
- (10) All waste storage and recycling bins are to be stored on-site (not on the verge or in view of either Moss or Bedford Streets) and screened from the streets.
- (11) The crossover to Bedford Street to be widened to 4.6 metres to the satisfaction of the Chief Executive Officer in consultation with relevant officers. The applicant is required to liaise with the Town in regard to the widening of the crossover. The cost of the widening to be borne by the applicant.
- (12) The laundry to be relocated to an alternative position on the site to the satisfaction of the Chief Executive Officer in consultation with relevant officers and the details to be submitted with the Building Permit application.
- (13) Details of any signage on-site being the subject of a separate development application to the
- (14) Town for Council's consideration and all existing redundant signage on-site to be removed.
- (15) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (16) The proposed works are not to be commenced until Council has received an application for a building permit and the building permit issued is in compliance with the conditions of this
- (17) planning approval unless otherwise amended by Council.
- (18) With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (19) The proposed change of use is not to occur and the building is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
- (20) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (21) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (22) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (23) This planning approval to remain valid for a period of 12 months from the date of this approval unless otherwise revoked.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) In relation to condition 1 the temporary approval for the change of use also relates to the maximum number of people accommodated and the maximum number of staff at any one time. After a 12 month period if the applicant wishes the Council to reconsider the number of people accommodated and the number of staff on the site a fresh application will be required to be submitted for Council's consideration.*
- (b) The applicant be advised that failure to comply with the above conditions of this approval or if the change of use causes a nuisance or annoyance to owners or occupiers of the land in the neighbourhood, Council may revoke its approval for a maximum of 10 people to be accommodated on the site at any one time and at Council discretion reduce the maximum number of people that can be accommodated or working on the site.*
- (c) This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (d) A copy of the approved plans as stamped by Council are attached and the application for a building permit is to conform with the approved plans unless otherwise approved by Council.*
- (e) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (f) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (h) The applicant is advised that planning approval is issued for a period of 12 months only and re-application prior to the expiry of this approval will be necessary should the continuation of the use be required. It is further noted that non-compliance with the continuation of this planning approval may result in its revocation.*

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 20 June 2017 this application deemed determined, on behalf of Council, under delegated authority.

11.3 Riverside Road, Lot 7771 (Reserve 27376) Swan Yacht Club – Request for Deck and Floating Jetty.

Owner	Town of East Fremantle
Applicant	D Gaspar (Swan Yacht Club)
File ref	Reserve 27376
Prepared by	Andrew Malone, Executive Manager Regulatory Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Meeting date	1 May 2018
Documents tabled	Nil

Purpose

This report considers an application for removal of existing jetty and proposed new deck and floating jetty, including security screen, and bar area to the existing Swan Yacht Club located at Lot 7771 (Reserve 27376) Riverside Road, East Fremantle. Under the Swan and Canning Rivers Management Act, the Department of Biodiversity, Conservation and Attractions - Parks and Wildlife Service is the determining authority in this instance.

However since the subject site is on land reserved for 'Parks and Recreation' and the facility operates under a lease issued by Council, the proponents and the Department of Biodiversity, Conservation and Attractions - Parks and Wildlife Service acknowledge that Council should consider its position in respect to the application prior to determination by the Department of Parks and Wildlife.

Executive Summary

There are no outstanding issues or concerns with regard to the proposal. Due to the extent of the previous approval, the proposed works are considered a further extension to the recreation area to the riverfront of the yacht club. The proposed additions and alterations maintain the overall intent of the previous approval, improve the facilities and amenity to the riverfront of the yacht club and is therefore recommended for approval subject to conditions.

Background

November 2015	That Council advise the Department of Parks and Wildlife that it supports the application by the Swan Yacht Club, plans date stamp received on 26 September and 9 October 2014, for proposed additions to the existing clubhouse, located at Lot 7771 (Reserve 27376) Riverside Road, East Fremantle, to the Department of Parks and Wildlife subject to conditions.
February 2016	Amendments approved to previous approval.

The yacht club wishes to apply for the following:

The Swan Yacht Club (SYC) is proposing to remove an existing finger jetty as demonstrated on the attached Marina Manager Plan, introduce a floating pontoon system and fixed deck to be located to the eastern side of jetty 1. (Refer to Searle Consulting Preliminary Plan).

The fixed deck will replace the first 4 boat pens on the east side of Jetty 1. The aim of the floating pontoon system is to create a user friendly system for SYC members and guests of smaller craft to dock, embark and disembark from water level. Secondly the pontoon system will create a barrier between those using the beach area for recreational purpose from vessels entering the area, improving safety.

The aim of the fixed deck area is to provide the club, affiliates and sub sections a designated area nearest to the water to hold activities such as Angling Section weigh-ins and presentations, Power Section practical activities and workshops, Navy Cadet practical skill presentations and related social activities that are part of a club environment

A preliminary plan of deck, drafted by Marine Engineer, Martin Searle is attached in company location plans of the pontoon system and design of the pontoon system by drafted by Universal Marine System. The decking and pontoon system also aim to compliment the SYC recent club house improvements by offering improved amenities on the water.

DETAILS

The proposal is wholly located in the Swan River and does include built structures that would be considered normal for a yacht club, including the improved safety for users of the beach and yacht club facilities.

LPS 3 Zoning: Reserve 27376 is vested for the purpose of 'Yacht Club and Club premises'.

Consultation

Advertising

Advertising was not required as the proposed deck and jetty are within the lease area of the yacht club, and is considered to be consistent with the intent of the operations of the club and adjoining neighbours are not directly impacted.

Community Design Advisory Committee (CDAC)

The application was not referred to the CDAC as it will have no impact on the design, in that the design of the facilities will remain unchanged as presented to Riverside Road.

Statutory Environment

*Part 5 of the Department of Parks and Wildlife Act
Town of East Fremantle Planning Scheme No. 3
Metropolitan Region Scheme
State Planning Policy 2.6 Coastal Planning Policy
Contaminated Sites Act 2003*

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Local Planning Policies.

Financial Implications

Nil

Strategic Implications

The Town of East Fremantle Strategic Community Plan 2017 – 2027 states as follows:

Built Environment

Accessible, well planned built landscapes which are in balance with the Town's unique heritage and open spaces.

3.1 Facilitate sustainable growth with housing options to meet future community needs.

3.1.1 Advocate for a desirable planning and community outcome for all major strategic development sites.

- 3.1.2 *Plan for a mix of inclusive diversified housing options.*
- 3.2 *Maintaining and enhancing the Town's character.*
 - 3.2.1 *Ensure appropriate planning policies to protect the Town's existing built form.*
- 3.3 *Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.*
 - 3.3.1 *Continue to improve asset management practices.*
 - 3.3.2 *Optimal management of assets within resource capabilities.*
 - 3.3.3 *Plan and advocate for improved access and connectivity.*

Natural Environment

Maintaining and enhancing our River foreshore and other green, open spaces with a focus on environmental sustainability and community amenity.

- 4.1 *Conserve, maintain and enhance the Town's open spaces.*
 - 4.1.1 *Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*
 - 4.1.2 *Plan for improved streetscapes parks and reserves.*
- 4.2 *Enhance environmental values and sustainable natural resource use.*
 - 4.2.1 *Reduce waste through sustainable waste management practices.*
- 4.3 *Acknowledge the change in our climate and understand the impact of those changes.*
 - 4.3.1 *Improve systems and infrastructure standards to assist with mitigating climate change impacts.*

Site Inspection

April 2018

Comment

The applicants have proposed to remove an existing finger jetty as demonstrated on the attached Marina Manager Plan, introduce a floating pontoon system (in place of the finger jetty) and fixed deck to be located to the eastern side of jetty 1. The proposed additions and alterations make modifications to jetties and include the removal of 4 moorings to provide for a permanent deck. The overall intent of the proposal is consistent with the overall redevelopment of the yacht club. The proposal improves client/ member amenities and improves the safety in the existing beach/ swimming area.

The application is to be determined by the Department of Biodiversity, Conservation and Attractions - Parks and Wildlife Service.

Reserve – Parks and Recreation

The subject land is zoned Parks and Recreation under the Local Planning Scheme and under the Metropolitan Regional Scheme. Clause 3.2 Regional Reserves of LPS3 is relevant, which states:

- 3.2.1 *The land shown as 'Regional Reserves' on the Scheme Map are lands reserved under the Metropolitan Region Scheme and are shown on the Scheme Map for the purposes of the Metropolitan Region Town Planning Scheme Act 1959/WA Planning Commission Act 1985. These lands are not reserved under the Scheme.*
- 3.2.2 *The approval of the local government under the Scheme is not required for the commencement or carrying out of any use or development on a Regional Reserve.*

Note: The provisions of the Metropolitan Region Scheme continue to apply to such Reserves and approval is required under the Metropolitan Region Scheme from the Commission for the commencement or carrying out of any use or development on a Regional Reserve unless specifically excluded by the Region Scheme.

Council are a referral body only. The Department of Biodiversity, Conservation and Attractions - Parks and Wildlife Service is the determining authority for this development application for the proposed additions and alterations to the marina and jetty area.

Land use

The yacht club is defined as a 'Club Premises' under TPS No.3 however given the subject site is on land designated as a Local Reserve under the Scheme, this land use is not categorised within the Zoning Table. The amendments to the existing use should therefore be considered as an ancillary use to the existing 'unlisted discretionary use' which is subject to Clause 3.4.2 of the Scheme which states as follows:

- "3.4.2 In determining an application for planning approval the local government is to have due regard to -
- (a) the matters set out in clause 10.2; and
 - (b) the ultimate purpose intended for the Reserve."

The Swan Yacht Club is to remain as a club facility and the proposal is to improve the club facilities and amenities. The use is not considered to be changing. The proposed additions and alterations are primarily to improve existing infrastructure.

Matters to be Considered by Local Government

There are no specific development requirements under the Scheme or Council Policies which relate to development of a non-residential nature on land zoned Reserve.

This proposal has been assessed against the provisions of Clause 67 of the Deemed Provisions of the Town Planning Regulations and the development as proposed, is considered to comply with aims, objectives and proper planning of the area.

The proposed application has been assessed as per the provisions of the Regulations as follows:

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (g) *any local planning policy for the Scheme area;*
- (j) *in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve;*
- (m) *the compatibility of the development with its setting including the relationship of the development to 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;*
- (o) *the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;*

-
- (p) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
 - (q) *the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;*
 - (w) *the history of the site where the development is to be located;*
 - (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
 - (z) *any other planning consideration the local government considers appropriate.*

It is considered the proposed development is consistent with the existing use of the land and is consistent with the existing facilities provided by the club.

The previously approved development was for extensive redevelopment to the yacht club building, including ground floor and first floor additions and extensive landscaping. The current proposed development is to remove an existing finger jetty as demonstrated on the attached Marina Manager Plan, introduce a floating pontoon system (in place of the finger jetty) and fixed deck to be located to the eastern side of jetty 1. The proposal is consistent with the renovations and landscaped alfresco areas at the yacht club. The deck and jetties will improve member facilities and usability and provide for improved safety from the existing beach area. The extent of the proposal is considered minimal and therefore the impact is considered minor.

The proposed modifications have also been made to facilitate greater usability and safety of the alfresco area beach and small craft mooring. This proposal is considered to improve the alfresco area, river walk / club integration / presentation. The revised layout does not result in additional car parking bays being required. The proposal will not impact on the total persons permitted in the club at any one time. 144 car parking bays are remaining.

There is no change to the existing building.

It is considered the proposed additions and alterations as detailed above comply with the aims, objectives and proper planning of the area. The proposal is consistent with the existing use of the club. The proposed works improve the usability and integration with existing facilities provided for within the clubhouse. The proposal also improves the integration with the Swan River. The proposed additions are considered to comply with the Deemed Provisions of Clause 67 of the Regulations and therefore can be supported by Council.

State Coastal Policy – Sea Level Rise

With respect to physical coastal processes, SPP2.6 contains guidance for development to reduce risks associated with the effects of coastal processes, such as storm surge, tidal movement and sea level change. In this instance the jetties are floating in the river and therefore will not be significantly impacted by the above issues. The guidance for development also requires consideration of other factors such as ecological values and public access.

The proposed additions and alterations are located in the river and there is considered to be no impact for the existing building. It is for the Department of Biodiversity, Conservation and Attractions - Parks and Wildlife Service as the 'approving authority' in this instance to ultimately determine the applicability of the Coastal Policy provisions, however it is considered that any determination should address the possible future liabilities which may arise in consequence of a known risk.

Contaminated Sites Act

Pursuant to section 59 of the Act, memorials have been placed on titles associated with the subject site. The memorials record the site classification as 'Possibly contaminated – investigation required'. It is understood that activities associated with the slips have given rise to concern regarding residual contaminants in the soil and marine sediment. The existing development is also un-sewered and serviced only by leach drains.

In accordance with the Act, a "responsible authority" may not grant approval under a scheme for any proposed development of the land without seeking and taking into account, advice from the Department of Environment and Conservation as to the suitability of the proposed development. The Departments advice should be sought with regard to any disturbances to the seabed.

Since the Department of Biodiversity, Conservation and Attractions - Parks and Wildlife Service is the "responsible authority" in this instance, the Department will be required to undertake all necessary referrals and consider any responses from the Department of Environment and Conservation.

Conclusion

The proposal to remove an existing finger jetty and introduce a floating pontoon system (in place of the finger jetty) and fixed deck to be located to the eastern side of jetty 1 is considered minor in nature. The proposal is consistent with the existing club facilities and therefore is recommended for approval subject to conditions.

11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP030518

Moved Cr Nardi, seconded Cr White

That Council advise the Department of Biodiversity, Conservation and Attractions - Parks and Wildlife Service that it supports the application by the Swan Yacht Club received on 27 March 2018, for proposed removal of existing finger jetty and introduction of floating pontoon system (in place of the finger jetty) and fixed deck to be located to the eastern side of jetty 1, located at Lot 7771 (Reserve 27376) Riverside Road, East Fremantle, subject to the following conditions:

- (1) No dinghys storage is permitted on the foreshore.**
- (2) The public access leg (1.5 metres in width) traversing through the lot along the river is to be kept free from obstructions.**
- (3) 144 car parking spaces to be provided on-site.**
- (4) The jetties and deck to be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours to the satisfaction of the Chief Executive Officer.**
- (5) Activities associated with the Swan Yacht Club such as car parking, trailer and boat storage etc. are to be contained within the defined hardstand area of the car park.**
- (6) The applicants acknowledge the development and its site may in the future be subject to the environmental consequences of sea level rise and contaminates associated with past activities and agree to indemnify the Town of East Fremantle and the Department of Parks and Wildlife from any liability arising from these consequences now and in the future to the satisfaction of these Authorities.**
- (7) No advertising signage is approved under this application. A separate planning application is required for any proposed advertising signage. All signage to comply with the Town's Local Planning Policy Design Guidelines – Signage.**
- (8) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**

- (9) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (10) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (11) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (12) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (13) This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

The following are not conditions but notes of advice to the applicant/owner:

- (a) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *A copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 20 June 2017 this application deemed determined, on behalf of Council, under delegated authority.



12. REPORTS OF OFFICERS (COUNCIL DECISION)

Nil.

13. MATTERS BEHIND CLOSED DOORS

Nil.

14. CLOSURE OF MEETING

There being no further business, the Presiding Member declared the meeting closed at 6:36pm.

I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 1 May 2018, Minute Book reference 1. to 14 were confirmed at the meeting of the Committee on:

5 JUNE 2018


Presiding Member