



MINUTES

Town Planning & Building Committee

Tuesday, 5 September 2017 at 6.33pm

Disclaimer

The purpose of this Committee meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

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 & BUILDING COMMITTEE HELD AT THE EAST FREMANTLE YACHT CLUB, (WARD ROOM), PETRA STREET, EAST FREMANTLE ON TUESDAY 5 SEPTEMBER 2017.

1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

The Presiding Member opened the meeting at 6.33pm and welcomed members of the gallery.

2. ACKNOWLEDGEMENT OF COUNTRY

"On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place."

3. RECORD OF ATTENDANCE

3.1 Attendance

The following members were in attendance:

Cr C Collinson	Presiding Member
Mayor O'Neill	
Cr M McPhail	
Cr A White	
Cr D Nardi	

The following staff were in attendance:

Mr A Malone	Executive Manager Regulatory Services
Ms G Cooper	Minute Secretary

3.2 Apologies

Nil.

3.3 Leave of Absence

Nil.

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 (1 August 2017)

8.1 OFFICER RECOMMENDATION

Cr White moved, seconded Cr Nardi

That the minutes of the Town Planning and Building Committee meeting held on Tuesday 1 August 2017 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

Attachments: Nil.

The Community Design Advisory Committee did not meet in the month of August.



11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

11.1 Petra Street No. 143 (Lot 36) – Deferral of request for second crossover and development application for outbuilding (storage shed)

Applicant	S Crozier
Owner	S J Covich
File ref	P/PET143
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Voting requirements	Simple Majority
Meeting date	5 September 2017
Documents tabled	Nil
Attachments	1. Location Plan 2. Photographs 3. Plans date stamped received 11 August 2017

Purpose

This report considers a development application for an outbuilding (storage shed) following deferral of a request for a second crossover to access a vehicle parking area at No. 143 (Lot 36) Petra Street, East Fremantle.

Executive Summary

The following issues are relevant to the deferral of the request for a second crossover and a development application for an outbuilding:

Crossover

- Maximum number of crossovers per lot: 1 permitted; 2 proposed;
- Pedestrian priority over vehicular access;
- Pedestrian, cyclist and driver safety;
- Streetscape and residential amenity; and
- Proximity to light pole.

Outbuilding

- Reduced side lot boundary setback;
- Outbuilding wall height exceeded; and
- Total floor space area of outbuildings on the site exceeded.

Taking into consideration the number of crossovers in the street block, proximity of the lot to the intersection, services in the verge, parking in the street setback area and other site circumstances a second crossover is considered unnecessary and will be to the detriment of pedestrian, cyclist and motorist safety, as well as the overall appearance of the streetscape and therefore should not be supported. As such the request was recommended for refusal on the grounds that a second crossover 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.

At the August Town Planning and Building Committee meeting the Committee determined to defer the request for a second crossover and requested the applicant submit a development application for an outbuilding (storage shed); the outbuilding being required to store vintage motor vehicles. A second

crossover was not considered necessary for this purpose as the outbuilding can be accessed from the rear garden as well as from Petra Street over the mountable kerb and cleared front setback area.

The outbuilding (storage shed) in this location is supportable on the basis that it is not to be used for the purposes of garaging vehicles that are used on a regular basis or for the purposes of a workshop for repairing or restoring motor vehicles.

The minor areas of non-compliance with the R-Codes in respect to the proposed outbuilding are not considered to impact the amenity of the adjoining lot, heritage values of the property or the streetscape and as such the application is recommended for approval subject to a number of conditions regarding the use of the outbuilding and construction materials.

Background

The applicant wishes to apply for a second crossover on the basis that an area of the site within the front setback area adjacent to the southern boundary has been cleared for vehicle parking. It was the applicant's intention to apply for a carport in the future. Although this area is not paved there is evidence that it has in the past, or is currently being used for vehicle parking. No approval has been issued for car parking in the front setback area.

A light pole is located on the boundary between 141 and 143 Petra Street and the proposed crossover would be reasonably close to the light pole. It is uncertain as to how close the crossover would be constructed from the light pole as detailed plans of the crossover have not been provided. The crossover for the lot to the south is on the other side of the light pole.

It is noted that a mountable section of kerbing has been laid adjacent to the section of the front garden that has been cleared for parking. It is not clear why this section of kerbing has been laid where there is no crossover. It is not usual practice for this to occur and the Town has no record of any previous request for a crossover. This section of kerbing does not imply or require that a crossover will be approved by Council.

The matter was deferred by the Town Planning and Building Committee at its meeting of 1 August 2017 to allow the applicant to submit a development approval application for an outbuilding (storage shed). The application was submitted without the inclusion of the second crossover or a paved driveway leading to the storage shed.

DETAILS

LPS 3 Zoning: Residential R12.5
Site area: 911m²

Consultation

Advertising

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

The outbuilding was advertised for comment from 14 to 28 August 2017. No comments were received.

Community Design Advisory Panel (CDAC)

Crossover

The request for a crossover was not referred to the CDAC as it will have no impact on the heritage aspects of the Municipal Inventory listed dwelling or the streetscape, that is, the design of the dwelling will remain unchanged. However, if the request was approved by Council and the applicant submitted

an application for a carport, such an application would be referred to the CDAC as a proposal of that nature would have an impact on the dwelling, the streetscape and road safety. Further, the development provisions of the Residential Design Guidelines in respect to carports and parking in the front setback area would apply and such an application would not be in compliance with the Guidelines.

Outbuilding

The application for the outbuilding has been referred to the Community Design Advisory Committee (CDAC) meeting to be held on 4 September 2017. The CDAC comments were not available at the time of writing the report. Any relevant comments will be tabled at the Town Planning and Building Committee meeting on 5 September 2017.

Statutory Environment

Planning and Development Act

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

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016 (RDG)

Municipal Inventory – Category ‘C’

Financial Implications

Nil

Strategic Implications

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

“KEY FOCUS AREA 3: Built and natural environment

Aspiration: Our town is developing in harmony with our unique character within the fabric of the region’s built and natural environment.

3.2 Maintain a safe and healthy built and natural environment

- *Building control*
- *Heritage planning*
- *Identify and protect significant heritage buildings*
- *Undertake projects to preserve the Town Hall precinct.”*

Site Inspection

July 2017

Comment

Crossover

The preference for some land owners to pave front setback areas and accommodate more vehicles on site has the potential to result in streetscapes becoming dominated by larger crossovers and driveways at the expense of pedestrian and road 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 the following clause:

3.7.14 – Footpaths and Crossovers

- *maximum of one crossover per lot.*

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

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

Furthermore, the RDG state, amongst other things, the following in respect to the 'Desired Outcomes' for the Richmond Hill Precinct:

3.7.17.3.2 - Garages, Carports and Outbuildings

- "Garages and carports shall be incorporated into and be compatible with, the design of the dwelling;*
- Garages and carports shall not visually dominate the dwelling as viewed from the street;*
- Where possible garages and carports to multiple dwellings to occur at the rear and side of the lot..."*

There are a number of matters that are relevant to the consideration of this request for a second crossover. The aerial photograph below, displaying a section of Petra Street between Fraser Street and View Terrace, demonstrates the existing number of crossovers. Between View Terrace and Fraser Street within the Town of East Fremantle there are 12 crossovers for 9 nine houses, with three houses having double crossovers. On the eastern side of the street in the City of Melville there are 10 crossovers. This is considered a significant number of crossovers in this street block as there are more crossovers than the number of houses.

Furthermore, this stretch of Petra Street rises to the crest of the hill between Fraser Street and View Terrace, which increases the need for motorists to be wary of vehicles that may not be seen until very close and for pedestrians and cyclists to be vigilant and take additional care at each crossover point and on the footpath. The addition of another crossover so close to the Fraser Street intersection (i.e. ~30 metres) without justification (i.e. there is already adequate parking space on the lot) is not supportable as it reduces safety for pedestrians, cyclists and motorists already using the road and footpath.



Also, the additional ~20m² of crossover paving on the verge and potentially in the setback area, is considered to detract from the streetscape and adds to the hardstand along this stretch of the street. The construction of another crossover so close to the intersection when not warranted, given there is

already parking for vehicles on the site, is not considered to be orderly and proper planning, particularly so at the expense of safety and streetscape amenity.

As the photographs (see Attachment 2) indicate the front setback area is already cleared and access available over the mountable kerb, so if there is a need from time to time to access the area with a trailer, boat or car for storage or convenience purposes access is possible without the need for a second crossover to be permanently constructed. There also appears to be adequate room on the site for more vehicles to be parked at the rear or along the existing driveway.

Taking into consideration the number of crossovers, the proximity to the Fraser Street intersection and the Western Power pole and the existing parking on the site, a second crossover is considered unnecessary and will be to the detriment of cyclist, pedestrian and motorist safety, as well as the overall appearance of the streetscape and should not be supported.

Conclusion: Town Planning and Building Committee

The request for a second crossover was not considered supportable and the application was recommended for refusal on the basis that the application did not comply with:

1. The *Acceptable Development Criteria* or the *Performance Criteria* of the Local Planning Policy Residential Design Guidelines 2016 with regard to 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.
4. The proposed development also conflicts with the provisions of the Local Planning Scheme under clause 67 (Deemed Provisions) because it is incompatible with:
 - (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 was recommended for refusal on the grounds that it did not comply with the provisions of the Residential Design Guidelines, the aims of the Planning Scheme, the objectives of the Residential Zone and was contrary to the orderly and proper planning of the area.

Resolution of Town Planning and Building Committee Meeting 1 August 2017 - Deferral

The Town Planning and Building Committee at its meeting of 1 August 2017 considered the above recommendation however, the Committee made the following resolution:

"That the item be deferred until the next Town Planning and Building Committee meeting to allow the applicant to submit a development application for a storage shed."

The reason for change being “to allow the applicant to submit a development application incorporating their proposal.”

Note: The applicant’s proposal referred to above and justification for the outbuilding (storage shed) was for the purpose of storing vintage cars.

A fresh development application dated 8 August 2017 and amended plans date stamped received 11 August 2017 have now been submitted and these plans indicate a storage shed of approximately 45m² (~12m in length x 3.4m in width) with roller doors at each end to be constructed along the southern side of the house. The outbuilding will be directly attached to the house and have no openings on the southern elevation. The building will be setback 1.65 metres behind the verandah in line with the dwelling. It will have a bull nose frontage similar to the dwelling’s verandah.

The application was advertised to the landowner to the south due to the non-compliance with: the side lot boundary setback (required: 1.5m; proposed 1.0m); the wall height for outbuildings (required 2.4m; proposed 2.5m) and the total floor space of all outbuildings on the lot exceeding 60m² (proposed 147m²). No submissions were received.

Statutory Assessment

The proposal for the outbuilding has been assessed against the provisions of Local Planning Scheme No. 3 and the Town’s Local Planning Policies. A summary of the assessment is provided in the following tables.

Legend (refer to tables below)	
A	Acceptable
D	Discretionary
N/A	Not Applicable

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	7.5m	8.85m	A
Lot Boundary Setback	1.5m	1.0m	D
Outbuildings			
- Aggregate m ²	≤60m ²	147m ²	D
- Wall height	2.4m	2.5m	D
Open Space	55%	59%	A
Outdoor Living	N/A	N/A	A
Car Parking	2	>2	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	≤25%	≤25%	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings (roof pitch element)	A
3.7.7 Building Setbacks and Orientation	A

3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	A
3.7.18.3 Garages and Carports	A
3.7.15-20 Precinct Requirements	A

As noted there are minor non-compliance issues with this application, however, there are no objections to the construction of a storage shed in this location, provided the outbuilding is only to be used for the purpose of storage. The non-compliance with the provisions of the R-Codes is not considered to result in reduced amenity for the adjacent property or the streetscape. The outbuilding will be in keeping with the façade of the dwelling and is setback behind the building line of the verandah thereby reducing its visibility. Also, there will be no further paving in the setback area for parking or for a second crossover, so this is also considered to be a better outcome. The non-compliance with total floor space of outbuildings on the property is exceeded but the other two outbuildings are at the rear of the lot, one is only marginally visible from the street and open space on the site is still greater than 55%. The wall height is only marginally greater than that specified under the R-Codes being 100mm more than the permitted height of 2.4 metres and the overall height of the outbuilding is less than that permitted (i.e. 4.2 metres permitted; 3.0m proposed), so building bulk and overshadowing is not considered to be an issue.

In light of the amended plans to remove the proposal for a second crossover and the submission of a fresh development application for a storage shed as requested it is recommended the application for an outbuilding (storage shed) be approved subject to conditions preventing the construction of a second crossover and conditions concerning the use of the outbuilding and construction materials.

- Mr Stephen Covich and Ms Sue Crozier (owners) supported the officer's recommendation and the additional condition relating to the roof pitch.

OFFICER RECOMMENDATION

Mayor O'Neill moved, seconded Cr White

That Council exercise its discretion in granting development approval to vary:

- Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a southern lot boundary setback of less than 1.5 metres for the outbuilding;*
- Clause 5.4.3 (C3 - iii) - Outbuildings of the Residential Design Codes of WA to allow the outbuilding wall height to exceed 2.4 metres; and*
- Clause 5.4.3 (C3 - iv) - Outbuildings of the Residential Design Codes of WA to allow the aggregate area of outbuildings to exceed 60m² of the site area,*

for construction of an outbuilding (storage shed) at No. 143 (Lot 36) Petra Street, East Fremantle in accordance with the plans date stamped received 11 August 2017, subject to the following conditions:

- The outbuilding (storage shed) is not to be used for the purposes of garaging vehicles that are used on a regular basis or for the purposes of a workshop for repairing or restoring motor vehicles.*
- The outbuilding (storage shed) is not to be used for ancillary accommodation or for short term or bed and breakfast accommodation.*
- A second crossover or driveway to the outbuilding (storage shed) is not to be constructed.*

-
- (4) *The details of materials and finishes to be used in construction of the outbuilding (storage shed) to be to the satisfaction of the Chief Executive Officer and to be submitted at Building Permit application stage.*
 - (5) *If requested by Council within the first two years following installation, the metal roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.*
 - (6) *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.*
 - (7) *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*
 - (8) *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.*
 - (9) *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.*
 - (10) *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.*
 - (11) *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:

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *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.*
- (iii) *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.*
- (iv) *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).*
- (iv) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (v) *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".*

AMENDMENT

Cr Collinson moved, seconded Cr Nardi

The Committee moved and seconded the adoption of the officer's recommendation with the following condition added:

- (12) The roof pitch to be revised from 18 degrees to 25 degrees. The modifications to be noted on the building permit plans.

(CARRIED 4:1)

11.1 SUBSTANTIVE MOTION/COMMITTEE RESOLUTION TP010917

Mayor O'Neill, seconded Cr White

That Council exercise its discretion in granting development approval to vary:

- (i) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a southern lot boundary setback of less than 1.5 metres for the outbuilding;**
- (ii) Clause 5.4.3 (C3 - iii) - Outbuildings of the Residential Design Codes of WA to allow the outbuilding wall height to exceed 2.4 metres; and**
- (iii) Clause 5.4.3 (C3 - iv) - Outbuildings of the Residential Design Codes of WA to allow the aggregate area of outbuildings to exceed 60m² of the site area;**

for construction of an outbuilding (storage shed) at No. 143 (Lot 36) Petra Street, East Fremantle in accordance with the plans date stamped received 11 August 2017, subject to the following conditions:

- (1) The outbuilding (storage shed) is not to be used for the purposes of garaging vehicles that are used on a regular basis or for the purposes of a workshop for repairing or restoring motor vehicles.**
- (2) The outbuilding (storage shed) is not to be used for ancillary accommodation or for short term or bed and breakfast accommodation.**
- (3) A second crossover or driveway to the outbuilding (storage shed) is not to be constructed.**
- (4) The details of materials and finishes to be used in construction of the outbuilding (storage shed) to be to the satisfaction of the Chief Executive Officer and to be submitted at Building Permit application stage.**
- (5) If requested by Council within the first two years following installation, the metal roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
- (6) 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.**
- (7) 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**
- (8) 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.**



- (9) 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.
- (10) 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.
- (11) This planning approval to remain valid for a period of 24 months from date of this approval.
- (12) The roof pitch to be revised from 18 degrees to 25 degrees. The modifications to be noted on the building permit plans.

Footnote:

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

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *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.*
- (iii) *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.*
- (iv) *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).*
- (iv) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (v) *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.



11.2 Wolsely Road, No. 15 (Lot 102 Wolsely Road and Lot 3 and 8 Alexandra Road) – Aged Care Facility with Associated Services – Ten Additional Beds, Closure of Vehicle Access Point and Front Fence

Applicant	SPH Architecture and Interiors
Owner	Southern Cross Care WA Inc.
File ref	P/WOL15; P075/16
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Voting requirements	Simple Majority
Meeting date	5 September 2017
Documents tabled	Nil
Attachments	1. Location Plan 2. Photographs 3. Plans date stamped received 28 July 2017

Purpose

This report considers a request for an increase of ten beds, removal of a vehicle entry point on Staton Road and a front fence at an approved aged care facility at No. 15 (Lot 102 Wolsely Road and Lot 3 and 8 Alexandra Road), East Fremantle (formerly Kaleeya Hospital).

Executive Summary

The following issues are relevant to the determination of this request for ten additional beds, rearrangement of internal space for the associated amenities and services, closure of a vehicle entry point and front fence at a former maternity hospital currently being converted to an aged care facility:

- parking and access;
- street front fencing; and
- streetscape and residential amenity.

The closure of the vehicle access point on Staton Road and the additional beds proposed are not considered to impact the general amenity of the area or result in an increase in the number of parking bays required for the development which is in excess of the bays required under the Planning Scheme. The proposal is therefore supported subject to the original conditions of planning approval imposed by the Metro South West JDAP determination as well as additional conditions which state that any further proposals for an increase in the number of aged care beds beyond 86 and accompanying staff numbers beyond 30 is to be the subject of a fresh development approval application for Council's consideration, compliance with the Town's policy in respect to street front fencing and removal of the Staton Road crossover and reinstatement of the verge.

Background

At the Metro South West JDAP on 23 September 2016 the DAP application for an aged care facility with associated services was determined as follows:

"That the Metro South West JDAP resolves to:

- 1. Accept that the DAP Application reference DAP/15/00927 as detailed on the DAP Form 2 dated 29 July 2016 is appropriate for consideration in accordance with regulation 17 of the Planning and Development (Development Assessment Panels) Regulations 2011; and*
- 2. Approve: DAP Application reference DP/15/00927 (Town of East Fremantle Ref P075/16) and accompanying plans and information date stamp received 27 July 2016*

in accordance with the Town of East Fremantle Town Planning Scheme No. 3, subject to new Conditions 1, 2 and 3 as follows:

New Conditions

1. *Maximum number of aged care beds not to exceed 76.*
2. *Ground floor area comprising of entry, offices and ancillary uses are wholly for use by the aged care facility. No independent or external services are to be provided outside those associated with the aged care facility.*
3. *This planning approval to remain valid for a period of 24 months from the date of this approval. All other conditions, requirements and advice notes detailed on the previous approval dated 13 April 2016 shall remain, as follows (renumbered):*
4. *All internal road layouts and traffic flows are to be clearly demarcated on site with signs and road markings as required.*
5. *Signage including all dimensions and areas and illumination are to comply with the Town's Planning Policy - Signage Guideline Policy. Signs are to be unobtrusive and located so as not to hinder, obstruct or cause nuisance to pedestrians or road users.*
6. *If the sign is to be illuminated, it must be of a low level not exceeding 300cd/m² and may not flash pulsate or chase.*
7. *The sign shall not contain fluorescent, reflective or retro reflective colours or materials. The colour of any new sign shall be dissimilar to current tourism, road and directional information signs. Signage shall not encroach outside the current boundaries of the lot.*
8. *The type of any new sign and location must comply with all relevant by-laws and The Town Planning Scheme No.3 implemented by the Town.*
9. *No unauthorised signage is to be displayed.*
10. *Western portion of boundary wall along Staton Road to be terraced to create a raised planter bed and wall and reduced in height to 1.8m.*
11. *No security lighting/ pylon lighting/ high illumination lighting is permitted to be utilised on the subject lot, without prior approval from the Town. Any lighting or illuminated signage shall not cause 'nuisance' in respect to neighbouring residential properties.*
12. *All car parking is to be clearly demarcated for the purposes of visitor / staff hospital utilisation at all times.*
13. *The vehicular access leg is to remain open and accessible as indicated on the amended development plans to ensure ease of access for residential and hospital visitors.*
14. *No large service vehicles are permitted on site. No service vehicle larger than 8.8 metres permitted on-site.*
15. *Prior to the applicant submitting for a Building Permit, the applicant is to demonstrate that any new development meets the built form requirements for Area 3 of the Fremantle Port Buffer as detailed in the Local Planning Policy – Element 3.7.16.4.3 Fremantle Port Buffer of the Residential Design Guidelines.*
16. *A Site and Traffic Management Plan for trades persons and delivery vehicles / site storage to be approved by the Chief Executive Officer in consultation with relevant officers, prior to a Building Permit being submitted.*
17. *The proposed development 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.*
18. *All new plant such as exhaust fans, air conditioners etc. shall be screened from view where it is located on the external walls/ roof of buildings adjacent to any public road or public space.*
19. *A Rubbish Collection Strategy / Management Plan shall be submitted to and approved by the Chief Executive Officer prior to the commencement of works. Any alterations to the approved plans required as a result of the Strategy / Plan shall be incorporated into*

- the Building Permit plans. The approved Strategy / Plan shall be implemented to the satisfaction of the Chief Executive Officer.*
- 20. A detailed landscaping plan is to be submitted and approved by the Chief Executive Officer prior to the commencement of site works. The plan to include location, species and planting details, having regard to water-wise garden practices.*
 - 21. The building shall be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours.*
 - 22. The works 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 the Town's further approval.*
 - 23. The proposed works are not to be commenced until the Town 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 the Town.*
 - 24. All stormwater to be disposed of on site, an interceptor channel installed if required and a drainage plan is to be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.*
 - 25. 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 the Town and if approved, the total cost to be borne by the applicant. If the Town refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.*
 - 26. Any air conditioner installed on the premises must comply with the Environmental (Noise) Regulations 1997 to the satisfaction of the Chief Executive Officer (Refer footnote (e) below)."*

Conversion of the former hospital to an aged care facility is well underway and the work is expected to be completed in 2018.

Details

LPS 3 Zoning: Local Scheme Reserve – Public Purposes – Hospital with an Additional Use (A2) over part of the site for car parking associated with the Hospital. Underlying zoning Residential R17.5 (i.e. Lot 3 and 8 Alexandra Road)

Site area: 10,001m²

Consultation

Advertising

The application was originally advertised from 5 to 19 August 2016 in accordance with Clause 9.4: Advertising of Applications of LPS No. 3. Public advertising included:

- written notification to owners and occupiers of adjoining properties;
- an advertisement in the Fremantle Herald (dated 6 August 2016);
- notice on the Town of East Fremantle website;
- site notice; and
- plans available for inspection at the Town's Administration Centre during office hours.

Advertising was not considered necessary for this proposal as increased beds and rearrangement of internal floor space will not impact car parking requirements and the amendments essentially comprise the conversion of existing rooms to provide five double bedrooms. Adjoining neighbours are not directly impacted. The removal of the crossover and vehicle access point on Staton Road is considered a

better outcome in respect to appearance of the streetscape and residential amenity for Staton Road residents.

Community Design Advisory Panel (CDAC)

The application was not referred to the CDAC as the changes to the building have no impact on the streetscape other than to improve the Staton Road frontage by removing a vehicle entry point and crossover and increasing the landscaped garden area along this frontage.

Statutory Environment

Planning and Development Act

Planning and Development (Development Assessment Panels) Regulations 2011

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

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016 (RDG)

Financial Implications

Nil

Strategic Implications

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

“KEY FOCUS AREA 3: Built and natural environment

Aspiration: Our town is developing in harmony with our unique character within the fabric of the region’s built and natural environment.

3.2 Maintain a safe and healthy built and natural environment

- *Building control*
- *Heritage planning*
- *Identify and protect significant heritage buildings*
- *Undertake projects to preserve the Town Hall precinct.”*

Site Inspection

July 2017

Comment

Previous planning approval

Southern Cross Care received the current planning approval on 27 September 2016, which superseded the JDAP approval dated 13 April 2016. This was for the conversion of Kaleeya Hospital for use as an aged care facility. The approval was for up to 76 aged care beds and various offices and ancillary uses designed specifically for the care of aged persons within the facility. Most of the beds were to be provided on the upper level with only six beds to be on the ground floor. The conversion of the former maternity hospital building is considerably progressed and is expected to be completed in January 2018.

Proposed amendments

An amendment to the current approval is now sought. The application is requested to be dealt with under regulation 17A of the *Planning and Development (Development Assessment Panels) Regulations 2011*. This regulation provides for the applicant to seek the Council’s planning approval for the amendments rather than have the amended plans reconsidered by the JDAP.

The application only impacts the ground floor of the facility; specifically approval is sought for the following changes:

- provision of an additional ten beds in five bedrooms, to replace the areas formerly proposed for sitting /dining room, kitchen, reception and offices;
- conversion of an internal conference room into an area for general activities;
- provision of additional toilets and change rooms;
- closure of the western ground floor pedestrian access and its relocation to the north side of the building;
- provision of larger internal living and dining area with adjacent kitchen;
- provision of small staff facilities, that is a staff room and nurses station; and
- amendments to the landscape plan to remove vehicular access from the western side of the complex and replace this area with landscaping.

Staff

The facility will be staffed by a maximum of 20 carers at any one time. In addition, there would be five administrative staff, caterers and cleaners and one on-site physiotherapist. The total staff at any one time would not exceed 30.

Parking

The previous development application (approval dated 27.9.16) proposed:

- an aged care facility (total 76 aged care beds, reception/ lobby, activity rooms, dining room, lounges, personal services, courtyards, kitchen and laundry and associated ancillary uses); and
- shared offices, stores and staff amenities.

A full car parking assessment was undertaken to include the original proposal of hospital, consultancy and retail uses. Information accompanying the original development application submitted to Council in 2016 indicated 103 parking bays and 6 motorcycle bays could be accommodated on the site.

The September 2016 planning approval acknowledged that the site had sufficient parking. 103 bays were to be provided on-site although only 36 were required for an aged care facility of 76 beds and 20 staff under LPS No. 3 provisions. The amendments now proposed will require a maximum of 30 staff at any one time so the parking requirement would increase to 48 (18 at the rate of one bay for each five beds and 30 provided at the rate of one bay for each member of staff). The requirement is well within the provision of 103 bays. No further car parking is required to be provided and therefore the proposal to increase the number of beds and staff is supported.

Fencing and landscape plan

The building elevations have not been affected by the proposed changes to the facility. Apart from the changes to the lower ground floor plan the only other changes are identified on the landscape plan. Vehicular access to the western side of the property will be removed with the closure of the access road and removal of the crossover to Staton Road and conversion to gardens.

A fence is also proposed to be erected along this section of the frontage and in front of the former main entry to the building. The fence as proposed is over height (i.e. greater than 1.8 metres above natural ground level and less than 60% visually permeable above 1.2 metres in height. In this location the increased height of the fence on the street front is not considered warranted and compliance with Council's fencing policy is considered necessary so the facility remains 'open' to the street, landscaping is visible and the streetscape is not impacted by unnecessarily high solid walls.

Conclusion

The primary use of the building as an aged care facility is considered to provide a benefit for the community. The development of the site as an aged care facility is considered to be in keeping with the existing approval and previous land use of the lot. Aged care services are typically a less intensive use than a general hospital and it is anticipated the impact on the local community and their amenity will be reduced and the increase in the number of beds is not considered to have any impact on the community. The use of the property as an aged care facility will provide additional residential options for the community. The amended plans to increase the number of beds and rearrange the internal layout of the facility are considered acceptable subject to the original conditions of the DAP approval and three additional conditions being imposed requiring: the further approval of the Council should more than 86 beds and 30 staff at any one time be proposed; compliance with the Town's street front fencing guidelines and the removal of the crossover and reinstatement of the verge.

11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP05092017

Cr Nardi moved, seconded Cr McPhail

That Council grant planning approval for the addition of 10 beds (5 double rooms), internal rearrangement of floor space and the removal of a crossover and vehicle entry point on Staton Road for the aged care facility with associated services at No. 15 (Lot 102 Wolsely Road and Lot 3 and 8 Alexandra Road), East Fremantle in accordance with the plans date stamped received 28 July 2017, subject to the following conditions:

- (1) The crossover and vehicle entry point to Staton Road being removed and the verge being reinstated to the satisfaction of the Chief Executive Officer.**
- (2) The maximum number of aged care beds not to exceed 86 and the total number of staff at any one time not to exceed 30 without further Council approval.**
- (3) All street front fencing and fencing within the front setback area to comply with the Town's Residential Design Guidelines 2016 and sight lines to comply with Australian Standards.**
- (4) Ground floor area comprising of entry, offices and ancillary uses are wholly for use by the aged care facility. No independent or external services are to be provided outside those associated with the aged care facility.**
- (5) All internal road layouts and traffic flows are to be clearly demarcated on site with signs and road markings as required.**
- (6) Signage including all dimensions and areas and illumination are to comply with the Town's Planning Policy - Signage Guideline Policy. Signs are to be unobtrusive and located so as not to hinder, obstruct or cause nuisance to pedestrians or road users.**
- (7) If the sign is to be illuminated, it must be of a low level not exceeding 300cd/m² and may not flash, pulsate or chase.**
- (8) The sign shall not contain fluorescent, reflective or retro reflective colours or materials. The colour of any new sign shall be dissimilar to current tourism, road and directional information signs. Signage shall not encroach outside the current boundaries of the lot.**
- (9) The type of any new sign and location must comply with all relevant by-laws and the Local Planning Scheme No.3 implemented by the Town.**
- (10) No unauthorised signage is to be displayed.**
- (11) Western portion of boundary wall along Staton Road to be terraced to create a raised planter bed and wall and reduced in height to 1.8m.**
- (12) No security lighting/ pylon lighting/ high illumination lighting is permitted to be utilised on the subject lot, without prior approval from the Town. Any lighting or illuminated signage shall not cause 'nuisance' in respect to neighbouring residential properties.**
- (13) All car parking is to be clearly demarcated for the purposes of visitor / staff hospital utilisation at all times.**



- (14) The vehicular access leg is to remain open and accessible as indicated on the amended development plans to ensure ease of access for residential and hospital visitors.
- (15) No large service vehicles are permitted on site. No service vehicle larger than 8.8 metres permitted on-site.
- (16) Prior to the applicant submitting for a Building Permit, the applicant is to demonstrate that any new development meets the built form requirements for Area 3 of the Fremantle Port Buffer as detailed in the Local Planning Policy – Element 3.7.16.4.3 Fremantle Port Buffer of the Residential Design Guidelines.
- (17) A Site and Traffic Management Plan for trades persons and delivery vehicles / site storage to be approved by the Chief Executive Officer in consultation with relevant officers, prior to a Building Permit being submitted.
- (18) The proposed development 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.
- (19) All new plant such as exhaust fans, air conditioners etc. shall be screened from view where it is located on the external walls/ roof of buildings adjacent to any public road or public space.
- (20) A Rubbish Collection Strategy / Management Plan shall be submitted to and approved by the Chief Executive Officer prior to the commencement of works. Any alterations to the approved plans required as a result of the Strategy / Plan shall be incorporated into the Building Permit plans. The approved Strategy / Plan shall be implemented to the satisfaction of the Chief Executive Officer.
- (21) A detailed landscaping plan is to be submitted and approved by the Chief Executive Officer prior to the commencement of site works. The plan to include location, species and planting details, having regard to water-wise garden practices.
- (22) The building shall be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours.
- (23) The works 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 the Town's further approval.
- (24) The proposed works are not to be commenced until the Town 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 the Town.
- (25) All storm water to be disposed of on site, an interceptor channel installed if required and a drainage plan is to be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (26) 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 the Town and if approved, the total cost to be borne by the applicant. If the Town refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.
- (27) Any air conditioner installed on the premises must comply with the Environmental (Noise) Regulations 1997 to the satisfaction of the Chief Executive Officer (Refer footnote (e) below)."

Footnote:

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

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *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.*
- (iii) *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).*

(iv) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

(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, No. 110 (Lot 7563) – Pylon Sign – Aquarama Marina

Owner	Department of Planning, Lands and Heritage
Applicant	Aquarama Marina
File ref	P/RIV110; P074/17
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	5 September 2017
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Location plan 2. Photographs 3. Plans date stamped received 20 July 2017

Purpose

This report considers an application for a pylon sign at the main entrance to the Aquarama Marina at No. 110 Riverside Road (Lot 7563), East Fremantle.

Council is a referral body only. The Department of Biodiversity, Conservation and Attractions (formerly Department of Parks and Wildlife) is the determining authority for this application. The Town is requested by the Department's officers to comment on the works and then the assessment of the application is carried out by the Department's officers.

Executive Summary

The application the subject of this report considers a pylon sign to provide an entry statement for the Marina and advertise businesses located on the site. The sign will replace an existing smaller pylon sign and raises the following key issues with regard to the assessment of the application:

The non-compliance with the dimensions for pylon signs as specified under the Town's Design Guidelines - Signage and the impact on the foreshore area are considered minimal and not to have a detrimental impact on the surrounding area.

The issues relevant to the determination of this application are noted below:

- visual amenity;
- protection of existing vegetation;
- potential vandalism; and
- sight lines.

It is considered the pylon sign, whilst not strictly compliant with the Town's Design - Signage Guidelines in that it is higher and of an area greater than that permitted, however, can be supported subject to conditions regarding sign location, retention of existing vegetation, vandalism and additional signage requirements.

Background

MRS: MRS Reserve – Parks and Recreation
LPS 3: MRS Reserve – Parks and Recreation
Site area: 5,817m²

Previous Decisions of Council and/or History of an Issue or Site

Nil in regard to this application.

Consultation

Advertising

Advertising was not required as the proposal is wholly within the boundaries of the marina site and adjoining landowners are not directly impacted. Due to time constraints imposed by the Department of Biodiversity, Conservation and Attractions the Council cannot effectively advertise the proposal.

Community Design Advisory Committee (CDAC)

This application was not referred to the CDAC as the proposed sign will replace an existing sign of a similar design and the new pylon sign is not considered to impact the streetscape or foreshore to any greater extent than the existing sign.

Statutory Environment

Planning and Development Act 2005

Swan and Canning Rivers Management Act 2006

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

Policy Implications

Draft Local Planning Strategy 2016

East Fremantle Foreshore Master Plan

Financial Implications

Nil

Strategic Implications

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

“KEY FOCUS AREA 3: Built and natural environment

Aspiration: Our town is developing in harmony with our unique character within the fabric of the region’s built and natural environment.

3.2 Maintain a safe and healthy built and natural environment

- *Building control*
- *Heritage planning*
- *Identify and protect significant heritage buildings*
- *Undertake projects to preserve the Town Hall precinct.”*

There is no specific comment in regard to this site in the *East Fremantle Foreshore Master Plan*

Site Inspection

August 2017

Comment

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town’s Local Planning Policies and Strategies. A summary of the assessment is provided below.

Assessment

Council is a referral body only. The Department of Biodiversity, Conservation and Attractions is the determining authority for this application which comprises the following works:

- a pylon sign 6.05 metres in overall height, 3 metres wide and 3.65 metres high in respect to actual advertising area and 400mm in depth; and
- the sign will display the property address and advertise the following businesses:
 - Aquarama Marina;
 - Eat Greek;
 - Matich Marine ; and
 - Marine Perth.

MRS Reserve – Parks and Recreation

The subject land is reserved for Parks and Recreation under the Metropolitan Region Scheme and LPS No. 3. Clause 3.2 Regional Reserves of LPS No. 3 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 Planning and Development Act 2005. 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.

The following clauses of the Scheme and Council policy also apply:

5.9 Advertising Signs

5.9.2 Advertising signs are to be designed and constructed having due regard to any relevant local government Policy.

5.9.3 In its determination of any application for erection or display of an advertising sign for which planning approval is required, the local government is to take into consideration the likely impact of the proposal on the safety and amenity of the area.

Local Planning Policy – Design Guidelines - Signage

Council has adopted the Local Planning Policy – Design Guidelines - Signage pursuant to clause 2.4 of LPS No. 3. The policy clarifies the range and extent of signage that is allowable.

Clause (3) of the above Guidelines requires that each sign must comply with Clauses 4 and 8. Whilst the signage complies with Clause (4) (General Requirements) the proposal must also comply with the “Acceptable Solution (Permitted)” provisions of the Policy which, in this case, states that the ‘Alternative Performance Criteria’ as outlined below must be considered:

- (i) *total height should not exceed 5 metres;*
- (ii) *total area of each sign face should not exceed 6m²;*
- (iii) *double sided signs should be identical in dimension and both sides should be less than 300mm apart;*
- (iv) *only one pole or pylon sign per site (land parcel); and*
- (v) *may be internally illuminated.*

Under Clause 2.3.2 of the Scheme, Council must have regard to a Policy but is not bound by any provision of a Policy and may vary or disregard a Policy provision where it is considered that it is not inconsistent with the Scheme provisions to do so.

Elements (iii) to (v) of the above criteria are considered to be satisfied as the proposed sign meets these requirements.

The proposed signage, however, does not meet criteria (i) and (ii) in that it is over the height and aggregate signage area allowed under the Guidelines (i.e. permitted height 5m; proposed 6.05m and permitted area 6m²; proposed 10.95m²). The non-compliance with the height and specific advertising area of the sign is not considered to result in a detrimental impact on the amenity of the surrounding area or result in a sign that is any more visually intrusive or dominant than the one already in this location. The sign, whilst larger, contains information relating to the services on the site and identifies the entry to the marina and the restaurant which, when positioned at this point on Riverside Road, is helpful to motorists and will assist in safer traffic flow and movements along this busy road for motorists, pedestrians and cyclists.

Matters to be considered by Local Government

No specific development requirements under the Scheme or Council Policies relate to development of a non-residential nature on lands zoned Reserve, although it is relevant to consider the visual impact of signage, sight lines and any matters that may impact the safety or amenity of the foreshore reserve.

As such the proposal has been assessed against the Deemed Provisions of the Planning Scheme (Clause 67). The proposal is considered to comply with the aims, objectives and orderly and proper planning of the area in relation to the matters to be considered under Clause 67 as outlined below:

- (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;*
- (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; and*
 - (iii) social impacts of the development; and*
- (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.*

It is considered the proposed sign has been designed having due regard to the Town's Local Planning Policy and the relevant sections of Clause 5.9 and 67 of the Local Planning Scheme.

Signage

Should any other signage be proposed it is recommended the necessary approvals are obtained to ensure the type and number of signs is appropriate to the location and the amenity of the area and sight lines for vehicles, cyclists and pedestrians are not obstructed. It is therefore also considered necessary to request a condition be imposed that stipulates the sign be located on private property and no part of the sign is to encroach on the road reserve.

Existing vegetation

It is recommended that a condition of planning approval be applied to ensure that the mature date palms in the road reserve are not to be removed or pruned to improve visibility of the signage.

Conclusion

It is considered that discretionary approval under the “Alternative Performance Criteria” of the Design Guidelines – Signage Policy, in respect to the proposed pylon sign, is acceptable and that the application would be consistent with Clauses 5.9 and 67 (Deemed Provisions) of the Scheme.

It is considered that the overall design, size and scale of the proposed sign will not conflict with the amenity of the foreshore and will not detract from Riverside Road. Planning conditions have been imposed to protect existing vegetation and to address any graffiti, vandalism or additional signage proposals.

It is therefore recommended Council convey its support for the pylon sign to the Department of Biodiversity, Conservation and Attractions with a request for conditions relating to protecting vegetation, visual amenity and position and control of signs to be imposed.

11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP030517

Mayor O'Neill moved, seconded Cr Nardi

That Council recommend support for the proposed development approval application for signage at the Aquarama Marina located at No. 110 (Lot 7563) Riverside Road, East Fremantle, to the Department of Biodiversity, Conservation and Attractions in accordance with the plans date stamp received on 20 July 2017 subject to the following conditions:

- (1) No other signage to be displayed at the entry to the site, across the lot frontage or within the road reserve/verge area along Riverside Road.**
- (2) No vegetation to be removed or pruned to increase visibility of the sign.**
- (3) The appropriate Department of Biodiversity, Conservation and Attractions approvals being sought in relation to any additional signage on the site.**
- (4) The sign 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) The sign and sign structure is to be placed on private property and shall not overhang or encroach upon the road reserve.**
- (6) The signage is 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.**
- (7) Stormwater drainage shall be contained on site, or connected to the local government stormwater drainage system, to the satisfaction of the Town of East Fremantle on advice from the Swan River Trust.**
- (8) No fill, building material, rubbish or any other deleterious matter shall be placed in the Trust Development Control Area or allowed to enter the river as a result of the development.**
- (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.

Footnote:

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

- (a) *the applicant is advised that the proposal has the potential to be affected by sea level rise. It is recommended applicants understand the implications of potential sea level rise on their site. The onus rests with the applicant to undertake a risk assessment and exercise their judgement in determining the level of risk they are prepared to accept. The Trust's Climate Change Risk Assessment Project (2010) models impact of potential sea levels rise in the Swan and Canning Rivers, and sets out a methodology to assess the vulnerability of foreshore areas. Additional information is available on the website at:
http://www.swanrivertrust.wa.gov.au/science/climate/content/climate_change_risk_assessments.aspx. While mapping information is available from the Trust, it is also recommended applicants undertake their own research and obtain appropriate independent professional advice relevant to the particular circumstances.*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *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.*
- (d) *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).*

(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.

11.4 Habgood Street No. 4 (Lot 5017) – Additions and Alterations to Multi-Level Single Dwelling

Applicant/Owner	A & D Malecky
File Ref	P/HAB4; P077/2017
Prepared by	Andrew Malone, Executive Manager Regulatory Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Documents tabled	Nil
Meeting date	5 September 2017
Attachments	<ol style="list-style-type: none">1. Location Plan2. Photographs3. Neighbour's objections4. Applicant's response5. Plans dated 26 July 2017

Purpose

This report considers a development application for additions and alterations to the existing multi-level single dwelling at No. 4 Habgood Street, East Fremantle.

Executive Summary

The application proposes additions and alterations to the existing multi-level single dwelling, including a gatehouse, front fencing, pool and deck and extension of rear living areas and balconies at No. 4 Habgood Street, East Fremantle. The following issues are relevant to the determination of this application:

- Views: loss of part of the existing views for adjoining land owners;
- Street setback and building incursions (existing and proposed structures);
- Front fencing;
- Lot boundary setback (southern and northern boundary) (conditioned to comply with the 'Deemed to Comply' provisions of the R-Codes);
- Building height: top of external wall;
- Site works: excavation behind building setback line;
- Visual privacy setbacks: rear balconies

The development assessment as per the 'Performance Criteria' of the Residential Design Codes and the Residential Design Guidelines is outlined below. The proposed development is recommended for approval subject to conditions.

Background

A previous development application for additions and alterations to the dwelling was withdrawn after numerous amendments to the plans and consultation with the adjoining landowners to the south and meetings with the Town's officers. The application was withdrawn due to administration factors impacting the proposal.

This administration matter involved the development approval application that was initially submitted on 3 March 2017 seeking approval for additions and alterations to a single residential dwelling at 4 Habgood Street, East Fremantle. The land was classified Residential R12.5, and was subject to a Scheme Amendment to reclassify the land to R17.5 (Amendment No. 11 – submitted to the Dept of Planning in 2015). The rezoning was subsequently gazetted (Tuesday, 13 June 2017). The Town sought advice from the Department of Planning regarding the assessment of this application, however no

communication was received from the Department. To expedite the assessment process the applicant withdrew the initial proposal and resubmitted the proposal.

As mentioned the Amendment reclassifies the land from R12.5 to R17.5 which changes the applicable development standards and if applied puts the application in a favourable light for the applicant because compliance with the rear building setback under the 'Deemed to comply' standards will be achievable, however, the front and side setback and building height would still be assessed in regard to the 'Performance criteria' as they are still non-compliant under the R-Codes and the Town's Residential Design Guidelines (a local planning policy).

The amendments to the plans throughout the various advertising periods were made in order to address the neighbours' concerns about scale, bulk, building height, building setbacks and overshadowing of surrounding properties which had an impact on the amenity and visual privacy of those properties. A fresh application has now been submitted and has undergone a separate advertising procedure. The details of which are provided below.

The development application proposes extensive refurbishment and extension of the existing dwelling towards the rear of the property. The existing driveway access to the rear of the site along the northern boundary will be maintained and a garage will be constructed at the rear of the site. This is an extension of the existing undercroft garage which is accessed from the street on the northern side of the lot. The extensions to the house will then be constructed over the garage. The living/family areas, theatre, guest room/courtyard and pool deck are to be constructed towards the rear of the lot and are at various levels based on the existing floor levels of the dwelling. The front façade of the house will also be altered to update the street presence of the dwelling.

Consultation

Advertising

The proposed application is a revised proposal from the original and amended plans submitted earlier in the year which was initially advertised to surrounding land owners from 17 March to 3 April 2017. This application period was extended to 10 April 2017 for the immediately adjoining owners to the south who were the most impacted by the proposal to allow further time in which to assess the proposal and make a submission.

Six (6) submissions were received objecting to the proposal on various grounds, but primarily focussed on building height, building setbacks from lot boundaries, privacy/overlooking and overshadowing issues. The applicant submitted an amended set of plans with the view to addressing the concerns raised in the submissions. An amended set of plans date stamped received 1 May 2017 was subsequently advertised to the same landowners and there were two submissions received in the comment period which extended from 1 to 16 May 2017.

Since the submission of the original application Amendment No. 11 (rezoning land from R12.5 to R17.5) was approved by the Minister for Planning and gazetted on 13 June 2017. The principal changes to the density code which have the greatest impact in respect to development on the site is that a rear setback of 6 metres no longer applies. Instead the rear setback is determined based on the height and length of the building wall and the type of openings and can be as close to the boundary as 1.0 metre before Council discretion is required to approve of a lesser setback. The other change to setbacks is a reduction in the street front setback from 7.5 metres to 6 metres and open space on site is reduced from 55% to 50%.

The original application was withdrawn in writing and the new development application was advertised to the same landowners from 3 to 21 August 2017. One submission was received from the landowner immediately to the south at 16 Woodhouse Road.

Only the submission relevant to the current proposal (plans date stamped 26 July 2017) has been included in the report as the other submissions are no longer relevant to the current plans or the issues raised have remained unchanged.

SUBMISSION	APPLICANT RESPONSE
<p>We object to the proposed alterations and additions to 4 Habgood Street. We live at 16 Woodhouse Road adjoining the proposed development. We have lived at our property for almost 30 years and have seen significant changes as the 1960s houses have been demolished or significantly enlarged to meet contemporary lifestyle expectations. We remain disappointed that the amended plans have done so little to reduce the impact on our property and the development remains an imposing addition so obviously out of scale with the surrounding homes. Our objection has two key elements.</p> <p>Firstly, the large number of variations being sought that have <u>direct detrimental impact</u> on the amenity and value of our property. We are aware that our property is the most negatively impacted by loss of amenity, sunlight, views and overshadowing of a close, massive structure running almost the entire length of our backyard. Secondly, the <u>negative impact on the precinct amenity</u> if the Council sets a precedent to grant so many concessions for height, setbacks and scale without any justification for doing so.</p> <p>While it is difficult to provide clear technical analysis as we are not permitted copies of the plans to access in detail, it is evident to us that this proposal seeks a large number of concessions from the East Fremantle Planning Scheme for:</p> <ul style="list-style-type: none"> • Setbacks for undercroft, gatehouse, front feature wall; • External wall heights for street front, corners, rear, south and north; • Fencing for maximum height, visual permeability and height of piers. <p>Attached are revised photos of the impact on our property that show the imposing bulk and scale to the amenity of our backyard, the reduction in light and sun, the significant impact on our views. In sum, we would ask the Council to remain vigilant to the current town planning scheme and protect the amenity of our neighbour as a low density garden suburb and not support over development such as this proposal.</p>	<p>This is not a development but our personal residence in which we plan to stay for the next 20-30 years.</p> <p>They have had borrowed peripheral secondary views for this duration primarily due to the northern orientation in which their home is positioned which is different to that of the North East facing Habgood Street homes.</p> <p>We disagree that the addition is not in keeping with recently constructed surrounding homes. The 60's single level elevated homes are not a reference point. The majority of the submission relates to an existing approved residence.</p> <p>The side and rear setbacks comply with R17.5 upgraded zoning requirements.</p> <p>The existing over height part of the building is not being modified but remodelled with a Contemporary upgrade.</p> <p>The orientation and close proximity No. 16 Woodhouse Road is directly over looking our backyard properties on Locke Cres. Refer to View Corridor Attachment 1.</p> <p>No. 16's 'significant water views' have not been affected/compromised. These are to the north east direction looking over No. 5 and No. 7 Locke Crescent. Peripheral views over our back yard are in question but are certainly not 'significant water views'.</p> <p>We have reduced the length of the level 4 roof by a further 2.33m to increase their view path from their bedroom window which is within the acceptable cone of vision in today's standards.</p> <p>Overshadowing does not impact their backyard as seen on Attachment 2. There is only 16% of the neighbour's block which is overshadowed of which a majority of that is densely covered with their established trees as seen. This is complying and therefore not relevant.</p>

Unsympathetic scale

The existing residence at 4 Habgood St is already the neighborhood landmark for overdevelopment in height, bulk and scale. The current Town Planning Scheme exists to ensure that such imposing design could not be repeated. Indeed, it is an example why we need strong town planning laws. Most of the surrounding homes have been redeveloped in an orderly manner in accordance with the town planning scheme. The Council has endeavoured to navigate owners' desires to maximize their homes while retaining the overall context of the precinct to create "developments that are river oriented, a sympathetic scale and of contemporary architectural style" (East Fremantle Design Guidelines).

Sometimes, our town planning restrictions have come at a high cost, both financial and emotional as we, and many of our neighbours have had to modify their designs or carry out expensive excavations to comply with height and bulk requirements. In fact, the applicant has approved plans for 7 Locke Crescent to undertake expensive excavation in order to meet current height requirements, while also protecting the view amenity of 4 Habgood Street (i.e. his own property). We ask that the same consideration be given to our amenity by not allowing the height variation and achieving the four car undercroft garage by excavation.

The proposed additions at 4 Habgood St are leveraging a "concession" that allows extensions to be continued at "existing levels or footprints" even if this would not be allowed in a new build. "Retention of existing" is a commendable provision in the R-codes intended to encourage retention of existing housing thereby retaining local character, thereby benefiting the applicant and the community. However, we argue the use of the "existing level" provision in this instance is a perversion of the policy intent of that concession. The proposal is for substantial new building work attached to an existing dwelling and there is no justification to allow concessions to continue to expand a house at the "existing level or footprint". Allowing this will serve to compound the previously granted legacy of non-compliance resulting in non-complaint unsympathetic design to further impinge on the neighbourhood and is not the intent of this provision in the R-codes. We submit that the automatic concession to allow additions of homes at "existing levels" is unfair.

This proposal is significantly over height, and the applicant's natural ground level on this proposal is disputed by us. The applicant has already received both our previous submissions on the two previous designs but has made very little attempt to accommodate our concerns. Council should carefully assess the appropriateness of granting legacy concessions and only grant them when they deliver sound design outcomes compatible with the precinct and improve the amenity of neighbours. The council policy is

Both properties gain to benefit additional privacy to their back yards with the new design. Currently we both look into each other's back yards primarily due to the orientation of No. 16 Woodhouse Road and the extremely close setback of their windows facing into our existing kitchen bay window and rear yard.

The proposed alfresco area side setback is 1.6m from boundary which complies with R17.5.

Existing Built form is not relevant to this application

The sketches provided by the neighbour are not accurate and over exaggerate and must be dismissed. Our computer-generated images are factual, based on surveyed heights and true building positions. Refer to Attachment 3.

Approved existing built form at the front, so has no relevance.

We are enhancing the structure to reduce current impact and overall height of existing pitched roofs

The Town Planning and Design Committee supported the design (6th June 2017) - Dwelling shows a good degree of articulation to the streetscape with improved presence. - Dwelling has an open design which introduces a 'Frank Lloyd Wright' design to the area which is supported.

The proposed undercroft 2 car garage will be excavated into the existing natural ground by up to 1m.

No submissions were provided to us during the advertising period for 7 Locke Crescent and it was approved by Council. This is not relevant in this application

There is no concession being requested. The existing floor levels and majority of the building form remain as constructed in 1980. Our intentions are to reduce existing pitched roof heights which will significantly benefit the resident's views above us, cosmetically enhance the existing out of character brown brick 'ugly' residence and to better utilise the amenity for our young growing family for the years to come.

The site has been surveyed by a third party Licensed Surveyor ST SPACIAL (refer to Application Drawings Site Plan).

This is simply not true given the following sequence of events and considerable discussion with Town Planners. Below clearly outlines our willingness to

"any new development, the form, bulk and scale will need to be demonstrably compatible with the existing and surrounding residences". (EF Design Guidelines)

Google Earth Photo E shows the view down Habgood Street and reveals 4 Habgood St has an elevated terrace well forward of the normal set back.

The proposed "gate house" to this new fortress style house now reinforces this protrusion into the street looking down through a slotted visually impermeable balustrade from above the terrace on casual passers-by in an unfriendly gesture to the street. This appears to be non-compliance by over 4.2 m.

Council policy 3.7.17.4.1.2 says *"New developments should reflect the prevailing form, bulk and scale of the immediate locality ...and "New developments shall respect and follow the predominant street pattern in terms of roof pitch, orientation and articulation."*

By keeping the mass of the building in the centre of the block neighbours can retain their amenity including views to the north west and reduce overlooking to back yards.

Views

Our council policy A1.3 states *"Significant water views from neighbouring properties will not be affected" and "in localities where views are an important part of the amenity of the area and neighbours existing views are to be affected, maximum building heights are to be complied with."*

This proposal does not comply with the external wall height and numerous other R-code and Design Guidelines including lot boundary setbacks boundary walls etc. As we cannot be provided a copy of the plans, we have tried to estimate, from the information that is difficult to access, how this proposal may affect our property. The impact on our current view and aspect from our backyard, first and second storeys are shown in the attached marked up photos A, B, and C.

It is our belief that representation of view loss in the drawings represented to Council is not the true impact on our river views to the northwest. Any site inspection will reveal this fact.

Shading and Impact on Solar Access

The proposed eastern elevation is unacceptably close to our boundary and will tower over our back yard and will rob our garden, and outdoor area recreation space of winter sun early in the winter afternoons. It will create an oppressively hemmed in ambience in our backyard and on our outdoor living spaces.

accommodate and compromise.

10th March 2017- Our application was originally submitted to Council.

The advertising period was scheduled to close by 4th April- Council extended this period for the benefit of 16 Woodhouse to the 10th April

21st April- We received the neighbours 1st submissions from advertising.

Friday 28th April -We met with Planners to discuss and review our Application and Neighbour submissions. Planners offered advice of where obvious areas needed redesign.

1st May 2017 – We resubmitted amended plans (Rev 1) with various amendments to directly benefit the owners concerns from No 16 Woodhouse- The Design was modified to:

1. Reduce bulk and scale to their boundary.
2. Increase their view path to their peripheral view across our back yard, whilst their 'Significant water view' is not affected at all by our development.
3. Reduced wall lengths to level 4.
4. Reduced rear setbacks as advised by the Planners.
5. We accurately showed the true position of our proposed building in relation to the neighbours incorrectly assume impact on their property via the photos supplied by them A, B, C and D.

17th May- The Neighbour at 16 Woodhouse provided a secondary submission after the second round of advertising. Their comments were much the same as the original submission with little regard to our good will and compromising changes.

19th May- We resubmitted amended plans (Rev 2) along with updated independent assessment in order for a report to be presented to the 6th June meeting of the Town Planning and Building Committee 25th May - Email from Town's officer informing us that the Planners would be unable to support the 'overall outcome and impact of the built form' under a R12.5 zoning assessment and advising us that the 90 day Council Application period would expire prior to 20th June Council meeting.

31st May- Meeting with Town's officers - To understand Planners' reasons for non-support:

1st June- Meeting with Town's officer to show proposed major design compromises and changes for his further consideration to gain support for:

The proposed bulk to our north west will block, or significantly diminish sun capture for our solar hot water panels significantly reducing its efficiency resulting in an expensive relocation. Ironically, 15 years ago when we renovated, Council did not allow us to place the solar hot water system on our roof as is the norm. Instead we were required to place it on a lower level roof to the north west, thereby having no impact on neighbour views. This was despite our second storey being 1 metre below the allowable ridge height. Thus, if we cannot put the solar system on our roof, and it will no longer perform adequately in the current location because of winter shade caused by this proposal, where should we put it to ensure our contribution to renewable energy?

Boundary Walls

The existing 4.5 metre wall on our south west boundary is enough of a concession and impost for our property. We recently consented to the replacement of the antisocial glazed balustrade boundary fence which allowed substantial overlooking to our garden and deck. We agreed to the extension of a 1.5 metre solid brick wall for the boundary fence. This has made our front yard very shady and "boxed in". However, we gave consent to further this non-compliant boundary structure as the trade off because it affords us more privacy than the previous glazed balustrade, a legacy non-compliant boundary structure 4 metres high overlooking our outdoor courtyard. The further addition of a higher pier to this boundary wall is unacceptable and we object as it shows no regard for the amenity of an already compromised front yard. What is its purpose other than further visual intrusion into the streetscape and our amenity.

Conclusion

In summary, we object to the size, height and scale of this proposal as being totally unsympathetic in scale and out of step with this precinct. Clearly, it will have an extremely severe impact on the value of our property and our amenity. This includes boundary setbacks, significant winter shading and a dramatic impact on our views and rear outdoor living ambience.

We accept that the Council, may from time to time grant planning concessions in order to deliver better design outcomes that enhance the precinct amenity. However, this proposal is not a circumstance where such a "win-win" outcome will be achieved. There are no "trade- offs" with this proposal. It takes an imposing and non-compliant house and doubles it.

We implore the Council to enforce the Town Planning Scheme principles of the Richmond Hill Design Guide and limit overdevelopment to sites that have minimal impact on neighbour amenity and views. Most people manage to improve their property and comply with the scheme.

1. To reduce roof lengths by 2.33m to benefit 16 Woodhouse.
2. Reduce alfresco eave by a further 850mm to benefit 16 Woodhouse.
3. Remove screening and architectural beam and columns to benefit 16 Woodhouse.

6th June- Designs were supported by the Town Planning and Building Design Committee.

Early July- Zoning changes from R12.5 to R17.5 were gazetted and official.

13th July- We withdrew our Planning application due to the R-Coding change.

26th July- Submitted new Application to be assessed under new Zoning R17.5 and included changes as shown to Town's officer on the 1st June.

21st August- End of advertising period.

Previously approved by the Town and has no relevance to the proposal.

This is much exaggerated shading.

What it doesn't show is the considerable open space in the north west corner of our site. Most other homes have built across the majority of the width of their site whilst we have proposed building down one side due to our requirements for vehicular access at the rear of our property to allow turning circles.

This was not the view of the Design Advisory Committee. 'Dwelling shows a good degree of articulation to the streetscape with improved presence.

Their amenity and 'Significant water views' are not affected as the significant water views are in the North-East direction up river towards Point Walter with the city skyline behind. Their peripheral view to the north-west direction overlooking our back yard is in question. Refer to R17.5 zoning rear setback which now complies.

Overshadowing is not impacting their backyard and is less than 16% which complies.

Refer to A101 Attachment 2 site plan for computer generated model.

The extension of the brick screen fence is not relevant to this Application and was previously supported and formally approved by No. 16 prior to their Council

<p>Council should not grant concessions, or reward non-compliant existing design unless there is a design benefit to the precinct from doing so.</p>	<p>submission. Refer to Attachment 4</p> <p>It was No. 16's responsibility to render or paint this brickwork at their cost which has not been completed to date now 9 months after completion. This was signed by them on Attachment 4.</p> <p>The proposed Pier has no overshadowing or visual impact to the neighbour as they have established trees which they informed me they planted years ago to create privacy from #4 and also protect them from the harsh Western summer sun.</p> <p><u>Conclusion</u></p> <p>We appreciate your understanding in this matter and we hope this application is given due consideration to allow our young family to live in the home and enjoy the area for many years to come. As a local business owner and with our offices located at the Town of East Fremantle Town Centre we are clearly established residents and rate payers of the TOEF. We plan to be in the area for many years to come and wish to work closely with Council in all of our future endeavours.</p> <p>We have willingly made numerous changes to our application to gain the necessary support from the Planner and now hopefully the Council.</p> <p>We invite you to call us directly and we welcome you into our home to clarify any queries in relation to this application.</p> <p>We have worked closely with the Planners since March 2017. We have compromised and reduced continually along the way to increase view paths to our neighbours, however, we feel it is unfair that they are trying to take ownership of borrowed views over our backyard.</p>
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Community Design Advisory Committee (CDAC)

This application was considered by the CDAC at its meeting of 1 May 2017 and the Committee made the following comments:

- *Dwelling shows a good degree of articulation to the streetscape with improved presence.*
- *Panel recommend continued discussion with the neighbours to ensure view corridors are maximised.*
- *Dwelling has an open design which introduces a 'Frank Lloyd Wright' design to the area which is supported.*

The applicant has responded as follows:

"We note the Community Design Advisory Committee terms of reference require an assessment of the overall built form merit. In this regard we are pleased with the findings of the Committee that are supportive of the design. It is significant that the Committee has not identified any concerns, noting the Committee advises view corridors should be maximised."



The fresh application has not been referred to the CDAC because the aspects of the proposal that impact the streetscape have not changed. It is therefore considered the matters raised by the CDAC in May have been addressed.

The applicant has not provided comment relating to the Committee's positive comments.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

Town of East Fremantle Local Planning Scheme No. 3

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016

Financial Implications

Nil.

Strategic Implications

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

"KEY FOCUS AREA 3: Built and natural environment

Aspiration: Our town is developing in harmony with our unique character within the fabric of the region's built and natural environment.

3.2 Maintain a safe and healthy built and natural environment

- Building control*
- Heritage planning*
- Identify and protect significant heritage buildings*
- Undertake projects to preserve the Town Hall precinct."*

Site Inspection

July 2017

Comment

LPS No. 3 Zoning: Residential R17.5

Site area: 736m²

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Local Planning Policies. A summary of the assessment is provided in the following tables.

Legend (refer to tables below)	
A	Acceptable
D	Discretionary
N/A	Not Applicable

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback (building line of dwelling)	6.0m	9.12m – 6.2m	A
Undercroft (terrace and wall)	6.0m	1.9m	D

Gatehouse/stairs	6.0m	1.8m	D
Lot Boundary Setback	Various	Various (conditioned)	A
Open Space	50%	56%	A
Outdoor Living	36m ²	>36m ²	A
Car Parking	2	>2	A
Site Works	Excavation or fill behind a street setback line limited by compliance with building height limits and building setback requirements	Existing level at the rear of existing dwelling on site is not being altered.	A
Visual privacy setback	Pool deck (stairs): 7.5m Rear balcony: 7.5m Side setback (balcony): 7.5m	2.8m 6.44m 1.6m	D D D
Overshadowing	25%	16% (108 ²)	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	D
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	D
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	D
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	A
3.7.14 Footpaths and Crossovers	A
3.7.18.3 Garages, Carports and Outbuildings	A
3.7.15-20 Precinct Requirements	D

Building Height Requirement (RDG)	Required	Proposed	Status
Building Height (external wall height)	6.5m	Street Front (west) - 7.029m North side - 7.2m - 9.7m South side - 6.8m - 7.9m Rear (east) - 8.7m Centre - 9.772m	D

The applicant is seeking Council discretion with regard to several requirements of the R-Codes and the Town's Residential Design Guidelines. These matters are discussed below.

Street setback and building incursions

The existing dwelling currently has a terrace located to the front of the property setback 1.9 metres from the front boundary. It is proposed to make modifications to the terrace to include fencing (currently clear glazing) a gatehouse and new stone cladding. Whilst the Town acknowledges the existing structures, these structures would not be permitted were an application to be presented to Council today. However notwithstanding this, it is considered the existing structures require updating in line with the overall proposal. The proposed gatehouse setback at 1.8 metres from the front boundary

does not comply with the 'Deemed to Comply' provisions of the R-Codes. The Performance Provisions of the R-Codes requires:

P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:

- *contribute to, and are consistent with, an established streetscape;*
- *provide adequate privacy and open space for dwellings;*
- *accommodate site planning requirements such as parking, landscape and utilities; and*
- *allow safety clearances for easements for essential service corridors.*

P2.2 Buildings mass and form that:

- *uses design features to affect the size and scale of the building;*
- *uses appropriate minor projections that do not detract from the character of the streetscape;*
- *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*
- *positively contributes to the prevailing development context and streetscape.*

The existing street form has been established by the construction of the terrace. The proposed addition of the gatehouse is not considered to increase significantly the overall scale and bulk of the development as experienced from the streetscape, subject to the use of materials and the visual permeability of the fencing and gatehouse. A condition has been included in the Officer's Recommendation to ensure the fencing to the terrace and the screening to the gatehouse remain significantly visually permeable to minimise scale and bulk, maintain views and provide for the passive surveillance of the street.

The proposal complies with the requirements of P2.1 above and P2.2. The additional development to the front setback area introduces additional materials, textures, colours and articulation to add character to the dwelling. The overall height of the development at the front of the building is being reduced, further reducing the overall bulk of the building to the streetscape.

The prevailing setback of the dwelling will be 6.2 metres and will therefore comply with the overall street setback requirements for the purposes of the dwelling.

Lot boundary setback

Conditions have been included in the Officer's Recommendation, which once applied will result in the development complying with the 'Deemed to Comply' provisions of the R-Codes for all lot boundary setbacks to the dwelling. The conditions relate to wall/ screen requirements.

The boundary pier, located to support the awning over the entrance is conditioned to be setback 1.2 metres from the south eastern wall so that it is located in line with the scullery wall, minimising any bulk impacts to the adjoining neighbour.

Site works

The relevant 'Deemed to Comply' provision of the R-Codes is Clause 5.3.7 C7.2 which states as follows:

"C7.2 Excavation or filling within a site and behind a street setback line limited by compliance with building height limits and building setback requirements."

In the central portions of the site the proposed excavation is in excess of the 'Deemed to Comply' provisions. The ground level is proposed to be excavated 716mm from natural ground level for the new garage. The non-compliance with external wall height permitted under the Residential Design

Guidelines (i.e. 6.5m) therefore requires assessment of this variation under the 'Design Principles' of the R-Codes. The R-Codes state as follows in respect to the 'Design Principles'.

"P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.

P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the boundary of the site and the adjoining properties and as viewed from the street."

The proposed excavation of 716mm does respond to the overall gradient of the site. The additional garage area is located in this area of the site and will have no impact to the streetscape. There will be height issues relating to the overall building height due to a continuation of existing finished floor levels, however this will be discussed in the next section of this report. The proposal does not propose any significant fill and therefore the proposal does respect the natural ground level at the boundary of the site and the adjoining properties and as viewed from the street.

Building height

The R-Code provisions in respect to building height are substituted by the height control under the Residential Design Guidelines. Clause 3.7.17.4.1.3 states that:

In localities where views are an important part of the amenity of the area and neighbours' existing views are to be affected, or the subject site is a 'battleaxe' lot, then the maximum building heights are as follows:

- *8.1 metres to the top of a pitched roof;*
 - *6.5 metres to the top of an external wall (concealed roof);*
 - *5.6 metres to the top of an external wall; and where the following apply.*
- (i) the proposal demonstrates design, bulk and scale that responds to adjacent development and the established character of the area or other site specific circumstances;*
 - (ii) the provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped and ;*
 - (iii) subject to the 'Acceptable Development' standards of the R-Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

The overall external wall height of the dwelling is not compliant (i.e. permitted 6.5m to the top of an external wall). Non-compliance with the external wall height limit ranges from 7.029 metres at the street front (note: the height of the dwelling is being reduced from the street front perspective from an overall height of 10.75 metres at the highest point of the roof above ground level), 9.772 metres at the centre and northern section of the site (located on the existing dwelling). The existing dwelling is non-compliant and whilst recognised as forming part of the scale and bulk of the overall development it has not been further assessed for the purposes of height for these additions and alterations. It is noted that the existing roof will be reduced by 1.0 metre and 1.5 metres respectively.

The new sections of the additions and alterations range in height from:

- approximately 9.3 metres to the new section of roof over the family / dining room (centre of the lot) to 7.5 metres at the boundary.
- approximately 8.5 metres to the balcony (centre of the lot) to 7.5 metres on the boundary

The proposed dwelling has been amended from the previous proposal on three occasions to assist in maintaining the view corridors of the neighbours. Walls have been scaled back, building heights reduced at the front of the dwelling and view corridors attempted to be opened up, however views are still impacted and will be discussed later in this report.

The Acceptable Development Provisions state a wall should have a maximum height of 6.5 metres for a concealed roof. Whilst the new sections of roof are not concealed by parapet walls, the development does have skillion roofs of a 3 degree pitch, therefore essentially making it a flat roof for the purposes of this assessment. A concealed roof is required to have a maximum height of 6.5 metres as per the Town's RDG. The wall/ roof height requires Council to consider the application under the Performance Criteria of the Guidelines.

The Residential Design Codes state:

The performance criteria are general statements of the means of achieving the objective. They are not meant to be limiting in nature.

The 'Deemed to Comply' provisions illustrate one way of satisfactorily meeting the corresponding performance criterion, and are provided as examples of acceptable design outcomes. The 'Deemed to Comply' provisions are intended to provide a straightforward pathway to assessment and approval; compliance with a 'Deemed to Comply' provision automatically means compliance with the corresponding performance criterion, and thus fulfilment of the objective.

The Town's Guidelines and R-Codes have been developed to be read in conjunction with each other and have been designed to provide a clear choice for applicants to select either a performance criteria approach for assessment, as an acceptable development provision approach or a combination of the two.

As such, the proposed development will be assessed under the Performance Criteria provisions of the Guidelines. The proposed dwelling is required to be assessed as per the PC requirements of the RDG for the building height, which allows for:

P1 New developments, additions and alterations to be of a compatible form, bulk and scale to traditional development in the immediate locality.

The Richmond Hill Precinct has a range of building heights, scale and built forms, notably the existing building is considered a high building in the area. On Woodhouse Road there are several buildings to the south, which have partially filled lots and development that exceed the Town's height requirements. There is no established design or traditional development, however the majority of the dwellings are two storey with some developments utilising the ground levels to facilitate undercrofts or garage areas. Roof designs vary from flat to pitched roofs.

The applicant has undertaken design modifications, and included design measures to minimise the impact of the building on the streetscape and to the viewing vistas of adjoining neighbours to the south and across the street, however due to the orientation of the adjoining lot, views currently enjoyed by the neighbours will be reduced (see attached view corridor plan). The applicant has attempted to minimise impacts to view corridors by minimising the roof pitch, increasing setbacks and reducing the height and location of the roof form and deleted privacy screens.

The topography of the subject lot slopes approximately 3.0 metres from south to north. It is considered the topography of the site and the existing non-compliant dwelling makes the design of a development that complies with the Acceptable Development Provisions difficult unless it is further designed as a



split level, which the house is already designed as. The applicant has factored in the topography of the site into the design of the dwelling, and with the exception of building height and impact to view corridors the remaining assessments under the Performance Criteria provisions are considered to be relatively minor (as conditioned).

The proposed development maintains and reduces height of the building as experienced from the streetscape. The reduced height of the dwelling reduces the bulk and scale of the dwelling from the street, improving views of adjoining buildings. Whilst the bulk of the building (3 storeys) from the rear of the lot is considered high, the potential impacts to the streetscape is considered minor, however the neighbours at 16 Woodhouse Road will be impacted. Whilst it is impossible not to impact the adjoining property the scale of the impact will be assessed further in this section of the report and following sections.

Ultimately this development application and the objection received from the adjoining neighbour can be narrowed down to the overall building height. The proposed bulk and scale of a building is determined by many factors, including height, setback, wall lengths and articulation of the building. For the purposes of this assessment the development has been conditioned to be compliant with all setback requirements as required by the 'Deemed to Comply' provision of the R-Codes. The development is also compliant with the 'Deemed to Comply' provisions for overshadowing. As such the wall length and setbacks are as existing or compliant, therefore the scale and bulk being out of character with the area is reliant on the height of the proposal.

When assessing the development as a whole, the dwelling (as existing) is being reduced in height to the streetscape and therefore the scale, height and bulk of the structure is being reduced. The main bulk of the additions are located to the centre and north east of the lot, therefore causing any impact to be primarily experienced by 16 Woodhouse Road.

It is considered the proposed modifications (outlined in the applicant's submission) to the building does attempt to address Council's previous concerns and the neighbour's objections. The overall height still requires Council to consider the application under the Performance Criteria provisions of the RDG. The applicant is utilising existing finished floor levels of the property. The existing dwelling is being retained and altered. Lowering the entire rear additions cannot be undertaken, as the applicant is utilising the existing undercroft garage, and upper levels. Lowering the dwelling further would compromise the gradient of the undercroft garage, and render it difficult to use the proposed garage. The use of existing levels is regularly utilised in additions and modifying levels in turn may create a long term functionality issue for the dwelling.

It is proposed that the addition is located on the eastern boundary (setback compliant), to a maximum height of 7.5 metres (at the boundary), increasing to 9.3 metres and 8.5 metres respectively at the centre of the lot. It is noted that a pitched roof in an area that is sensitive to views is permitted to have a maximum height of 8.1 metres. Drawing 'Critical View' A1.03 clearly illustrates that there will be a loss of views, particularly from the neighbouring lot.

The lower balcony at first floor level will lose views through the subject lot, however the bulk of the upper levels of the proposal will be located 6.0 metres from the rear boundary, therefore partial views will be maintained from the neighbour's first floor balcony. Approximately 6 metres of the 16 metre rear façade will be partially impacted with regards to view corridors (dining area and balcony), however significant view corridors will remain through the properties at 3, 5, and 7 Locke Crescent.

The top balcony at 16 Woodhouse Road is at a height of R.L 40.29. The top of roof to the first highest point (located near the existing building: building height 8.3 metres R.L 43.60) is R.L 42.99 (top of skillion

roof), therefore views will be impeded, however this view corridor is at an oblique angle to the balconies located at 16 Woodhouse Road. The next area of concern is the roof over the living area and balcony. The roof at this location is R.L 41.89, therefore approximately 1.6 metres over the finished floor level of the balcony at 16 Woodhouse Road. At 1.6 metres, views over the roof to Mosman Park will be maintained by a person standing on the balcony. The loss of view from this balcony is considered minor, as the staggered roof heights will maintain view corridors, whilst not maintained as existing, to a large extent will be significantly retained view corridors.

The proposal with regard to bulk and scale is only required to be assessed as per development heights. Based on the assessment of overshadowing and setbacks, the development is compliant on the eastern boundary. The proposed height is non-compliant, however the development (notwithstanding the previous amendments) assessment of building height of the development under the Performance Criteria of the Guidelines is considered acceptable. Similar buildings in the Richmond Hill precinct have been approved at similar heights. That is not to say that precedent is a valid planning argument, but does the impact of the development warrant refusal. A compliant development application with a pitched roof will remove the view from the neighbour's lower level. Indeed a 6.5 metre structure will remove views from the neighbour's lower level balcony. The overall height of the structure is being reduced to Habgood Street, reducing overall bulk and scale. The lot orientation and dwelling location of 16 Woodhouse Road is such that the rear of the property is located to face a northerly direction and therefore across the rear of the subject site. The height of the additions are considered to address the performance provisions of the Guidelines. Accordingly, the design of the dwelling and proposed height can be supported by Council.

Loss of Views

Clause 3.7.17.4.1.3 states that *where views are an important part of the amenity of the area and neighbours' existing views are to be affected, amongst other things, the following matters are to be considered:*

- (i) the proposal demonstrates design, bulk and scale that responds to adjacent development and established character of the area or other site specific circumstances;*
- (ii) the provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped and ;*
- (iii) subject to the 'Acceptable Development' standards of the R-Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

While the proposed dwelling does require an assessment under the Performance Criteria of the Guidelines, the dwelling (additions) is considered to impact on the view shed from neighbouring properties through to the north and east of the proposal, but view corridors have been attempted to be maintained through to Mosman Park from the first floor balcony. As is clearly illustrated by the photomontage of the existing and proposed view sheds provided by the applicant (view corridors are impacted due to the orientation of 16 Woodhouse Road), however the main views to the Swan River in a northerly aspect are maintained.

The applicant and representatives of the applicant have had considerable liaison with the Town. Several amendments were made to the plans through the initial development application (subsequently withdrawn as discussed above), however these amendments still required Council discretion. The proposed modifications clarify building heights and view vistas and amend the plans to reduce the number of discretions being sought by the applicant. It is considered the proposed front of the dwelling has been designed in such a manner as to carefully consider and reduce the bulk and scale of the development to the streetscape and the viewing vistas of adjoining neighbours. It is noted that the applicant has attempted to minimise the impact of the height of the dwelling to the rear of the

property. Privacy screens have been removed to improve viewing corridors thereby requiring further Council discretion.

As discussed above a compliant development with the Acceptable Development Provisions of the Guidelines would remove views from the adjoining neighbour.

It is considered the amendments and clarifying information by the applicant demonstrate that viewing vistas will be significantly maintained, however views through the lot in a north easterly direction will be impacted, however viewing vistas through to Mosman Park will still be partially retained from the second storey of the neighbouring balcony. It is considered the proposed dwelling can be supported in respect to its impact upon views.

Visual privacy

The 'Deemed to Comply' provisions for Element 5.4.1 Visual Privacy of the R-Codes requires major openings which have their floor level more than 0.5 metres above natural ground level, and positioned so as to overlook any part of any other residential property behind its setback line, to comply with the following:

- 4.5 metres in the case of bedrooms and studies;
- 6.0 metres in the case of habitable rooms, other than bedrooms and studies; and
- 7.5 metres in the case of unenclosed outdoor active habitable spaces.

The proposed development does not comply with the 'Deemed to Comply' provisions of the R-Codes, however, the 'Design Principles' of 5.4.1 allows for:

P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through: building layout, location; design of major openings; landscape screening of outdoor active habitable spaces; and/or location of screening devices.

P1.2 Maximum visual privacy to side and rear boundaries through measures such as: offsetting the location of ground and first floor windows so that viewing is oblique rather than direct; building to the boundary where appropriate; setting back the first floor from the side boundary; providing higher or opaque and fixed windows; and/or screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).

There is overlooking from the kitchen window facing northerly and balcony facing southwards, with oblique views to the easterly neighbour. These openings have been conditioned to comply with the 'Deemed to Comply' provisions of the R-Codes. The openings to the balcony area on the western elevation (balcony from the bedroom 2/ kids study) also has been conditioned to comply with the 'Deemed to Comply' provisions of the R-Codes.

Overlooking from the balcony (adjoining family/ living room) and lower deck of the swimming pool will impact on the northern (owned by the applicant) and north easterly neighbour. Screening has been removed to increase viewing corridors for the neighbour to the east. The proposal can be made to be compliant with overlooking to the north easterly neighbour, however this will impact further the viewing corridors of the eastern neighbour at 16 Woodhouse Road. In the interest of maintaining view corridors the overlooking is considered minimal, with minimal adverse impacts to habitable areas and therefore can be supported.

Solar access for adjoining sites

The R-codes requires that a development site within a Residential R17.5 density coding does not overshadow in excess of 25 per cent of the adjoining lot. The proposal does comply with the 'Deemed to Comply' provisions of the R-Codes and therefore can be supported.

It is noted that the solar collectors on the adjoining lot (16 Woodhouse Road) will be impacted, however as the proposal does comply with the 'Deemed to Comply' provisions. Clause 2.5.4 of the R-Codes states:

The decision-maker shall not refuse to grant approval to an application where the application satisfies the deemed-to-comply provisions of the R-Codes and the relevant provisions of the scheme and any relevant local planning policy.

Therefore in this instance of solar impact, the Town is obliged to approve the development.

Conclusion

Modifications and conditions applied to the development has brought the proposed development into compliance with the Acceptable Development Criteria of the Guidelines with the exception of building height, front setback (existing building is already non-compliant), site works (excavation with limited impact to neighbours) and overlooking (can be conditioned to be compliant to the north easterly neighbour, however this to the detriment of view corridors to the eastern neighbour).

The overall building height of the development is being reduced by 1.0 and 1.5 metres respectively reducing the overall scale and bulk of the development from Woodhouse Road and Habgood Street. The rear additions will not be seen from the street.

As per the assessment above the building height is considered to comply with the Performance Criteria of the RDG, as the height limitations of the Guidelines are provided to protect views. In this instance the views of the eastern neighbour are impacted, however the scale of the impact is as a result of site orientation. The view corridors over the proposed structure will be maintained to Mosman Park from the neighbour's upper level balcony. Significant views will be maintained from the balconies of 16 Woodhouse Road. Were developments to be refused based on complete protection of view corridors, development in East Fremantle would be limited. The dwelling is of a scale, bulk and design that is consistent with the prevailing streetscape and the rear setbacks are compliant with the density coding for the area, therefore the development as a whole cannot be described as out of scale with the prevailing scale, bulk and character of the area. It is considered viewing vistas are protected where practical and as such, the proposed modified development can be supported and is recommended for approval.

Michael Leach (neighbour) 16 Woodhouse Road

Commented on not being allowed to have a copy of the plans. Raised objections to the heights of the proposal as this is not part of orderly planning and not in keeping with the streetscape. Stated increased bulk to the front of the house despite height reduction. Also indicates views will be lost and an increase in overshadowing.

Objected to the officer's recommendation which includes height discretions which will result in views being lost and views from across the road will also be reduced.

Requested Council defer the decision to give the adjoining owners more time to assess.

Selwyn Castles (neighbour) 31 Woodhouse Road

Spoke in support of the officer's recommendation as the proposal will improve the view down the river from his and other neighbours properties.

Jane Vallance (neighbour) 16 Woodhouse Road & Barbara Stace (neighbour) 5 Locke Crescent

Ms Stace requested Council to defer their decision on the application. The development will overlook the rear yard of No. 5 Locke Crescent and increase the bulk and scale as perceived by her.

Ms Vallance requested Council defer their decision until a full assessment of the application has been carried out to ensure natural justice be carried out. Request Council to refuse any variations to their local planning scheme.

Andre Malecky (owner) 4 Habgood Street

The application is to transform an out of date split level house into a modern family home. Thanked the Town's Officers' for their assistance during the process. Stated that the initial application was withdrawn and a new application submitted because of a change in the R-Code density being gazetted during the process.

The plans have been modified however, do still have some variations due to the site and existing dwelling. Several compromises have already been made in reducing the number of variations. Have tried to take on board neighbours objections and have amended the plans to improve the views of adjoining properties. The development complies with the overshadowing requirement of the R-Codes. Would like to live in friendly environment with all neighbours.

The owner also presented a 'compliant' pitched roof design to Councillors for their understanding of acceptable permitted heights.

Requests Council support the officer's recommendation.

Matt Stuart (planning consultant) on behalf of applicant

Supportive of the officers recommendation. The plans have been modified several times taking on board neighbours objections. Discretions are realistic and in keeping with the site and neighbouring properties. It seems unlikely to achieve an agreement with the neighbour and has advised his client to go to SAT. There have been 3 neighbour consultations carried out, only minimum views will be lost and visual privacy complies except for a small part in the back corner.

OFFICER RECOMMENDATION

Cr M McPhail moved, seconded Cr White

That Council exercise its discretion in granting planning approval to vary:

- (i) Clause 5.1.2 – Street Setback of the Residential Design Codes of WA to permit a setback of less than 6.0 metres from the front boundary to the gatehouse (terrace is existing);
- (ii) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to permit excavation behind a street setback line that is not within external wall height limits;
- (iii) Clause 3.7.17.4.1.3 – Building Height, Form, Scale and Bulk of the Residential Design Guidelines 2016 to permit the external wall height to exceed 6.5 metres;
- (iv) variation to variation to Element 5.4.1 of the Residential Design Codes – Visual Privacy

for alterations and additions to the single dwelling at No. 4 (Lot 5017) Habgood Street, East Fremantle, in accordance with the plans date stamped received on 26 July 2017, subject to the following conditions:

- (1) The window to the kitchen (north facing) is to comply with the Deemed to Comply provisions of variation to Element 5.4.1 of the Residential Design Codes Visual Privacy (eastern neighbour).
- (2) The view corridor located at the balcony through from the kitchen is to comply with the Deemed to Comply provisions of variation to Element 5.4.1 of the Residential Design Codes Visual Privacy (eastern neighbour).
- (3) The three lightwells located on the balcony adjoining Bedroom 2 and the Kids Study (currently 1200mm frosted glazing) is to comply with the Deemed to Comply provisions of variation to Element 5.4.1 of the Residential Design Codes Visual Privacy (eastern neighbour).
- (4) The terrace fencing located within the front 6 metre setback zone at the front of the dwelling is to remain 60% visually permeable. The fence treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
- (5) The treatment of the structure behind the gatehouse is to remain 60% visually permeable. The screen treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
- (6) Boundary pier for the architectural awning located on the terrace (south eastern corner of the lot) to be setback 1.2 metres from the boundary in line with the proposed scullery.
- (7) The crossover width not to exceed 5.0 metres and be in accordance with Council's crossover policy as set out in the Residential Design Guidelines 2016. All redundant crossovers are to be removed and the verge and footpath reinstated to the satisfaction of the Chief Executive Officer. The existing treatment to create a mountable kerb on Habgood Street is to be removed.
- (8) All parapet walls/building structures to the adjacent property face on a boundary are to be finished by way of agreement between the property owners and at the applicant's expense.
- (9) If requested by Council within the first two years following installation, the Colourbond roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (10) Pool/Spa filter and pump equipment to be located a minimum distance of 1.0 metre away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
- (11) 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.
- (12) The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit is issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (13) 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.
- (14) The proposed alterations and additions are not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
- (15) 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.
- (16) 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.

- (17) 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.
- (18) In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
- (19) 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:

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *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.*
- (iii) *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.*
- (iv) *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).*
- (v) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (vi) *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".*

11.4 PROCEDURAL MOTION/COMMITTEE RESOLUTION 020817

Mayor O'Neill moved, seconded Cr Nardi

That the item be deferred until prior to the deemed refusal date to allow the applicant to consider the height and bulk and in particular the section of the proposed rear extension.

(CARRIED UNANIMOUSLY)

Reason for change:

Time for the planners to work with the applicant and submitters.

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 8:03pm.

I hereby certify that the Minutes of the ordinary meeting of the Town Planning & Building Committee of the Town of East Fremantle, held on 5 September 2017, Minute Book reference 1. to 14 were confirmed at the meeting of the Committee on:

3/10/17
.....



Presiding Member