



# MINUTES

## Town Planning Committee

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Tuesday, 7 November 2017 at 6.38pm

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**6. DISCLOSURES OF INTEREST**

**6.1 Financial**

Nil.

**6.2 Proximity**

Nil.

**6.3 Impartiality**

Nil.

**7. PUBLIC QUESTION TIME**

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

Nil.

**7.2 Public Question Time**

Nil.

**8. PRESENTATIONS/DEPUTATIONS**

**8.1 Presentations**

**8.1.1 C Ziegler - Petition: Request for Liquid Limestone or Concrete Footpath along Petra Street**

Ms Charmaine Ziegler of 155 Petra Street tabled the following petition with 207 signatures:

*'Petra Street and Town of East Fremantle Residents are requesting that Council consider replacing footpaths on Petra Street with concrete or liquid limestone in accordance with the town planning guidelines:*

*To the CEO and Mayor of the Town of East Fremantle*

*We, the undersigned, do respectfully request that Council consider replacing footpaths with concrete or liquid limestone on Petra Street instead of a proposed red asphalt footpath. The reasons for this proposal are as follows:*

- *Compliance with Town of East Fremantle Design Guidelines section 3.7 subsection 14.3 that states footpath material in the Richmond Hill, Woodside, Richmond and Riverside precincts to be concrete.*
- *Liquid limestone footpaths reference the historical significance of Richmond Hill for quarrying of limestone still evident in the area today in limestone escarpments, buildings and boundary walls.*
- *Concrete or liquid limestone footpaths are harmonious with the contemporary and Californian bungalow architectural style, ubiquitous in Petra Street whereas red bitumen footpaths harmonise more readily with the federation style of housing prevalent in the Plympton precinct.*
- *Stability and durability of concrete or liquid limestone footpaths, in lieu of asphalt footpaths, equate to a reduced maintenance cost due to the materials longevity.*
- *Consistency and continuity of concrete or liquid limestone footpaths throughout the length of Petra Street will enhance the streetscape. A precedent has been set for concrete footpaths along the Woodside, Richmond Hill and Riverside sections of Petra Street in accordance with the Town's Design Guidelines. The deviation from that requirement will result in a devaluation of streetscape and property.'*

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Ms Ziegler asked the Committee why did Council deviate from the Residential Design Guidelines and why was red asphalt laid in that particular section of Richmond Hill?

Executive Manager Regulatory Services advised that the red asphalt is a continuation of what is already there from Canning Highway to Fraser Street and Council's Policy for Crossover and footpaths was amended in March 2016.

Cr Collinson advised that Council will respond to the correspondence and petition received.

**8.2 Deputations**

Nil.

**9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**9.1 Town Planning and Building Committee (3 October 2017)**

**9.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION**

**Cr Nardi moved, seconded Cr Collinson**

**That the minutes of the Town Planning and Building Committee meeting held on Tuesday 3 October 2017 be confirmed as a true and correct record of proceedings.**

**(CARRIED UNANIMOUSLY)**

**10. ANNOUNCEMENTS BY THE PRESIDING MEMBER**

Nil.

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**11. REPORTS OF COMMITTEES**

**11.1 Community Design Advisory Committee**

|                              |   |
|------------------------------|---|
| <b>Prepared by:</b>          | Christine Catchpole, Senior Planner   |
| <b>Supervised by:</b>        | Andrew Malone, Executive Manager Statutory Services                                   |
| <b>Authority/Discretion:</b> | Town Planning & Building Committee  |
| <b>Attachments:</b>          | 1. Minutes of the Community Design Advisory Committee meeting held on 23 October 2017 |

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**PURPOSE**

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

**EXECUTIVE SUMMARY**

The Committee, at its meeting held on 23 October 2017, provided comment on planning applications listed for consideration at the September and October Town Planning Committee meetings and other applications to be considered in the future. Comments relating to applications have been replicated and addressed in the individual reports.

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

**11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP011117**

**Cr Nardi moved, seconded Cr Harrington**

**That the Minutes of the Community Design Advisory Committee meeting held on Monday 23 October 2017 be received.**

**(CARRIED UNANIMOUSLY)**

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## 12. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

### 12.1 Council Place No. 4 (Lot 1) – Additions to Grouped Dwelling – Single Carport, Front Fence and Crossover

|                            |  |
|----------------------------|--|
| <b>Landowner</b>           | A Field  |
| <b>Applicant</b>           | Archi-ology  |
| <b>File Ref</b>            | P/COU4; P094/2017                                    |
| <b>Prepared by</b>         | Christine Catchpole, Planning Officer                |
| <b>Supervised by</b>       | Andrew Malone, Executive Manager Regulatory Services |
| <b>Meeting date</b>        | 7 November 2017                                      |
| <b>Voting requirements</b> | Simple Majority                                      |
| <b>Documents tabled</b>    | Nil  |
| <b>Attachments</b>         | Nil  |

#### **Purpose**

This report considers a development application for a single carport, front fence and crossover for a grouped dwelling at No. 4 (Lot 1) Council Place, East Fremantle.

#### **Executive Summary**

The subject site is zoned 'Town Centre'. The applicant is requesting approval for a single carport, front fence and increased width of the crossover for the existing street front grouped dwelling.

The following issues are relevant to the determination of the application:

- Siting of carport at front of the dwelling;
- Impact of development upon the 'urban' streetscape character;
- Widening of the existing crossover; and
- Car parking located in the street front setback and visible from the public domain.

The variations from the R-Codes, Town Centre Redevelopment Guidelines and the Residential Design Guidelines are considered acceptable and the application is recommended for approval subject to conditions in regard to the garage door, no enclosure of the carport, width of the crossover and submission of a landscaping plan.

#### **Background**

Zoning: Town Centre

Site area: 306m<sup>2</sup>

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

##### *Previous Approvals*

**17 February 2015** – Council approval granted for alterations and additions to dwelling, including a single carport and front fence.

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*Existing Site Conditions*

Existing services on the site include a Telstra pit, and electrical and water meters located 500mm and 1.5 metres respectively in from the north boundary. An easement for the transmission of electricity by electrical cable runs north to south, approximately 500mm in from the west boundary, with a 1.0 metre wide easement across the front boundary of the property.

An existing *Common Coral* tree with a canopy of approximately 3 metres is located on the verge, approximately 1.5 metres in from north boundary and an existing mature Jacaranda tree with a canopy diameter of approximately 4.2 metres is located on the site approximately 9 metres in from the western boundary.

**Consultation**

Advertising

The proposal was advertised to the other strata owners of the adjoining residential properties from 3 to 20 October 2017. No submissions were received.

Community Design Advisory Committee (CDAC)

The application was considered by the CDAC at its meeting of 23 October 2017. The Officer's response to the comments is provided directly below in italics.

**(a) *The overall built form merits;***

- The Committee is not supportive of the proposed carport in the street setback area as this diminishes the streetscape appeal of the Town Centre. The Committee requests the relocation of the carport immediately adjacent to the studio/garage on the adjoining lot with the addition of another crossover to the lot or the relocation of the carport to the rear of the strata lot.

*Whilst it is acknowledged that the location of the carport in the front setback area is not ideal this is the only feasible location if the Council is to consider granting approval for an off street parking bay for this grouped dwelling. The remaining area at the rear of the strata lot is too narrow for a car bay and is the only area of private open space for the dwelling and is being used for such purposes.*

**(b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development.***

- The size and bulk of the carport structure is not appropriate for the setback area and a streetscape in the Town Centre. Discuss with the applicant the possibility of repositioning the carport parallel to the studio/garage on the lot to the north to decrease its visibility.  
*For this to be achieved an additional crossover would need to be constructed. A crossover in this location would require the removal of a substantial street tree and would most likely require the removal or substantial pruning of a large Jacaranda tree in the front garden.*

*There is also a service easement (power) running across the front boundary of the lot for a width of 1.0 metre and the power dome and other services meters are located in the first 1 to 2 metres from the front boundary. These would require relocation. It is also unclear if the easement could be built upon.*

**(c) *The relationship with and impact on the broader public realm and streetscape;***

- As above.

*(d) The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*

- As above.

*(e) The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*

- No comment.

*(f) The demonstration of other qualities of best practice urban design including "Crime Prevention" Through Environmental Design performance, protection of important view corridors and lively civic places;*

- See above advice to explore the two options noted above.

The applicant has also provided a response to the comments as detailed below.

***The current proposal responds to the existing site conditions by:***

- *Preserving the existing verge tree in its current location;*
- *Preserving the existing tree on the property in its current location;*
- *Setting the carport back 1500mm from the boundary to allow the services to remain in their current location and maintain the electrical easement;*
- *The orientation of the carport and driveway allows for easier and safer vehicular entry to*
- *and exit from the property onto Council Place.*

***To comply with the recommendation of the committee:***

- *The verge tree would need to be removed at significant cost; and*
- *The services would need to be relocated at significant cost.*

*Maintaining the easement and setback with the re-orientated carport would result in the separation between the proposed structure and existing tree on the property being less than the required three metres.*

*"... or the relocation of the carport to the rear of the strata lot."*

*The only opportunity for private open space is at the rear of the property. In addition, there is insufficient space to accommodate a carport in this location.*

***Conclusion***

*The proposed carport and landscape upgrades to 4 Council Place respond efficiently and appropriately to the existing site conditions, is modest in scale, enhances the streetscape and responds effectively to the brief and requirements of the owner.*

The above site circumstances are considered to prohibit the relocation of the carport to the location preferred by the CDAC. Further comments regarding the location of the carport are made further on in the Comment section of the report.

**Statutory Environment**

*Planning and Development Act 2005*

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

*Residential Design Codes of WA*

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### Policy Implications

*Town Centre Redevelopment Guidelines 2011*  
*Residential Design Guidelines 2016*  
*Fremantle Port Buffer Zone – Area 2*

### Financial Implications

Nil

### Strategic Implications

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

#### Built Environment

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

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

#### Natural Environment

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

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

### Site Inspection

October 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. A summary of the assessment is provided in the following tables.

| Legend<br>(refer to tables below) |                |
|-----------------------------------|----------------|
| A                                 | Acceptable     |
| D                                 | Discretionary  |
| N/A                               | Not Applicable |

Local Planning Scheme No. 3 – Commercial Zones (Town Centre) – Development Standards

| General Development Standards                                  | Required  | Proposed  | Status   |
|--|---|---|----------|
| Land Use - Zoning Table  | Single carport<br>Front fence   | Additions and alterations to grouped dwelling including increased crossover width | A        |
| Building setbacks (R-Codes):<br>6.1.3 Street setback           | 1.0m  | 1.5m (min)  | A        |
| <b>6.1.4 Lot boundary setback</b>                              | <b>1.0m</b>   | <b>Nil</b>  | <b>D</b> |
| 6.2.2 Street walls and fences                                  | Visually permeable to 1.2m  | Soild 500-700mm and visually permeable above that height                          | A        |
| <b>6.3.2 Landscaping</b>                                       | <b>Developed without car parking and a maximum of 50% hard surface</b>                  | <b>Single carport<br/>Plus parking bay<br/>Landscaping strip propsoed</b>         | <b>D</b> |
| 6.3.3 Car parking  | 1   | 2   | A        |
| <b>6.3.4 Design of car parking spaces</b>                      | <b>With exception of visitor bays all parking to be fully concealed from the street</b> | <b>Not concealed – in front setback</b>   | <b>D</b> |
| Building height  | Overall: 8m<br>Walls: 5.5m  | 3.0m<br>3.0m  | A<br>A   |
| Plot ratio   | 0.5:1.0   | N/A   | A        |
| Design and landscaping   | Landscaping plan  | Indicated on plan   | A        |
| Car parking and vehicular access (Schedule 10 and 11 of LPS 3) | Ratio for Dwelling: 1   | 1   | A        |
| <b>Location of car parking</b>                                 | <b>1 bay on-site in front setback</b>   | <b>In front setback area</b>  | <b>D</b> |
| On-street parking  | On-street may be acceptable   | N/A   | A        |
| <b>Crossovers</b>  | <b>Maximum width 5 metres</b>   | <b>6m</b>   | <b>D</b> |

The subject site contains a grouped dwelling of fibro and tile construction. The rear of the strata lot contains two, two storey town houses designed and built by Brian Klopper from recycled building materials. These dwellings are listed in the LPS 3 Heritage List and have a category B rating in the Municipal Inventory.

The occupant currently parks on the grassy area in front of the house. The applicant has stated this is not an acceptable long term solution as it is unsightly for the streetscape and was only intended to be a short term solution. The occupant is also increasingly concerned about security for the property, after experiencing several anti-social incidents in the front garden area. The owner requested the design to combine a single carport and fencing to secure the property. The design was requested to be simple, discrete, open to the street and secure. The carport design was requested to accommodate entry to the drive and carport with enough space to comfortably manoeuvre the vehicle, as well as the ability to leave the property in a forward gear.

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The lot has been subject to a survey strata and the front setback area is the only practical area available for off street parking. It is proposed to establish a hardstand area and single carport, which combined will accommodate up to two vehicles in tandem in front of the house. The carport will have a Colorbond roof and there will also be a masonry front fence with wooden batten infill panels constructed in recycled materials to complement the dwellings to the rear. Access to the carport will utilise the existing crossover but proposes that this crossover be doubled in size to 6 metres to allow for comfortable manoeuvring into the carport. The existing front lawn will be removed, however, a Jacaranda tree can be retained as the carport is only single width.

The carport and fencing is simple in form and modest in scale. This fencing element is designed with spacing that allows security to the property while also providing transparency and openness to and from the street. In addition, the existing Jacaranda tree provides screening to the carport and further minimises visual impact from the street. The carport is set-back 1.5 metres from the boundary, to accommodate a landscaping strip at the western boundary in front of the carport. The applicant has stated medium-sized soft vegetation will be planted in this area. The fencing in front of the house is set back 5.4 metres from the boundary.

The proposed works are not inconsistent with the urbanised character of the Town Centre zone and whilst it is less than ideal to have a carport in the front setback area the adjacent property at No. 2 Council Place has a garage, with studio above, built to the front and side boundary. Council has previously approved such a structure in the front setback area. The parapet wall of the garage abuts the side boundary of the subject site and will therefore screen the carport from the Town Hall and Richmond Quarter side of the building. It is considered there will be less impact on the adjoining property because of the positioning of the carport as close to the wall as possible. However, the carport will be in full view from the south and it is therefore considered important that a garage door not be permitted to be installed so as to maintain a clear view through to the dwelling and as much openness to the area as possible. As noted landscaping of the front setback area is proposed and a plan has been submitted which is considered satisfactory for the Town Centre location. In keeping with Council's policy to reduce the width of crossovers the existing 3 metre wide crossover should be utilised as much as possible. It is therefore recommended that a condition be imposed which restricts the overall width of the crossover (including splays) to 5 metres rather than the 6 metres proposed.

The proposed materials for the carport and front fence will complement the newer buildings on the site which are partially visible from the street in terms of design and the use of recycled materials. A structure in the front setback area of a dwelling is not ideal, however, this is not a residential zone and the setbacks are not completely contrary to the *Redevelopment Guidelines for the Town Centre* which specifies reduced setbacks to those in the residential zone. If the front strata dwelling is demolished and the site redeveloped in the future the construction materials will not be out of character with the newer buildings already on the site and protected through their heritage listing in LPS 3. The works will contribute to a general upgrade to the property.

The type of fencing proposed is typical of the surrounding residential areas, however, to maintain visibility of the front garden and house a condition precluding the installation of a garage door on the carport is considered necessary. If security for the front setback area is required then open style gates (as per the infill fencing panels) are considered appropriate. In this instance the compromise of car parking in the front setback area is not considered detrimental to the adjacent properties, however, a garage in the front setback area would not be supported for that reason. Blank garage doors can reduce the visibility of the dwelling and screen remaining areas of garden and trees. So for this reason further enclosure of the carport and conversion to a garage would not be supported. Landscaping of the remaining garden areas and the easement area in front of the fence will assist in softening some of

the hard surface areas and therefore a condition of planning approval is required to ensure that this is undertaken and maintained.

### Conclusion

The site is located in a mixed-use, medium density area in the Town Centre. No. 4 Council Place is one of two remaining detached houses in this street block. The other remaining detached house, directly next door, on the north side, has an existing garage and studio directly adjacent to No. 4 Council Place with a nil setback. On the southern side is a commercial premise, which abuts a two storey townhouse development. To the rear of No. 2 and 4 Council Place is a development of four townhouses. Council Place does not experience a significant amount of pedestrian traffic and the street is mostly used as a thoroughfare for traffic exiting Canning Highway or visiting the Richmond Quarter complex.

With due respect to the CDAC comments, relocation of the carport is not an acceptable outcome if it results in the removal of two substantial trees to allow for another crossover and to accommodate the carport in alternate location to the one proposed. Weighing up the site constraints (location of services and easements) and if the Council is of the view that off-street parking for the grouped dwelling should be permitted, then the current proposal is the only feasible option with regard to maintaining substantial vegetation on the site and reducing the impact on the streetscape. The proposed front fence and carport is considered acceptable for this area of the Town Centre. The proposed works to the front setback area and the fencing is considered to result in an improvement in the overall appearance of the dwelling and increase the residential amenity for the occupants.

The front fence complies with the requirements of the Residential Design Guidelines and the carport, although non-compliant because it will result in parking in the front setback area, are both considered supportable with the exception of the garage door. The dwelling will be visible from the street and in order to maintain this openness and a view to the tree it is considered necessary to impose conditions which will prohibit the installation of a garage door or enclosure of the carport at any time in the future and width of the crossover.

In light of the above, the carport and front fence proposal is recommended to be supported subject to the conditions relating to the garage door, no enclosure of the carport, width of the crossover and submission of a landscaping plan.

#### **12.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP021117**

**Cr Nardi moved, seconded Cr Natale**

**That Council exercise its discretion in granting approval for the following:**

- (a) variation to clauses 6.3.2 and 6.3.4 of the Residential Design Codes of WA to allow car parking within the front setback and for it not to be concealed from the street; and**
- (b) variation to Element 8: Vehicle Parking of the Town Centre Redevelopment Guidelines to allow car parking adjacent to and within sight of the public domain,**

**for a single carport and front fence at No. 4 (Lot 1) Council Place, East Fremantle, as indicated on the plans date stamped received 7 September 2017 subject to the following conditions:**

- 1. The total width of the crossover (including the existing crossover to the lot) is not to exceed 5 metres including splays.**
- 2. No installation of a garage door, only open style battens or grille gates are permitted and must match the infill panel materials used for the front fence. The battens or grilles for the gate are to be no less than 60% visually permeable for the entire area and length of the fence.**
- 3. The infill panels of the front fence to be no less than 60% visually permeable for the entire**

length and area of the fence in the front setback area.

4. The carport is not to be enclosed at any point in the future.
5. The submission of a detailed landscaping plan, indicating retention of the Jacaranda tree, to the satisfaction of the Chief Executive Officer prior to the lodgement of a Building Permit application.
6. Landscaping to be installed and maintained as indicated on the approved landscaping plan.
7. 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.
8. The works are to be constructed in conformity with the drawings and written information in relation to use accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
9. 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.
10. The proposed use is not to be commenced until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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.*

(CARRIED 3:1)

**Note:**

The Committee's delegation was not exercised as the minimum 4 votes in support of the officer's recommendation was not gained and the matter is referred to the next meeting of Council.

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**12.2 Duke Street No. 36-42 (Lot 601-602) – Brush Factory & Brush Factory Apartments – Signage for Mixed Use Development**

|                            |  |
|----------------------------|--|
| <b>Landowner</b>           | P Unsworth   |
| <b>Applicant</b>           | The Buchan Group                                     |
| <b>File ref</b>            | P/DUK36; P/DUK42; P099/2017                          |
| <b>Prepared by</b>         | Christine Catchpole, Planning Officer                |
| <b>Supervised by</b>       | Andrew Malone, Executive Manager Regulatory Services |
| <b>Meeting date</b>        | 7 November 2017                                      |
| <b>Voting requirements</b> | Simple majority                                      |
| <b>Documents tabled</b>    | Nil  |
| <b>Attachments</b>         | Nil.   |

**Purpose**

This report considers an application for signage on the mixed use development buildings and seeks approvals for signs relating to the Brush Factory, Jazz Club, car park and Brush Apartments building at No. 36 – 42 (Lot 601 and 602) Duke Street, East Fremantle.

**Executive Summary**

The development application the subject of this report considers a proposed projecting wall sign for the Jazz Club on the George Street frontage, the refurbishment of the signage on the heritage building indicating the new name of the building and the street numbers, and the car park location and entry, vehicle clearance and closing time signage on Duke Street. The signage will be visible from Stirling Highway (Main Roads WA have provided comment on the proposal) and from both George and Duke Streets. The surrounding landowners that may be impacted by the proposal have been notified. No submissions were received.

The proposal raises the following key issues with regard to the determination of the application:

- Heritage impact - building and streetscape;
- Residential amenity; and
- Non-compliance with the criteria specified under the Town's Design Guidelines - Signage.

The non-compliance with the dimensions for wall and projecting wall signs as specified under the Design Guidelines - Signage and the impact on the heritage building are considered minimal and not to have a detrimental impact on the heritage character of the building or the surrounding residential area. The application is recommended for approval subject to a number of standard planning conditions, including conditions of approval from Main Roads WA.

**Background**

Zoning: Mixed Use

Land Area: 2,304m<sup>2</sup>

MRS: Subject property abuts Stirling Highway a 'Primary Regional Roads' Reserve under the MRS. The application was referred to Main Roads WA (MRWA) as requested by MRWA in advice notes to Council when the original Development Approval application was determined.

**Consultation**

Advertising

The application was referred to Main Roads WA and advertised to surrounding landowners considered to be impacted. Main Roads have no objection to the proposal subject to a number of conditions being imposed and no landowner submissions were received.

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Community Design Advisory Committee

This application was considered by the Committee at its meeting of 23 October 2017 and the following comments were made:

- *The Committee supports the proposal and commends the signage regime subject to any change of use or occupants of the building requiring different signage. If a change to the type, design, location or illumination of the signage is proposed the applicant should be required to submit a development application for Council's consideration.*
- *The Committee also recommended the applicant be advised that:*
  - *Fixings for the proposed signage should be stainless steel fixings to the wall or, at a minimum, hot dipped galvanised fixings.*
  - *Mortar joint drilling is to be utilised for any fixing of the proposed signage to the elevation / side façade of the heritage building."*

The Committee's comments will be included as advice notes to the applicant.

**Statutory Environment**

*Planning and Development Act 2005*

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

*LPS 3 Heritage List*

**Policy Implications**

*Local Planning Policy – Design Guidelines – Signage 2011*

*Municipal Heritage Inventory – Category A*

*Fremantle Port Buffer Zone – Area 2*

**Financial Implications**

Nil

**Strategic Implications**

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

*Built Environment*

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

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

Natural Environment

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

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

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

4.1.2 *Plan for improved streetscapes parks and reserves.*

4.2 *Enhance environmental values and sustainable natural resource use.*

4.2.1 *Reduce waste through sustainable waste management practices.*

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

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

**Site Inspection**

October 2017

**Comment**

The property is listed on the Town's Heritage List and is noted as a place of high significance, with a management category of 'A' in the Municipal Inventory. The application is for the installation of signage on the northern and western facades of the buildings and comprises mostly wall and projecting wall signs which will be visible on approach along Stirling Highway, Duke and George Streets. Also two signs will hang from the roof of the car park entry to indicate vehicle clearance heights and closing times and replacement of the building name sign 'Lauder and Howard' with 'Brush Factory' in the same location is also proposed. The details of the signage proposal are outlined below.

Proposed signage

*Jazz Club – signage fixed to entry above Jazz bar - north façade on Duke Street*

- Sign box fixed to galvanised support frame
- Composite aluminium cladding with acrylic push through (intracut) lettering with marine grade plywood and Colorbond to the top of the sign
- Gold and white translucent acrylic text and logo with a charcoal background
- Height - 2.75m
- Width – 2.45m
- Depth – 1.3m
- Steady illumination through backlit lettering on 3 faces of the sign
- Illumination from vintage incandescent style LED bulbs

*Brush Factory – Building – painted text west façade on Duke Street*

- Painted letters on façade (replacement of building name on heritage building)
- Dulux Blackbutt – low sheen acrylic
- Not illuminated

*Brush Apartments – painted text to façade on Duke Street*

- Fabricated text signage "Brush Apartments" fixed to brick façade
- Height – 475mm
- Length - 10m
- Depth – 6mm
- Height above ground – to top of advertisement – 6.5m

- Height to underside – 6.1m
- Fabricated individual letters, 6mm matt black powder coated aluminium plate letters fixed 30mm off brick wall on stand offs.
- Not illuminated

*Number signage – “40” and “42” – Brush Factory Apartments western façade on Duke Street*

- Text signage fixed to limestone cladding on Brush Apartments façade
- Fabricated individual letters, 6mm thick matt black powder coated aluminium plate letters fixed 30mm off brick on stand-offs
- Height - 475mm
- Width - 1,000mm
- Depth - 6mm
- Not illuminated

*Parking Entry – fixed to column at Duke Street ramp entry*

- Sign box fitted to galvanised structural support frame
- Black sign box – cyan and white parking symbol and arrow
- Composite aluminium cladding to sign box, acrylic push through (intracut) lettering and logo. Marine grade plywood and Colorbond to top of sign
- Height – 600mm
- Width – 800mm (400mm projection and 400mm fixed to column)
- Depth – 150mm
- Height above ground level – 2700mm
- Height to underside – 2100mm
- Steady illumination through backlit acrylic lettering /logo on three side faces of the sign.
- Steady illumination from vintage incandescent style LED bulbs below sign

*2 height clearance bar signs fixed above Duke Street ramp entry to car park*

- Composite aluminium signage panels suspended from the slab above by metal chains
- Black sign panel with painted white text
- Height – 280mm
- Width – 2500mm
- Depth – 50mm
- Height above ground level – 2.3m
- Height to underside – 2.1m
- Digitally printed composite aluminium sign panel, white letting to black face
- Metal chains suspend the sign (so moveable with vehicle contact)
- Not illuminated

Local Planning Scheme No. 3

The following clauses of the Scheme 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.*

**67 Matters to be considered by Local Government (Deemed Provision clause)**

*In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application -*

- (k) The built heritage conservation of any place that is of cultural significance;*
- (l) The effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (m) the compatibility of a use or development with its setting including the relationship of the development to development on adjoining land or on land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (n) the amenity of the locality, including (ii), the character of the locality;*
- (w) the history of the site where the development is to be located; and*
- (y) any submissions received on the application.*

It is considered the proposed signs have 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.

**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.

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.

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 does not comply with the "Acceptable Solution (Permitted)" provisions of the Policy, therefore, the signs must be considered under the "Alternative Performance Criteria" of the Guidelines as outlined below for wall signs, projected wall signs and statutory signs:

Wall Sign – Brush Apartments and street numbering signs - (non-complying)

*(subject to Alternative Performance Criteria below)*

- (i) Multiple wall signs or wall signs exceeding the Acceptable Solution provisions shall only be considered as part of an approved signs regime.*
- (ii) Signs must face a primary space.*
- (iii) Maximum height equivalent to 10% of the height of a building wall or 2m whichever is greater.*
- (iv) Maximum length 5m.*

Horizontal Projecting Wall Sign – Jazz Club and car park location signs - (non-complying)

*(subject to Alternative Performance Criteria below)*

- (i) Max depth 500mm*
- (ii) Maximum width 300mm*
- (iii) Maximum length 2,700mm*
- (iv) Limit of one such sign per building/site unless part of an approved signs regime*
- (v) Shall not be approved if there is a vertical projecting wall sign on the same site.*

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Statutory Sign – hanging signs at car park entry

*(exempt signs – deemed to meet the requirements for development approval providing the specified conditions as outlined below are met)*

*(i) No applicable conditions providing proposed sign complies with the definition for statutory signs.*

Elements of the above Alternative Performance Criteria that refer to compliance with an approved signs regime are considered to be satisfied in that the owner has sought Council approval for all proposed signage for the site in the one application and therefore the signs are considered to be part of an overall approved signs regime. The signs also face a primary space as the building has three main frontages and the signs face Duke Street, George Street and Stirling Highway.

Wall Signs

Technically there are in total four wall signs on the building (2 x building name and 2 x building number). One is pre-existing (Lauder and Howard) and the other three are required to name and provide street numbers to identify the building. Non-compliance is therefore considered a technicality in the case of the replacement of the 'Lauder and Howard' lettering, with 'Brush Factory', which is already on the building. The signs are not greater than 2 metres in height and do not occupy more than 10% of the height of the building façade. The non-compliance with length (i.e. 10 metres for the 'Brush Apartments' sign) is considered acceptable given the sign needs to be large enough to identify the building and easily read from a distance. Nonetheless, it is considered a reasonable size and not out of scale or character with the façade of the building and is supported by the CDAC as appropriate for the area and not detrimental to the heritage values of the precinct.

Horizontal Projecting Wall Sign

Jazz Club

The horizontal projecting wall sign for the Jazz Club is compliant with the above criteria with the exception of the length of the sign. The sign will identify the entry and the use of the building. It is considered appropriate that it is of a reasonable size so that it is clearly visible to patrons from a number of directions. The location of the sign at the top of George Street means it is not a dominant feature on George Street itself. It stands alone and does not compete with any other signage in the area. At approximately 2.5 metres x 2.7 metres the proposed sign is a considerable size but not considered to be out of proportion with a building of this height.

The design and wording of the sign is not considered to negatively impact on the heritage building. Main Roads WA has no objection to the proposal subject to a number of conditions regarding illumination/lighting and removal of vegetation in the road reserve. These will be added to the conditions of planning approval. Also, the CDAC has no objection to the proposal subject to any change to the type, lighting and design of the signage being the subject of a further development approval application being submitted for Council's consideration.

Car Park

The sign indicating the entry to the car park complies with all the above criteria for a projecting wall sign with the exception of width (300mm permitted; 800mm proposed). The extra width is required so that the sign will be visible beyond the edge of the Brush Factory building. The section of wall to which the sign will be attached is indented from the edge of the Brush Factory building. It is necessary for the sign to protrude beyond the edge of the building to be clearly seen and if it is clearly visible this will lessen the likelihood of patrons searching for parking on the street rather than using the car park. The non-compliance is therefore supported.

*Statutory Sign*

The car park entry sign is required to meet Australian Standards in regard to public parking for safety and public information and is therefore considered a statutory sign and deemed to meet the requirements for development approval. It is also noted that the closing times of the car park have also been included in the signage and this is considered to be of benefit to ensuring compliance with the hours of operation with the various uses on the site. The car park entry signs are therefore supported.

Minor non-compliance with some of the height and length development standards is not considered to have a detrimental impact on the amenity of the surrounding area and is not considered to result in signs that are visually intrusive or dominant. The signs contain simple, legible lettering with discrete lighting for the purpose of identifying the various uses and functions of the mixed use development and the dimensions of the signs are considered to be in proportion with the overall height and scale of the buildings. The signage is also considered to be respectful of the building's heritage and the area in general.

**Conclusion**

The Brush Factory is mixed use development which will accommodate a Jazz Club, residential apartments and commercial floor space. The site has historic and aesthetic value for its contribution to the heritage of the Plympton Precinct. It contributes to the local community's sense of place and is a major landmark at the end of Duke Street and is clearly visible from Stirling Highway. It is considered that the overall design, size and scale of the proposed signage will not conflict with the heritage fabric of the original building and will not detract from the streetscape character or the amenity of the George Street area. Planning conditions have been imposed to address any graffiti or vandalism and any change to the signage regime.

It is considered that discretionary approval under the "Alternative Performance Criteria" of the Sign Guidelines Policy, in respect to the proposed wall and projecting wall signs, is acceptable and it is considered that the application would be consistent with Clauses 5.9 and 67 (Deemed Provisions) of the Scheme. The application is therefore recommended for conditional approval.

**12.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP031117**

**Cr Nardi moved, seconded Cr Collinson**

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

- (i) Clause 8 – Signage Requirements of Council's Design Guidelines - Signage (Alternative Performance Criteria) to allow:**
- (a) a horizontal projecting wall sign to be greater than 300mm in width;**
  - (b) a wall sign to be more than 5 metres in length; and**
  - (c) more than one vertical wall sign on the same site,**

**for signage at No. 36 – 42 (Lot 601 and 602) Duke Street, East Fremantle, as outlined on the plans and accompanying information date stamped received 20 September 2017 subject to the following conditions:**

- 1. Compliance with Main Roads WA conditions of approval (as stated in correspondence dated 24 October 2017) which state:**
  - a. Illuminated signage being of a low level not exceeding 300cd/m<sup>2</sup> and must not flash, pulsate or chase;**
  - b. The signs must not contain fluorescent, reflective or retro reflective colours or materials;**
  - c. No unauthorised signage is to be displayed; and**
  - d. Vegetation within the road reserve shall not be removed or trimmed to improve the**

- visibility of the proposed advertising device.
2. All signage proposed being in accordance with the correspondence, elevations and accompanying notations and plans in regard to signage dimensions, wording, materials and graphics submitted with the application and date stamped received 20 September 2017 and subject to compliance with Main Roads WA conditions of approval.
  3. Any change to the type, design, location or illumination of the signage regime being the subject of a further development approval application for Council's consideration.
  4. All signage 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. No other unauthorised signage is to be displayed.
  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. 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.
  8. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *fixings for the proposed signage should be stainless steel fixings to the wall or, at a minimum, hot dipped galvanised fixings.*
- (b) *mortar joint drilling is to be utilised for any fixing of the proposed signage to the elevation / side façade of the heritage building."*
- (c) *a copy of the approved signage as stamped by Council is attached and the specifications graphics and wording of the signage 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.

### 12.3 Glyde Street No. 71 (Lot 125) – Demolition and Construction of Two Storey Dwelling

|                            |  |
|----------------------------|--|
| <b>Applicant</b>           | I Katafoni   |
| <b>Owner</b>               | G Watkinson & M Watkins                              |
| <b>File ref</b>            | P/GLY71; P086/17                                     |
| <b>Prepared by</b>         | Christine Catchpole, Planning Officer                |
| <b>Supervised by</b>       | Andrew Malone, Executive Manager Regulatory Services |
| <b>Meeting date</b>        | 7 November 2017                                      |
| <b>Voting requirements</b> | Simple Majority                                      |
| <b>Documents tabled</b>    | Nil  |
| <b>Attachments</b>         | Nil.   |

#### **Purpose**

This report considers a planning application for demolition of the existing dwelling and construction of a two storey dwelling at No. 71 Glyde Street, East Fremantle.

#### **Executive Summary**

The application proposes to demolish the existing residence and construct a two storey residence towards the rear of the lot. The existing single car garage which has been constructed on the street front boundary will remain. The proposed alterations and additions to the garage to construct a studio above the garage have now been deleted from the proposal.

The following issues are relevant to the determination of this application:

- Lot boundary setback reduced on the southern and northern lot boundaries;
- Solar access for adjoining sites – greater than 25% overshadowing and overshadowing of solar collectors;
- Site works – greater than 500mm of excavation and fill behind the street setback line and non-compliance with building setback requirements and a finished floor level greater than the average of the two adjoining houses;
- Retaining walls – higher and closer to the lot boundary than permitted; and
- Roof pitch – less than the pitch and non-compliant with roof form type required under the Residential Design Guidelines.

It is considered the impact of the variations on the amenity of adjoining sites will be minimal and can be supported subject to conditions regarding, screening for visual privacy purposes, pool filter and pump equipment compliance with overshadowing, lot boundary setbacks and deletion of the additions and alterations to the existing garage.

#### **Background**

Zoning: Residential R20

Site area: 508m<sup>2</sup>

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

**1995** – Ministerial approval for construction of garage. Appeal against Council's decision to refuse the garage upheld by the Minister for Planning.

## Consultation

### Advertising

The application was advertised to the surrounding land owners from 5 to 12 September 2017. One submission was received, which objected to aspects of the proposal as summarised below:

- *There is no existing ground level shown on the elevation so it is unclear whether the eastern section of the two storey section does comply with the maximum height allowance. Requested information on the finished levels related to a site datum.*
- *The design will have a negative impact on my outlook and the streetscape. The bulk of the proposed house has been positioned close to the adjoining dwelling. If it had been positioned further west the impact could have been minimised.*
- *The brutalist block style of the house does not empathize with the streetscape; it makes a mockery of the heritage listings, however, a modern design for the area could and should show some respect for the surroundings.*
- *Council should have some power to protect both the streetscape and neighbourhood. If not the character that gives this area its cohesiveness and charm will be destroyed.*

The applicant has responded to the submission and the Community Design Advisory Committee (CDAC) in the one response and these comments are provided in the following CDAC section of the report.

### Community Design Advisory Committee (CDAC)

This application was considered at the CDAC meeting of 23 October 2017 and the Committee made the following comments. The applicant has provided a response in italics below the Committee's comments.

**Note:** the comments relating to the studio addition over the garage are no longer relevant to this application as this aspect of the proposal has been deleted from the application.

**(a) The overall built form merits:** There is limited interaction of the garage/studio structure with the streetscape.

*The garage is an existing building and we are only adding a studio to the top. If we were to set back the studio slightly more and to the side with a bigger opening would that be more favourable?*

**(b) The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development:** The proposed garage/studio is considered to be overbearing to the streetscape. Due to the concessions being requested, addition design merit should be included into the design of the garage/studio. The garage does not contribute to the architecture of the area.

*The garage as an existing building is made of limestone which is found on the street. The Studio above uses a Weathertex cladding which is very similar to panel weatherboards cladding found on the street. What is more it was very hard to find a specific style on the street since there is a big mixture of different buildings. Can we support this with more examples of the current street style? There are very modern homes currently being build that are again very different to what is on the street at the moment.*

**(c) The relationship with and impact on the broader public realm and streetscape:**

The studio should be integrated into the streetscape and the overall site.

*As above.*

**(d) The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks:** The proposal is considered not to address the materials and architecture of the area.

*As mentioned above Glyde Street is a mixture of different buildings and we thought by undertaking a simple contemporary building with a grey and timber clad palette we would fit within the streetscape quite well. The front facade with the existing garage made of limestone and limestone front wall will remain to keep the streetscape unaffected.*

**(e) The extent to which the proposal is designed to be resource efficient, climatically appropriate, and responsive to climate change and a contribution to environmental sustainability:** The applicant should explore alternative design options to set back the front of the studio or provide articulation to the garage/studio.

*We can look at offsetting the studio slightly more and extending this to the side rather than to the back. Our clients are a family with three children and would not prefer to lose too much of their garden space. The design was thought to be very climatically appropriate undertaken with a sustainable product using SIP modular panels that will reduce the impact on the build time frames and is environmentally friendly.*

**(f) The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places:** No passive surveillance.

*Windows from the main house overlook the street when approaching the house and also the outdoor living is designed to look straight into street.*

#### Officer Response

Spot heights, finished floor levels and existing ground levels were included on the plans. The CDAC did not have any concerns regarding the design of the new dwellings and the CDAC’s concern in regard to the studio addition has been addressed as this has been deleted from the application. The other matters raised in the submission are addressed in the comment section of the report.

#### **Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

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

#### **Policy Implications**

*Town of East Fremantle Residential Design Guidelines 2016 (as amended)*

*Fremantle Port Buffer Zone - Area 2*

#### **Financial Implications**

Nil

#### **Strategic Implications**

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

##### Built Environment

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

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

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

Natural Environment

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

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

**Site Inspection**

October 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. A summary of the assessment is provided in the following tables.

| Legend<br><i>(refer to tables below)</i> |                |
|--|----------------|
| A  | Acceptable     |
| D  | Discretionary  |
| N/A                                      | Not Applicable |

Residential Design Codes Assessment

| Design Element                            | Required  | Proposed   | Status |
|---|---|--|--------|
| Street Front Setback                      | 6.0m  | 15.28m   | A      |
| Lot Boundary Setback                      | Northern:<br>GF: 4.5m<br>UF: 6.6m<br>Southern: 2.0m | Northern:<br>GF: 4.2 – 6.3m<br>UF: 4.4m – 6.2m<br>Southern: 1.5m | D      |
| Open Space                                | 50%   | 69%  | A      |
| Outdoor Living                            | 30m <sup>2</sup>                                    | 96m <sup>2</sup>   | A      |
| Car Parking                               | 1   | 2  | A      |
| Site Works                                | Less than 500mm                                     | Greater than 500mm   | D      |
| Visual privacy setback<br>>0.5m above NGL | Raised deck: 7.5m                                   | Raised deck: 3.8m and<br>1.4m                                    | D      |

|                      |             |                   |          |
|----------------------|-------------|-------------------|----------|
| <b>Overshadowing</b> | <b>≤25%</b> | <b>26.6%</b>      | <b>D</b> |
| Drainage             | On-site     | To be conditioned | A        |

Local Planning Policies Assessment

| <b>LPP Residential Design Guidelines Provision</b>    | <b>Status</b> |
|---|---------------|
| 3.7.2 Additions and Alterations to Existing Buildings | N/A           |
| 3.7.3 Development of Existing Buildings               | N/A           |
| <b>3.7.4 Site Works</b>                               | <b>D</b>      |
| 3.7.5 Demolition                                      | A             |
| 3.7.6 Construction of New Buildings                   | A             |
| <b>3.7.7 Building Setbacks and Orientation</b>        | <b>D</b>      |
| <b>3.7.8 Roof Form and Pitch</b>                      | <b>D</b>      |
| 3.7.9 Materials and Colours                           | A             |
| 3.7.10 Landscaping                                    | A             |
| 3.7.11 Front Fences                                   | A             |
| 3.7.12 Pergolas                                       | 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             |

| <b>Building Height (R-Codes)</b>               | <b>Required</b> | <b>Proposed</b>   | <b>Status</b> |
|--|-----------------|---|---------------|
| Concealed Roof – external wall height (R-Code) | 7.0m            | Southern elevation: 5.3- 6.5m<br>Northern elevation: 5.3m – 6.7m<br>Western elevation: 6.6m<br>Eastern elevation: 3.9m (lower floor) – 6.6m (upper floor) | A             |

The construction of a new dwelling will comprise demolition of the existing dwelling which has no heritage significance and is not listed in the Municipal Inventory. The garage on the front boundary will be retained, however, the applicant was advised that the proposed extension and upper level addition of a studio above the garage will not proceed as proposed and has requested it be deleted from the application. This was in response to the Officer's advice that this aspect of the proposal would not be supported in a report to Council.

The new dwelling will sit toward the rear of the lot. At the highest point of the lot the dwelling is proposed to be single storey and toward the middle of the lot, where the land slopes toward the street. The dwelling utilises the slope of the land and is two storeys across this portion of the lot. The outdoor areas are on the northern side of the lot and a swimming pool and raised deck area are also proposed alongside the single storey section of the dwelling. The land will be retained in this area to support the pool deck area however, for the most part the existing levels on the site are maintained.

Compliance with a number of development standards is not possible. Despite the non-compliance it is considered there are minor issues in respect to building bulk/scale impact because the proposed additions comply with the Residential Design Guidelines in respect to the scale and positioning of the upper storey section extension having a considerable set back from the street (>15m) and being within the building height limits. The applicant has therefore taken into consideration the overlooking and bulk/scale impacts of the dwelling to neighbouring residences in an attempt to minimise the impact on each of the neighbouring lots.

One neighbour has objected on the basis that the *“design will have a negative impact on my outlook and the streetscape. The bulk of the proposed house has been positioned close to the adjoining dwelling.”* This objection is required to be addressed and conditions will be imposed as discussed later in the report.

#### Lot boundary setbacks

##### *Northern boundary*

The northern boundary setback is non-compliant because the proposed dwelling is over 22 metres in length, two storeys for one section and has major openings on this elevation. This requires a setback of 4.5 metres. The applicant has proposed a setback of 4.2 metres through to 6.3 metres. The building is set back from the northern boundary to obtain a greater area of north facing open space. The slight deficiency in the set back along this boundary is considered acceptable given the width of the lot and no objection from the adjoining owner.

The ‘Design Principles’ of the R-Codes are considered satisfied in both instances as the new build does not unnecessarily contribute to building bulk on the adjoining lots, and whilst not being ideal in respect to overshadowing (discussed later in the report) the development of the lot is considered to allow for landscaping and adequate outdoor living areas and does not exceed building height.

##### *Southern boundary*

On the southern boundary, however, the setbacks do not comply and the neighbour has objected to the proposal on the grounds of building bulk and impact on outlook. There is also a marginal non-compliance with overshadowing of the lot and solar collectors. Given these circumstances it is considered that the applicant will need to meet the setback provisions of the R-Codes in order to reduce the impact of the new dwelling and the overshadowing to maintain amenity for this lot. This will be achieved by a condition being included in the Officer’s recommendation.

#### Site works and retaining walls

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.”*

Most of the site works and building levels on the lot are established in that the proposed dwelling will be constructed at levels that will remain after demolition of the existing dwelling. There will be slightly more retaining and site works in areas where the pool and surrounding deck area are to be constructed and the ground level will be altered in some sections on the site more than 500mm behind a street setback line. This is in excess of the amount of fill and excavation permitted under the R-Codes, therefore the proposal must be assessed under the ‘Design Principles’ of the R-Codes which states as follows.

*“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.”*

Similarly the retaining wall on the site (adjacent to the northern boundary) has been established and will not be altered, however, there is some retaining work on the southern boundary indicated on the

plans which ranges in height from 600mm to 1.4 metres and is to be constructed up to the lot boundary. This is closer than 1.0 metre to the side boundary and greater than 500mm in height as permitted under the R-Codes.

The other area where retaining work is indicated is in the north west corner of the lot. A 1.2 metre high planter box is proposed adjoining the existing limestone boundary wall in this location. This wall is also closer than 1.0 metre to the lot boundary. The retaining walls proposed are considered to result in land which can effectively be used for the benefit of residents, unlikely to impact residential amenity for the adjoining land owner as required under the 'Design principles' of the R-Codes and are therefore supported.

Whilst the new dwelling does not comply with the 'Acceptable Development Provisions' of Clause 3.7.4.3 (Site Works) of the Residential Design Guidelines in that *where new development is on a significant slope (degree of slope not defined in the Guidelines) the floor level of the proposed dwelling shall be the average height of the ground floor levels of the two adjacent dwellings* (floor level of proposed dwelling 14.1FFL – 15.2FFL) and the average of the adjacent dwellings 12.4FFL) the proposed position of the dwelling is considered to address the 'Performance Criteria' which states that:

- P1 Siting of new developments is to be consistent with the immediate locality and shall not negatively impact on the streetscape character and amenity.*
- P2 New developments are to maintain the prevailing natural ground level.*

Whilst the proposed floor levels of the new dwelling do not meet the average of the adjoining sites it is necessary to take into account the significant rise of the land to the rear of the site and the fact that the applicant is positioning the dwelling at the rear of the lot to utilise existing established levels on the site. This positioning of the dwelling on the site is not considered to impact the streetscape because in effect it is maintaining the existing situation. In any case because of the location of the garage on the street front boundary there is greater visibility of the house and surveillance for the street if it is positioned higher on the lot and therefore the non-compliance with site works is supported.

#### 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).*

The raised deck and alfresco area around the pool is less than the required 7.5 metres from the boundary as required under the R-Codes. Although the neighbours have not objected it is noted the adjoining property is for sale. The adjoining lot to the north is lower in level and has a pool and deck area at the rear of the site adjacent to the pool and deck area of the subject site. It is therefore considered necessary to impose a condition which requires the raised deck area to be screened in accordance with R-Code requirements to protect the visual privacy of the lot to the north.

#### Solar access - overshadowing

The R-Codes requires that a development site within a Residential R20 density coding does not overshadow in excess of 25 per cent of the adjoining lot. The proposal does not comply with the 'Deemed to Comply' provisions of the R-Codes. Technically, overshadowing greater than that permitted under the R-Codes, will occur on the property to the south because the 112.95m<sup>2</sup> of overshadowing (indicated on the plans) accounts for 26.6% of a lot area of 425m<sup>2</sup>. The applicant has calculated the overshadowing as being 22% of the site area which is based on a standard size lot for this precinct being 508m<sup>2</sup>. The adjoining lot, however, is smaller because a strip of land (of ~142m<sup>2</sup> in area and in the same ownership as the lot to the immediate south), has been excised from the parent lot and is used as a driveway to access the rear of properties on Glyde Street and properties fronting East Street. If this lot is factored into the overshadowing calculation then overshadowing impacts ~20% of the adjoining property in the one ownership. The adjoining property owner has objected to the proposal on the grounds that the dwelling should be positioned further westwards on the lot. This would increase the amount of overshadowing over the outdoor areas at the rear of the site. So whilst the slight non-compliance in percentage of overshadowing is only marginal it is not ideal and cannot be supported on the basis that the setbacks on the northern side of the lot are not fully compliant and the applicant believes the amenity of the lot to the south is impacted.

Furthermore, the solar collectors on the roof of the adjoining lot (73 Glyde Street) will be impacted. As such the proposal does not comply with the 'Deemed to Comply' provisions of Clause 2.5.4 of the R-Codes which 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.*

The Council is therefore required to consider the 'Design Principles' which state that:

- P2.1 Effective solar access of the proposed development and protection of solar access.*  
*P2.2 Development designed to protect solar access for neighbouring properties taking account the potential to overshadow existing:*
- *Outdoor living areas;*
  - *North facing major openings to habitable rooms, within 15 degrees of north in each direction; or*
  - *Roofed mounted solar collectors.*

In this circumstance because the solar collectors and north facing openings will be overshadowed it is considered necessary to require the applicant to address the issue of non-compliance in respect to

overshadowing and reduced setbacks on the southern side. As this application involves the construction of a new dwelling on the site this is considered achievable and a condition requiring the applicant to demonstrate compliance with both the setback and overshadowing provision of the R-Codes at Building Permit application stage should be imposed.

#### Roof pitch

The proposal comprises a flat roof which, although non-compliant, in this circumstance is considered acceptable. The existing dwelling is being demolished and a residence of a contemporary design is being proposed. The Guidelines require a roof pitch between 28° – 36° and the proposed roof structure has a 2° pitch so is essentially a concealed flat roof. This is not considered detrimental to the heritage of the area as it is a standalone dwelling with no other heritage buildings remaining on the site. The dwelling is positioned from midway along the lot to the rear so that it is situated on the highest point of the site and has minimal direct impact on the streetscape. The CDAC has not raised any concerns with the proposal in regard to the new dwelling. The proposal to extend the garage and construct a studio above the garage was not supported by planning administration or the CDAC and as noted above the applicant has decided not to proceed with this aspect of the development.

#### **Conclusion**

The application is supported as the impact on the amenity of the surrounding properties is considered minimal. The application is therefore recommended for approval subject to conditions regarding the proposed additions and alterations to the existing garage (i.e. the studio addition) being deleted from the Building Permit application. These are not included in the current Development Approval application and no further external or internal alterations to the existing garage are to be carried out without further Council approval and the submission of a separate development approval application for Council's consideration. Screening of the pool deck and alfresco area on the northern side of the dwelling is also required. This is required to be screening of a permanent nature and visually impermeable to a height of 1.6 metres in accordance with the R-Code provisions for visual privacy. Full details of the screening are to be submitted at Building Permit application stage. It is also necessary for the applicant to demonstrate compliance with the lot boundary setback on the southern side of the lot and the solar access provisions of the R-Codes to address the concerns of the adjoining owner.

- Mr Greg Watkinson (Owner) addressed the meeting and advised that the adjoining house to the north has recently sold and there will be some negotiation with the new owners regarding overlooking, however if screening is required the development will not be proceeded with. Also advised that he is supportive of the officer's recommendation.

#### **12.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION 041117**

**Cr Nardi moved, seconded Cr Natale**

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

- (i) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a northern lot boundary setback of less than 4.5 metres for the ground floor and 6.6 metres for the upper floor;**
- (ii) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to allow excavation and fill behind the street alignment greater than 0.5 metres behind a street setback line that does not meet building setback requirements;**
- (iii) Clause 5.3.8 – Retaining Walls of the Residential Design Codes of WA to permit a retaining wall greater than 500mm in height less than 1.0 metre from the boundary;**
- (iv) Clause 3.7.4.3 – Site Works of the Residential Design Guidelines 2016 to permit the ground floor level to be greater than the average height between the ground floor levels of the two**

- adjacent dwellings; and
- (v) Clause 3.7.8.3 of the Residential Design Guidelines 2016 to permit a roof pitch and form of less than 28°;
- for a two storey dwelling at No. 71 (Lot 125) Glyde Street, East Fremantle, in accordance with the plans date stamped received 11 October 2017, subject to the following conditions:
1. Compliance with the Deemed to Comply provisions of Clause 5.1.3 (C3.1i) - Lot Boundary Setback of the Residential Design Codes of WA in respect to the southern lot boundary for the proposed dwelling, to the satisfaction of the Chief Executive Officer, to be indicated on the plans submitted with the Building Permit application.
  2. Compliance with the Deemed to Comply provisions of Clause 5.4.2 (C2.1) of the Residential Design Guidelines of WA in respect to solar access for adjoining sites, to the satisfaction of the Chief Executive Officer, to be indicated on the plans submitted with the Building Permit application.
  3. The proposed additions and alterations to the existing garage (including studio, extensions and retaining walls) indicated on the plans dated 11 October 2017 are deleted from the Building Permit application and are not part of this Development Approval.
  4. Permanent and visually non-permeable screening to be installed to comply with the 'Deemed to comply' standards of the Deemed to Comply provisions of Clause 5.4.1 C1.2 (visual privacy) for the pool deck and alfresco area on the northern side of the dwelling to the satisfaction of the Chief Executive Officer. The details of the screening to be indicated on the plans submitted with the Building Permit application.
  5. No further external or internal alterations to the existing garage to be carried out without further Council approval and the submission of a separate development approval application for Council's consideration.
  6. Pool filter and pump equipment to be located a minimum distance of 1.0 metre away from all lot boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
  7. The details of construction materials and finishes to be used to be to the satisfaction of the Chief Executive Officer and to be submitted at Building Permit application stage.
  8. 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.
  9. 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.
  10. 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.
  11. The proposed alterations and additions are 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.
  12. 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.
  13. 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.
  14. 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.

15. 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.
16. 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".*

(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.

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**12.4 Hubble Street No. 76 (Lot 277) – Two Storey Additions and Alterations including Carport and Outbuilding**

|                            |  |
|----------------------------|--|
| <b>Applicant</b>           | Lahaus P/L   |
| <b>Owner</b>               | I & H McLeod   |
| <b>File ref</b>            | P/HUB76; P/096/17                                    |
| <b>Prepared by</b>         | Christine Catchpole, Planning Officer                |
| <b>Supervised by</b>       | Andrew Malone, Executive Manager Regulatory Services |
| <b>Meeting date</b>        | 5 November 2017                                      |
| <b>Voting requirements</b> | Simple Majority                                      |
| <b>Documents tabled</b>    | Nil  |
| <b>Attachments</b>         | Nil.   |

**Purpose**

This report considers a planning application for ground and two storey additions and alterations to the existing heritage dwelling at No. 76 Hubble Street, East Fremantle.

**Executive Summary**

The additions to the house are all to the rear and comprise demolition of part of the lean-to rear section of the existing cottage and other outbuildings on the site, as well as construction of a carport. The two storey addition is immediately behind the cottage and the remainder of the extension is single storey. The proposed outbuilding is a cabana for a future pool and has an attached patio; this building is at the very rear of the lot. The later additions and outbuildings to the rear which will be demolished have no heritage significance.

The following issues are relevant to the determination of this application:

- Lot boundary setback reduced on the southern boundary;
- Open space – less than 50%;
- Solar access for adjoining sites – greater than 25% overshadowing;
- Retaining walls – higher and closer to boundary than permitted; and
- Roof pitch – less than pitch required under the Residential Design Guidelines.

It is considered the variations will not have a significant impact on the amenity of adjoining sites or the heritage value of the property and can be supported subject to conditions regarding pool filter and pump equipment, use of the cabana, enclosure of the carport and construction materials and finishes.

**Background**

Zoning: Residential R20  
Site area: 508m<sup>2</sup>

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

**21 May 2003** – Building Licence issued for storage shed/carport.

**28 February 2007** – Planning approval granted for a swimming pool – not installed.

## Consultation

### Advertising

The application was advertised to the surrounding land owners from 3 to 20 October 2017. One adjoining owner property comment form was received indicating no objection but requesting carport posts be kept off the adjoining wall.

### Community Design Advisory Committee (CDAC)

This application was considered at the CDAC meeting of 23 October 2017 and the Committee made the following comments:

#### ***The overall built form merits;***

- *The Committee is not supportive of the approach to the design of the additions and alterations.*
- *The Committee requests the applicant reconsider the manner in which the new addition is interfaced /connected to the original dwelling with a view to reducing its impact on the streetscape and the original dwelling.*
- *The connection between the new addition and the cottage should be distinguishable and further refined in regard to creating a clear separation between the 'old' and 'new' sections of the dwelling.*

#### ***The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;***

- *The Committee considers the heritage fabric of the dwelling is being diminished in regard to the removal of the rear section of the cottage to accommodate the direct connection with the new addition.*
- *The Committee also considers the introduction of a wet area at the rear of the cottage is not ideal as it is not part of the original heritage fabric of the building and may result in water damage to the heritage dwelling.*

#### ***The relationship with and impact on the broader public realm and streetscape;***

- *The Committee considers the heritage streetscape is not enhanced by the contemporary design of the additions and that further refinement of the design is required to distinguish between the 'old' and 'new' and also reduce the impact on the heritage streetscape.*

#### ***The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;***

- *The addition does not positively connect with the cottage in that the rear section of the cottage is proposed to be removed to facilitate a direct connection with the new addition. A transitional approach is preferred which will distinguish between the 'old' and the 'new' and retain the built form of the original dwelling.*

#### ***The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;***

- *The Committee requests the applicant reconsider/redesign the upper floor bedroom windows to improve northern light to the bedrooms.*

***The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;***

- *No Comment - N/A.*

The applicant made the following response to the Committee’s comments.

*We would like to share our design team’s experience in working with heritage listed properties both in Perth and London: Two (2) x fit outs in The Royal Insurance Building, St Georges Terrace, Perth – Heritage Listed; extension and renovation of a Georgian Terrace House, Connaught Square, London – Heritage Listed and extension and renovations of multiple historic terrace houses in London. We appreciate the committee’s feedback and share the same values. We are committed to design practices that are culturally, sustainably and historically responsible.*

***The Committee requests the applicant reconsider the manner in which the new addition is interfaced /connected to the original dwelling with a view to reducing its impact on the streetscape and the original dwelling. The connection between the new addition and the cottage should be distinguishable and further refined in regard to creating a clear separation between the ‘old’ and ‘new’ sections of the dwelling.***

*A key design consideration was to retain the original weatherboard home’s form, roof line and central corridor. The materiality and the proposed modern design of the extension was intended to define the new and the old through contrast. The simple form of first floor extension was achieved with a concealed skillion roof line which allowed for a clean and modish appearance. By having this roof form we have reduced the height of the overall building, providing minimal impact and bulk from the streetscape. The intent was to allow for the heritage features of the front façade to dominate the streetscape and not be challenged by the extension to the rear of the property. The overall proposed building height is within the Council guidelines. Due to the existing elevated retaining walls, landscaping and large trees to the front of the home, there will be little or no visual of the extension from the footpath.*

***The Committee considers the heritage fabric of the dwelling is being diminished in regard to the removal of the rear section of the cottage to accommodate the direct connection with the new addition. We have removed the ‘lean to section’ and retained the dominant form and roof line of the original cottage. We feel this is a considerate and sympathetic design outcome. The Committee also considers the introduction of a wet area at the rear of the cottage is not ideal as it is not part of the original heritage fabric of the building and may result in water damage to the heritage dwelling.***

*The proposed wet area to the original dwelling will comply with the Building Code of Australia and Australian Standards ensuring no water damage risks will threaten the existing cottage. We look forward to repairing and reinstating the weatherboard cottage to its original form and increasing the longevity of the dwelling.*

***The Committee considers the heritage streetscape is not enhanced by the contemporary design of the additions and that further refinement of the design is***

***required to distinguish between the 'old' and 'new' and also reduce the impact on the heritage streetscape.***

*The addition does not positively connect with the cottage in that the rear section of the cottage is proposed to be removed to facilitate a direct connection with the new addition. A transitional approach is preferred which will distinguish between the 'old' and the 'new' and retain the built form of the original dwelling. A key design consideration was to retain the original weatherboard home's form, roof line and central corridor. The materiality and the proposed modern design of the extension is intended to define the new and the old through contrast. The simple form of first floor extension was achieved with a concealed skillion roof line which allowed for a clean and modish appearance. By having this roof form we have reduced the height of the overall building, providing minimal impact and bulk from the streetscape.*

*The intent was to allow for the heritage features of the front façade to dominate the streetscape and not be challenged by the extension to the rear of the property. The overall proposed building height is within the Council Guidelines. Due to the existing elevated retaining walls, landscaping and large trees to the front of the home, there will be little or no visual of the extension from the footpath.*

***The Committee requests the applicant reconsider/redesign the upper floor bedroom windows to improve northern light to the bedrooms.***

*As part of our considered design approach, we located the double void stairwell to maximise the northern light into the living areas on the ground floor and first floor and feel this is more beneficial to the liveability of the dwelling.*

*In summary, we have designed an extension that coincides and complements the existing residence. It works in a seamless manner, and the extension positively contributes to the existing dwelling. Taking the above information into consideration, we respectfully request that the Town approve the planning application for the proposed additions at the above mentioned property.*

With due regard for the Committee's comments the applicant has not indicated a willingness to redesign the addition or make any other changes to the proposal. The Place Record form from the review of the Municipal Inventory in 2015 states that:

*The place has considerable heritage value for its intrinsic aesthetic value as a Federation Bungalow and it retains a moderate to high degree of authenticity and a high degree of integrity.*

*There are skillion roofed additions to the rear.*

*The rear additions have no significance.*

One of the comments made by the Committee was concern with the removal of the rear section of the cottage and the impact this has on diminishing the heritage value of the dwelling. The Place Record form, however, indicates the rear additions have no significance. It is therefore considered the direct connection of the addition with the cottage is acceptable from a planning perspective. The other comment included impact on the streetscape but as the applicant has stated there is minimal visibility of the additions from the street due to the pitch of the cottage roof and the significant trees on the street and on the site.

From a heritage perspective it is acknowledged there are other options and approaches that could be taken in regard to the design of the alterations and additions, however, the applicant does not wish to alter the design. From a planning perspective the variations from the R-Codes and the Residential

Design Guidelines are not considered to impact on the heritage values of the site or the amenity of the adjoining property or the site itself. Given the above it is therefore arguable whether Council should have any further regard for differing tastes regarding the aesthetics of new buildings and design elements of the new sections of the dwelling.

### **Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

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

*LPS No. 3 Heritage List – ‘B’ Category*

### **Policy Implications**

*Town of East Fremantle Residential Design Guidelines 2016 (as amended)*

*Municipal Heritage Inventory - ‘B’ Category*

*Fremantle Port Buffer Zone - Area 2*

### **Financial Implications**

Nil

### **Strategic Implications**

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

#### *Built Environment*

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

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

#### *Natural Environment*

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

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

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

**Site Inspection**

October 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. A summary of the assessment is provided in the following tables.

| Legend<br><i>(refer to tables below)</i> |                |
|--|----------------|
| A  | Acceptable     |
| D  | Discretionary  |
| N/A                                      | Not Applicable |

Residential Design Codes Assessment

| Design Element                              | Required  | Proposed   | Status   |
|---|---|--|----------|
| Street Front Setback                        | 6.0m  | As existing  | A        |
| <b>Lot Boundary Setback</b>                 | <b>Carport – 1.0m</b><br><b>Southern boundary – 1.5m – 2.0m</b> | <b>Carport post - nil &amp; roof - 500mm</b><br><b>Southern boundary – 1.3m – 1.7m</b> | <b>D</b> |
| Open Space                                  | 50%   | 46%  | A        |
| Outdoor Living                              | 30m <sup>2</sup>  | >84m <sup>2</sup>  | A        |
| Car Parking                                 | 1   | 2  | A        |
| Site Works                                  | Less than 500mm   | Less than 500mm  | A        |
| Visual privacy setback<br>(>0.5m above NGL) | Upper level bedrooms - 4.5m                                     | Less than 4.5m   | A        |
| <b>Overshadowing</b>                        | <b>≤25%</b>   | <b>32%</b>   | <b>D</b> |
| Drainage                                    | On-site   | To be conditioned  | A        |

Local Planning Policies Assessment

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

| Building Height (R-Codes)                      | Required | Proposed | Status |
|--|----------|----------|--------|
| External Wall height (R-Code)                  | 6.0m     | 4.4m     | A      |
| Concealed Roof – external wall height (R-Code) | 7.0m     | 6.5m     | A      |

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|                            |      |     |     |
|----------------------------|------|-----|-----|
| Roof Ridge height (R-Code) | 9.0m | N/A | N/A |
|----------------------------|------|-----|-----|

The additions and alterations will comprise removal of the lean to section of the cottage and an internal rearrangement of living space in the rear section. The two storey extension comprises a bathroom, laundry, dining, kitchen and living area on the ground floor with bedrooms and a bathroom on the upper level. The upper level extension comprises ~60m<sup>2</sup> which is less than the lower floor addition of 160m<sup>2</sup>. The front facade will remain unaltered. The construction materials will be weatherboard cladding to match the existing weatherboards, synthetic weatherboards and render for the extensions and Colorbond roofing to match the existing roofing material.

Compliance with a number of development standards is not possible. Despite the non-compliance it is considered there are no issues in respect to building bulk/scale impact because the proposed additions comply with the Residential Design Guidelines in respect to height and positioning of the upper storey extension toward the rear, thus reducing the impact upon the fabric of the dwelling and the streetscape. The applicant has therefore taken into consideration the overlooking and bulk/scale impacts of the extension to neighbouring residences in an attempt to minimise the impact on each of the neighbouring lots. The adjoining owners have not raised any objection to the proposal either.

#### Lot boundary setbacks

The ground floor extension continues along the southern side of the lot with a similar setback to the existing cottage. The cottage building line does not run parallel with the boundary line so the setbacks vary a few 100mm along the length of the boundary and this is why the setback from this boundary for the ground floor extension does not comply (required 1.5m; proposed 1.3m – 1.5m). The setback for the upper storey also follows the existing building line, however, the setback is greater for the two storey section, 2.0 metres being required and therefore the proposed setback is marginally non-compliant at 1.4 metres to 1.7 metres. The upper storey is also setback just over 1.0 metre from the northern boundary.

The northern boundary setback is non-compliant because the carport does not meet the 'Deemed to Comply' provisions of the R-Codes. The posts are on the boundary and the roof is setback 500mm, whereas the required setback is 1.0 metre. A reduced setback is the only way a carport can be accommodated on the site due the width of the existing driveway and the setback of the house from the side boundary. To address the adjoining owner's comments a condition of approval is required which specifies the posts are to be wholly located within the lot boundaries.

The 'Design Principles' of the R-Codes are considered satisfied in both instances as the additions do not unnecessarily contribute to building bulk on the adjoining lots, and whilst not being ideal in respect to overshadowing or open space (discussed later in the report) the development of the lot is considered to allow for landscaping and adequate outdoor living areas. The minimum outdoor living area required is 30m<sup>2</sup> and greater than 84m<sup>2</sup> is being provided.

#### Open space

The 50% open space requirement is not achieved for this lot. Open space has been calculated as approximately 46%. On a lot this size (i.e. 508m<sup>2</sup>) it can sometimes be difficult to meet the open space requirement and the expectations in respect to modern housing whilst retaining the original heritage dwelling. The open space created to the rear satisfies the requirement for the minimum area of open space in a R20 area to be provided (i.e. 30m<sup>2</sup> minimum outdoor area required; >84m<sup>2</sup> proposed). A swimming pool and other associated outdoor areas where landscaping is to be provided are also indicated on the plans with northern orientations. This is considered to meet the 'Design principles' of

the R-Codes in that access to natural sunlight is available, there is no undue building bulk impacting on adjoining sites. There are opportunities for the residents to use open space external to the dwelling, within and around the site and there is space for external fixtures and essential facilities. The reduced amount of open space on the site is therefore supported.

#### Retaining wall

A retaining wall is proposed on the northern boundary which is higher than 500mm and less than 1.0 metre from the boundary for the purpose of landscaping, a BBQ and a seating area. Whilst this is acceptable it is not strictly in compliance with the R-Codes requirement which states that retaining walls must be setback in compliance with Table 1 of the R-Codes if greater than 500mm in height. The retaining wall will, however, meet the 'Design principles' of the R-Codes in that it will be effectively used for the benefit of the residents for landscaping and is not considered to detrimentally impact on the adjoining lot. No objection to the proposal has been received from the adjoining owner.

#### Solar access - overshadowing

Overshadowing greater than that permitted under the R-Codes, will occur on the property to the south. Whilst not ideal the adjoining owners have not objected. In this circumstance the overshadowing calculation includes overshadowing of the existing house and front setback area. This accounts for more than half the overshadowing calculation of 32%. So in effect the increase in overshadowing on the lot is under the 25% permitted under the R-Codes. The extension overshadows a portion of the rear yard, however, the adjoining owner has not commented on the proposal.

#### Heritage

The dwelling is categorised as Category 'B' on the Heritage List of the Planning Scheme. Overall the proposal is considered to acknowledge the heritage value of the property and in the main the variations from the R-Codes are considered to be of no significance for the neighbouring properties or are acceptable in respect to extension and renovation of the heritage property. The dwelling still maintains the same presence and appearance as far as the streetscape is concerned and the additions which will be marginally visible behind the original house are not considered intrusive as far as the streetscape is concerned, particularly as they will be significantly obscured by a steep roof pitch and street trees and on-site vegetation.

The later additions to the rear of the cottage have no heritage significance (as noted in the Place Record form) and a rear outbuilding and outdoor toilet and laundry will be demolished to allow for the additions and alterations to be constructed. There is no objection to the demolishing proposed.

#### Roof pitch

The roof pitch is a mixture of flat and pitched roofs which, with the exception of the outbuilding, do not comply with the Residential Design Guidelines. The Guidelines require a roof pitch between 28° – 36° and the proposed roof structures range between flat and 25°. This is not considered detrimental to the heritage of the area or the original dwelling because the roof structures are required to be distinguishable from the original dwelling. The outbuilding has a steeper pitch which complies with the Guidelines.

#### **Conclusion**

The application is supported as the alterations and additions are not considered to have a detrimental impact on the amenity of the surrounding properties and the additions are of a scale that is respectful of the heritage dwelling, the existing streetscape and the Plympton Precinct. The application is therefore recommended for approval subject to conditions regarding enclosure of the carport and installation of a garage door, use of the outbuilding (cabana) and construction materials and finishes.

**12.4 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP051117**

**Cr Collinson moved, seconded Cr Nardi**

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

- (i) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit:
  - a) a northern boundary setback of less than 1.0 metre (carport); and**
  - b) a southern lot boundary setback of less than 1.5 metres (ground floor) and 2.0 metres (upper floor);****
- (ii) Clause 5.1.4 - Open Space of the Residential Design Codes of WA to permit less than 50% open space on the site;**
- (iii) Clause 5.3.8 – Retaining Walls of the Residential Design Codes of WA to permit a retaining wall greater than 500mm in height less than 1.0 metre from the boundary;**
- (iv) Clause 5.4.2 – Solar Access for Adjoining Sites of the Residential Design Codes of WA to permit overshadowing on the adjoining site to exceed 25% of the site area; and**
- (v) Clause 3.7.8.3 of the Residential Design Guidelines 2016 to permit a roof pitch and form of less than 28°,**

**additions and alterations, including a carport and outbuilding (cabana) at No. 76 (Lot 277) Hubble Street, East Fremantle, in accordance with the plans date stamped received 14 September 2017, subject to the following conditions:**

- 1. The carport posts are to be located wholly within the subject lot boundary and indicated as such on the Building Permit application plans.**
- 2. The carport is not to be enclosed or a garage door installed without the further approval of Council and the submission of a development approval application for Council's consideration.**
- 3. The outbuilding (cabana) is not to be used for bed and breakfast, short term or ancillary accommodation without the further approval of the Council and the submission of a development approval application for Council's consideration in respect to such uses.**
- 4. Pool filter and pump equipment to be located a minimum distance of 1.0 metre away from all lot boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.**
- 5. The details of construction materials and finishes to be used to be to the satisfaction of the Chief Executive Officer and to be submitted at Building Permit application stage.**
- 6. 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.**
- 7. 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.**
- 8. 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.**
- 9. The proposed alterations and additions are 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.**
- 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 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.
12. 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.
13. 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.
14. 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".***

***(CARRIED UNANIMOUSLY)***

**Note:**

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

## 12.5 Sewell Street No. 44 (Lot 1) – Alterations and Additions to Existing Dwelling, including an Outbuilding

*The author of this report/assessment makes the following impartiality declaration in the matter of No. 44 Sewell Street, East Fremantle: "As a consequence of the owner/applicant's designer, Building Lines, being known to me through kinship acquaintances, there may be a perception that my impartiality on the matter may be affected, notwithstanding this, I declare that I have considered this matter entirely on its merits and with complete impartiality and objectivity".*

|                            |  |
|----------------------------|--|
| <b>Owner/Applicant</b>     | L & S Sicree   |
| <b>File Ref</b>            | PSEW/44; P105/2017                                   |
| <b>Prepared by</b>         | Christine Catchpole, Planning Officer                |
| <b>Supervised by</b>       | Andrew Malone, Executive Manager Regulatory Services |
| <b>Meeting date</b>        | 7 November 2016                                      |
| <b>Voting requirements</b> | Simple Majority                                      |
| <b>Documents tabled</b>    | Nil  |
| <b>Attachments</b>         | Nil.   |

### Purpose

This report considers a development application for alterations and additions to the existing dwelling, including an outbuilding (studio and storeroom) at No. 44 Sewell Street, East Fremantle.

### Executive Summary

The development application proposes the renovation and rear additions and alterations to a small cottage on a 6 metre wide lot. The additions also include an outbuilding (combined studio and storeroom) at the very rear of the lot. The lot is adjacent to another 6 metre wide lot to the south.

The following issues are relevant to the determination of this application:

- Street setback;
- Lot boundary setback;
- Open space;
- Solar access (overshadowing);
- Car parking;
- Outbuilding wall height and setbacks; and
- Roof pitch.

It is considered the variations can be supported and the application is recommended for conditional approval.

### Background

Zoning LPS No. 3: Residential R20

Site area: 253m<sup>2</sup>

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

Nil in regard to this application.

### Consultation

#### Advertising

The proposed application was advertised to impacted land owners from 3 to 20 October 2017. No submissions were received.

Community Design Advisory Committee

This application was considered by the Committee at its meeting of 23 October 2017 and the following comments were made.

- *The Committee is generally supportive of the application and design approach.*
- *The Committee considers the alterations and additions are an acceptable design solution.*

No further comment was made in respect to the remaining terms of reference as the cottage façade, as it presents to the street, is to be retained. It is noted the 6.0 metre width of the lot is restrictive in terms of design options.

**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*

*Fremantle Port Buffer Zone - Area 2*

**Financial Implications**

Nil

**Strategic Implications**

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

Built Environment

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

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

Natural Environment

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

- 4.1 *Conserve, maintain and enhance the Town's open spaces.*
  - 4.1.1 *Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*
  - 4.1.2 *Plan for improved streetscapes parks and reserves.*

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

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

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

## Site Inspection

October 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. A summary of the assessment is provided in the following tables.

| Legend<br>(refer to tables below) |                |
|-----------------------------------|----------------|
| A                                 | Acceptable     |
| D                                 | Discretionary  |
| N/A                               | Not Applicable |

### Residential Design Codes Assessment

| Design Element             | Required   | Proposed          | Status |
|----------------------------|--|-------------------|--------|
| Street Front Setback       | 6.0m   | 4.85m             | D      |
| Minor incursion (verandah) | 5.0m   | 3.4m              | D      |
| Lot Boundary Setback       | northern elevation GF: 4.8m<br>southern elevation GF: 1.8m | 800mm – 1.6m      | D      |
|                            |  | Nil               | D      |
| Open Space                 | 50%  | 43%               | D      |
| Outdoor Living             | 30m <sup>2</sup>   | 72m <sup>2</sup>  | A      |
| Car Parking                | 2  | Nil               | D      |
| Site Works                 | Less than 500mm  | Less than 500mm   | A      |
| Overshadowing              | ≤25%   | ≥25%              | D      |
| Drainage                   | On-site  | To be conditioned | 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                                      | A        |
| 3.7.6 Construction of New Buildings                   | N/A      |
| <b>3.7.7 Building Setbacks and Orientation</b>        | <b>D</b> |
| <b>3.7.8 Roof Form and Pitch (outbuilding)</b>        | <b>D</b> |
| 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        |

| Building Height |                      |          |           |           |        |
|-----------------|----------------------|----------|-----------|-----------|--------|
| R-Codes         |                      | Required | Provided  | Complies? | Status |
|                 | Top of external wall | 6.0m     | 3m – 4.2m | Yes       | A      |
|                 | Top of roof ridge    | 9.0m     | 3m – 4.2m | Yes       | A      |

There are a considerable number of variations from the R-Codes and the Residential Design Guidelines due to the very narrow width of the lot. Notwithstanding, the variations are supported and are discussed below.

#### Street setback and minor incursion

The street setback of the dwelling will essentially remain as is from the street. This setback does not comply with the setback provisions of the R-Codes. The front building setback and the verandah incursion can be supported on the basis that it maintains the existing streetscape in terms of setback and built form and in this circumstance this is the ideal outcome. The proposal is consistent with the adjoining lot setbacks and will have minimal streetscape impact. A front fence is not proposed but if one is to be constructed a condition of approval is recommended which will require all fencing in the street setback area to comply with Council's Residential Design Guidelines.

#### Lot boundary setbacks

The lot boundary setbacks do not comply. The setbacks required along both side boundaries, as detailed in the above table, cannot be achieved due to the 6 metre width of the lot. Without walls being built up to or very close to the lot boundary it would be impossible to develop the lot for a home of modern standards. Also, the setbacks are increased in this instance because of the length of the wall, not the height of the building, increases the required building setback. This is supportable on the basis that it is not considered to impact greatly on the amenity of the adjoining lots and the adjoining landowners have not objected to the proposal.

#### Open space

The 50% open space requirement is not achieved for this lot. Open space has been calculated as approximately 43%. On a lot this size (i.e. 253m<sup>2</sup>) it is very difficult to meet the open space requirement and the expectations in respect to modern housing. The open space created to the rear satisfies the requirement for the minimum area of open space in a R20 area to be provided (i.e. 30m<sup>2</sup> minimum outdoor area required; ~72m<sup>2</sup> proposed). This is considered to meet the 'Design principles' of the R-Codes in that access to natural sunlight is available, there is no undue building bulk impacting on adjoining sites. There are opportunities for the residents to use open space external to the dwelling, within and around the site and there is space for external fixtures and essential facilities. The reduced open space is therefore supported.

#### Solar access (overshadowing)

The overshadowing is greater than that permitted under the R-Codes and cannot be made compliant partly due to the width of the lot to the south which is also 6 metres wide. The single storey extension for the most part will overshadow the existing roof and patio structures on the adjoining property. The extent of overshadowing is already occurring because the shell of the existing cottage is the same length as the proposed rear additions. The majority of open space at the rear of the adjoining lot is not impacted.

#### Car parking

Car parking cannot be provided on-site if the cottage is to remain because the lot is too narrow. Previously there appeared to be one parking bay in between the two cottages allocated to No. 44, but

when the land was surveyed to create two survey strata lots there was inadequate space on No. 44 for the car bay to remain. Under the R-Codes two car bays are required because the lot is located just over 250 metres to Marmion Street and a high frequency bus route. Given the proximity to Canning Highway (just over 350 metres) and Marmion Street, the fact that the site did not legally have any parking previously and the higher priority of retaining the cottage the shortfall of parking is considered supportable. Residents of the property will have to utilise street parking as there are no other options.

#### Roof pitch and form

The roof form and pitch does not comply with the requirements of the Residential Design Guidelines, however, as heritage considerations more specifically relate to street setback, built form and height of the dwelling, rather than specific architectural details, the non-compliance is supportable and preferable in regard to retention of the dwelling. The pitch of the roof as it addresses the street essentially remains unchanged.

#### Outbuilding (studio and storeroom)

The non-compliance with lot boundary setback and the wall height of the outbuilding is supportable given the overall height of the outbuilding is less than that permitted (i.e. 4.2 metres permitted; 3.3m proposed), so building bulk is not considered to be an issue. The height of the walls on the boundary range between 3.1 and 3.3 metres which is higher than that permitted at 2.4 metres. The adjoining land owners to the rear have raised no objection to the proposal provided the outbuilding has no openings of any type to the boundary. This is supported and a condition of approval is recommended prohibiting openings of any type on the eastern, southern and northern elevations.

#### Heritage

The place is classified category C under the Municipal Inventory and could have been demolished without the need to obtain development (planning) approval because it is not on the heritage list of the Planning Scheme. The variations from the provisions of the R-Codes and the Residential Design Guidelines are therefore considered an acceptable compromise in regard to the alternative of the cottage not being retained and renovated.

#### **Conclusion**

The application is supported, notwithstanding the variations, on the basis that the applicant has retained the cottage and minimised the impact of reduced setbacks and building height on the adjoining lots. The renovated cottage will still maintain a presence in the streetscape and the heritage value of the property in terms of the Plympton Precinct as a whole is maintained. The application is recommended for approval subject to conditions aimed at maintaining the streetscape and heritage status of the Precinct, the use of the outbuilding, fencing and parapet walls.

#### **12.5 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP061117**

**Cr Nardi moved, seconded Cr Natale**

**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 street setback of less than 6.0 metres;**
- (ii) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a northern and southern lot boundary setback of less than 4.8 metres and 1.8 metres respectively;**
- (iii) Clause 5.1.4 - Open Space of the Residential Design Codes of WA to permit less than 50% open space on site;**
- (iv) Clause 6.4.2 – Solar Access of the Residential Design Codes of WA to permit overshadowing to**

- exceed 25% of the adjoining site area;
- (v) 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;
  - (vi) Clause 5.4.3 (C3 - iv) - Outbuildings of the Residential Design Codes of WA to allow the lot boundary setback of the outbuilding to be less than 1.0 metre from the eastern, northern and southern boundaries; and
  - (vii) Clause 3.7.8.3 of the Residential Design Guidelines 2016 to allow a roof pitch of less than 28° for the dwelling and the outbuilding,

for alterations and additions including an outbuilding (studio/storeroom) to an existing dwelling at No. 44 (Lot 1) Sewell Street, East Fremantle, in accordance with the plans date stamped received 28 September 2017, subject to the following conditions:

1. The outbuilding to contain no openings/windows of any type on the east, north and/or south elevations.
2. The outbuilding (studio/storeroom) is not to be used for the purposes of habitation, ancillary accommodation, bed and breakfast or short term accommodation without Council approval. An application for development approval is required to be submitted for Council consideration for a change of use.
3. Details of construction materials, colours and finishes to the satisfaction of the Chief Executive Officer to be submitted at Building Permit application stage.
4. All parapet walls are to be of a suitable material to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
5. Front fencing within the street setback area is to be in compliance with the Residential Design Guidelines and in compliance with the Australian Standards in respect to sight lines where boundary fencing meets the street front property boundary. A development application for Council's consideration is to be submitted for any gates or fencing in the front setback area.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.
11. 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.

12. Prior to the commencement of any works on site, the applicant to notify affected adjoining landowners of intended commencement date.
13. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (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".***

***(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.

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## 12.6 View Terrace No. 50 (Lot 1) – Two Storey Additions and Alterations to Existing Grouped Dwelling

|                            |  |
|----------------------------|--|
| <b>Applicant</b>           | Kym Muir Architects                                  |
| <b>Owner</b>               | G & M Greenacre                                      |
| <b>File ref</b>            | P/VIE50; P091/17                                     |
| <b>Prepared by</b>         | Christine Catchpole, Planning Officer                |
| <b>Supervised by</b>       | Andrew Malone, Executive Manager Regulatory Services |
| <b>Voting requirements</b> | Simple Majority                                      |
| <b>Documents tabled</b>    | Nil  |
| <b>Meeting date</b>        | 5 November 2017                                      |
| <b>Attachments</b>         | Nil.   |

### Purpose

This report considers a planning application for two storey additions and alterations to a heritage listed grouped dwelling at No. 50 (Lot 1) View Terrace, East Fremantle.

### Executive Summary

The application proposes two storey additions to an existing heritage dwelling on the north west corner of View Terrace and Gordon Street with a street frontage to Gordon Street. The property has a category B classification in the Municipal Inventory and is listed in the Planning Scheme Heritage List.

The following issues are relevant to the determination of this application:

- Street setback: deck/balcony incursion into street setback area;
- Site works: fill/excavation behind building setback line greater than 0.5 metres within 3m of the street alignment;
- Retaining walls: greater than 1.0 metre in height closer than 1.0 metre to the lot boundary;
- Crossover number and width: exceed policy requirements;
- Garage forward of the building line; and
- Visual privacy setbacks: reduced visual privacy setbacks for the deck, kitchen/dining and living areas.

While there are a number of variations sought they are mostly due to the development of the sloping portion of the lot. The variations, some of which are very minor, are not considered to have a detrimental impact on the amenity of the adjoining strata lot or the surrounding residential area and are therefore supported. This support is subject to conditions being imposed in respect to standard planning matters, the width of the new crossover and the provision of a street tree.

### Background

**1982** - Built strata plan approved.

### Consultation

#### Advertising

The proposed application was advertised to surrounding land owners from 5 to 20 September 2017. No submissions were received. The other strata lot owner at No. 50A View Terrace has approved of the submission of the development application and has not objected to the proposal.

Community Design Advisory Committee (CDAC)

This application was referred to the CDAC meeting of 23 October 2017 and the Committee made the following comments:

- *The Committee fully supports the proposal in respect to the terms of reference.*
- *The Committee commends the applicant in respect to the elegant and modest approach to undertaking alterations and additions which respect and complement the heritage dwelling and supports the Burra Charter principles.*
- *The Committee requests timber is considered as a cladding material.*

**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 2017 – 2027 states as follows:

*Built Environment*

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

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

*Natural Environment*

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

- 4.1 *Conserve, maintain and enhance the Town's open spaces.*
  - 4.1.1 *Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*
  - 4.1.2 *Plan for improved streetscapes parks and reserves.*
- 4.2 *Enhance environmental values and sustainable natural resource use.*
  - 4.2.1 *Reduce waste through sustainable waste management practices.*

- 4.3 Acknowledge the change in our climate and understand the impact of those changes.  
4.3.1 Improve systems and infrastructure standards to assist with mitigating climate change impacts.

### Site Inspection

October 2017

### Comment

LPS 3 Zoning: Residential R17.5

Site area: 630m<sup>2</sup>

### 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<br>(refer to tables below) |                |
| A                                 | Acceptable     |
| D                                 | Discretionary  |
| N/A                               | Not Applicable |

### Residential Design Codes Assessment

| Design Element                   | Required   | Proposed  | Status   |
|----------------------------------|--|---|----------|
| Street Front                     | 6.0m   | 6.6m  | A        |
| <b>Minor incursions</b>          | <b>5.0m</b>  | <b>4.86m</b>  | <b>D</b> |
| Lot Boundary Setback             | 1.2m – 3.8m  | 1.9m – 5.2m   | A        |
| <b>Garage setback (RDG)</b>      | <b>1.2m behind building line</b>   | <b>800mm forward of building line</b>   | <b>D</b> |
| Garage (% width of lot frontage) | ≤30%   | 20%   | A        |
| Open Space                       | 50%  | 53%   | A        |
| Car Parking                      | 2  | 2   | A        |
| <b>Site Works</b>                | <b>Excavation or fill behind a street setback line limited by compliance with building height limits and building setback requirements</b> | <b>Existing site levels to be maintained, However, fill and excavation greater than 500mm within 3m of the street alignment and within 1.0m of the lot boundary</b> | <b>D</b> |
| <b>Visual privacy setbacks:</b>  |  |   |          |
| Deck/balcony                     | 7.5m   | 3.5m  | D        |
| Kitchen                          | 6.0m   | 6.0m  | D        |
| Living                           | 6.0m   | 5.2m  | D        |
| 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 | A        |
| 3.7.3 Development of Existing Buildings               | A        |
| <b>3.7.4 Site Works</b>                               | <b>D</b> |
| 3.7.5 Demolition                                      | A        |
| 3.7.6 Construction of New Buildings                   | A        |

|  |          |
|--|----------|
| <b>3.7.7 Building Setbacks and Orientation</b>     | <b>D</b> |
| 3.7.8 Roof Form and Pitch                          | A        |
| 3.7.9 Materials and Colours                        | A        |
| 3.7.10 Landscaping                                 | A        |
| <b>3.7.11 Front Fences</b>                         | <b>D</b> |
| 3.7.12 Pergolas                                    | A        |
| 3.7.13 Incidental Development Requirements         | A        |
| <b>3.7.14 Footpaths and Crossovers</b>             | <b>D</b> |
| <b>3.7.18.3 Garages, Carports and Outbuildings</b> | <b>D</b> |
| 3.7.15-20 Precinct Requirements                    | A        |

| Building Height Requirement                              | Required | Proposed    | Status |
|--|----------|-------------|--------|
| Building Height (top external wall) Concealed Roof (RDG) | 6.5m     | 5.9m – 6.4m | A      |

The lot the subject of the application is a built strata corner lot which is currently occupied by an original dwelling (c1937 - Inter-War California Bungalow) with an attached garage accessed from Gordon Street. The built strata was developed under the equivalent of a R20 standard and the lot is now subject to the development standards of R17.5. The application proposes the demolition of some later additions to the northern side of the dwelling which are not of heritage significance and as such there is no objection to the demolition of this section of the original dwelling.

It is then proposed to be redeveloped with a two storey addition of contemporary design facing Gordon Street. The original dwelling, also facing Gordon Street, will remain unchanged and is being restored. The original garage will be converted to a storage room with a door and window facing the street, however, the driveway and crossover are indicated on the plans as being retained. A double garage accessed from Gordon Street is also proposed as part of the additions and alterations to the dwelling. A crossover slightly exceeding the crossover width permitted under the Residential Design Guidelines is proposed.

There are a number of variations to the R- Codes and the Residential Design Guidelines in respect to this application mostly due to the existing ground levels, the downwards slope of the land towards the river and the request for a second crossover. These matters are discussed below.

#### Street setback

The primary street setback of the dwelling is mostly compliant the R-Codes as the main building lines meet the primary street setback. The R-Codes allow for minor incursions into the setback for structures such as verandahs, stairs and architectural features but these elements cannot protrude more than 1.0 metre into the setback area without Council approval.

In this case the entry stairs and the deck/balcony are to be constructed within the setback area and as close as 4.8 metres from the street front boundary. Whilst the deck area is marginally further forward than the existing dwelling, the stairs leading to the garden are visible from the street and the deck is primarily an open structure with sliding louvred screening panels to provide some privacy from the roadway. The deck is not enclosed so the structure is not considered to add to building bulk as it presents to the street or detract from the frontage of the heritage dwelling. The incursion into the setback area is therefore supported as the setbacks are consistent with desired future character and development outcomes of the Residential Design Guidelines.

Site works and retaining walls

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."*

Most of the site works and building levels on the lot are established in that the proposed dwelling will be constructed at almost the same levels as the existing duplex. There will be slightly more retaining and site works in the setback area to allow for construction of the entry and stairs from Gordon Street. The ground level will be altered in some sections more than 500mm. This is in excess of the amount of fill and excavation allowed within 3 metres of the street alignment as permitted under the R-Codes, therefore the proposal must be assessed under the 'Design Principles' of the R-Codes which states as follows:

*"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 redevelopment of this site will utilise the natural slope of the land and essentially maintain the floor level of the existing dwelling. Once the alterations and additions are finished the dwelling will vary from single to two storeys across the site, however, the two storey section is to be constructed over the lowest ground level section of the site, so for the most part the development will appear as a single storey house with an undercroft garage. The excavation and fill proposed is minimal and does not impact on the amenity of adjoining sites and is therefore considered acceptable.

Similarly the retaining required on the site has already been established from the original additions to the house and will primarily remain the same, however, there is some retaining work in the front setback and side boundary areas which will be closer than 1.0 metre to the side boundary and/or with walls greater than 500mm in height as is required under the R-Codes. The retaining walls in this location are considered to result in land which can effectively be used for the benefit of residents and landscaping on the site and are not considered to impact residential amenity for the adjoining land owner as required under the 'Design Principles' of the R-Codes.

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).*

In regard to this application all the kitchen, dining and living areas, including a deck/balcony area that do not comply with the visual privacy setbacks are overlooking the northern boundary of the property. The abutting area on this boundary contains a garage and a driveway with a side setback of a few metres along this boundary of the site. All the outdoor open space and living areas are located elsewhere on this lot, so the visual privacy of the adjoining site is not considered to be compromised, therefore no screening of these windows or deck areas is considered necessary. Also the adjoining landowner has not raised this as an issue.

#### Garage forward of the building line

The proposed building setback of the garage complies with the primary street setback as required under the R-Codes and is set back 6.6 metres. However, it does not comply with the Residential Design Guidelines provision that a garage is to be 1.2 metres behind the building line. This non-compliance is considered acceptable as the garage is an undercroft and does not dominate the dwelling or have a strong visual presence on the streetscape. Another positive aspect of the design is that the deck/balcony extends out further forward of the building line which combined with the slope of the land reduces the impact of the garage on the streetscape even further. The original garage is to be converted to a storeroom. The garage door will be removed and replaced with cladding and glazing as such it will no longer appear as a garage but part of the front façade. In this case the non-compliance with the Residential Design Guidelines is therefore supported.

#### Crossover width

The new crossover is indicated on the plans as being marginally non-compliant with Council policy in that it is slightly wider than 5 metres. A condition is therefore recommended to ensure that the crossover is constructed to be no more than 5.0 metres in width at its widest point. Keeping hardstand areas to a minimum is considered important in general and particularly for this lot as the existing crossover will remain in place; it is usually the case that the landowner is required to remove the redundant crossover. This will not be required in the case of this application for the reasons outlined further on in this report.

#### Front fence

The front fence/retaining wall indicated on the plans does not strictly comply with the Town's Residential Design Guidelines but is required to provide a safe open space area for children to play and is combined with entry stairs to the new entry of the dwelling. Also, the topography of the site requires a slightly higher gate and pier to accommodate the driveway sliding gate and for it to remain level with the fencing on the other side as there is considerable fall across the driveway.

The impact of fencing on the streetscape is an important consideration and in this case the slight non-compliance in respect to the over height solid section and overall height of the fence for a portion of the frontage on the lowest side of the lot is not considered significant. Even at the highest point of the

fence all aspects of the house are visible from the street and street surveillance of the house is possible. However, a condition is recommended which requires that all sections of the fence in the front setback area above the solid portion are required to remain 60% visually permeable for the entire length and area of the fence. Also, the fence is to be no higher than that indicated on the plans date stamped received 28 August 2017.

#### Additional crossover

Comment in regard to the request to maintain the existing crossover has been sought from the Operations Manager in respect to the best outcome for motorist and pedestrian safety. If the crossover is retained and another installed at the northern end of the property this will permit additional vehicle movements. As this lot is on a sharp bend in the road where Gordon Street meets View Terrace the addition of another crossover point must be carefully considered. The Operations Manager has inspected the site and indicated that the crossover can remain as this is the best outcome for the continuation of the footpath and will offer an alternative to parking on the road. The additional crossover request is therefore supported as it is not considered to impact residential amenity and is the preferred outcome from a traffic management and road/pedestrian safety perspective.

However, as the request for an additional crossover is contrary to the Residential Design Guidelines and the Town's aim to maintain as much green verge space as possible it is considered appropriate that a street tree be purchased by the applicant at the applicant's cost, with the Town to determine the species of tree to be provided and the location for planting within the Town. This is recommended as a condition of planning approval.

#### **Conclusion**

Gordon Street and the surrounding area have a range of building heights, scales and built forms. The Richmond Hill Precinct is under significant change as properties in the area are redeveloped for large contemporary dwellings. New dwellings are mostly designed to maximise view corridors and long range views to the river and the city and this is the case for the current application which has an open deck area from which views to the river will be possible. The variations proposed have no direct bearing on loss of views and there have been no comments in this, or in any other regard, from the surrounding landowners notified. It is also noted that the other strata owner has indicated no objections to the proposal.

Although there are a number of variations from the R-Codes and the Residential Design Guidelines this is mostly as a result of the redevelopment of a corner sloping site. Nonetheless, the redevelopment proposal is for a well-articulated building that addresses the street well and contributes positively to the scale and character of the streetscape. The alterations and additions are also clearly distinguishable from the heritage listed dwelling and the CDAC are fully supportive of the proposal as it does not have a detrimental impact or detract from the heritage dwelling. The design has minimised the impact of the bulk and height of the building on the surrounding residences. It also uses existing ground levels and maintains existing boundary retained levels which also reduces the impact of the additions on adjoining properties.

In light of the above the variations from the R-Codes and the Residential Design Guidelines are considered acceptable. The applicant has, despite the non-compliance, met the requirements to also satisfy the 'Design Principles' and the 'Performance Criteria' for access, built form, streetscape and residential amenity. The application is recommended for approval subject to general planning conditions, width of the proposed crossover not exceeding 5.0 metres and the provision of a street tree.

**12.6 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP071117**

Cr Nardi moved, seconded Cr Collinson

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 street setback of less than 6 metres;
- (ii) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to allow excavation and fill within 3 metres of the street alignment and excavation and fill greater than 0.5 metres behind a street setback line and within 1.0 metre of a lot boundary;
- (iii) Clause 5.3.8 - Retaining Walls of the Residential Design Codes of WA to permit a retaining wall greater than 0.5 metres in height less than 1.0 metre from the boundaries;
- (iv) Clause 5.4.1 – Visual Privacy of the Residential Design Codes of WA to permit a visual privacy setback less than 7.5 metres for an unenclosed outdoor active habitable area and less than 6.0 metres for kitchen, living and dining room openings to the northern boundary and less than 6.0 metres for a kitchen window from the western boundary, which are greater than 500mm above natural ground level;
- (v) Clause 3.7.11.5 – Front Fences of the Residential Design Guidelines 2016 to allow the solid portion of a front fence to exceed 1.2 metres in height and the overall height of the fence to exceed 1.8 metres;
- (vi) Clause 3.7.14 - Footpaths and Crossovers of the Residential Design Guidelines to allow more than one crossover per lot; and
- (vii) Clause 3.7.17.3.2 – Garages, Carports and Outbuildings of the Residential Design Guidelines 2016 to allow a garage to be setback less than 1.2 metres behind the building line,

for two storey alterations and additions to the existing grouped dwelling at No. 50 (Lot 1) View Terrace, East Fremantle, in accordance with the plans date stamped received on 28 August 2017, subject to the following conditions:

- (1) The width of the crossover on Gordon Street is not to exceed 5.0 metres at the widest point and is to be in accordance with Council's crossover policy as set out in the Residential Design Guidelines 2016.
- (2) A street tree to be purchased by the applicant at the applicant's cost. The species of tree and the location for planting within the Town is to be determined by the Chief Executive Officer (refer to footnote (i) below).
- (3) The sections of front fencing in the street setback area which are above the solid portion of the fence to remain 60% visually permeable for the full length and area of the fence and the fence to be no greater in height than that indicated on plans date stamped received 28 August 2017.
- (4) The works are to be constructed in conformity with the drawings and written information accompanying the application for development approval other than where varied in compliance with the conditions of this development approval or with Council's further approval.
- (5) 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.
- (6) 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.
- (7) The proposed alterations and additions are not to be occupied until all conditions attached to this development approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
- (8) All stormwater 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) *in regard to condition 2 (purchase of street tree) the applicant is to contact the Town's Operations Manager prior to the submission of a building permit application for instruction in regard to payment for the purchase of a street tree.*
- (ii) *the applicant be advised that the Community Design Advisory Committee requests the applicant consider the use of timber for the cladding material.*
- (iii) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iv) *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.*
- (v) *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.*
- (vi) *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).*
- (vii) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (viii) *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.

### 13. REPORTS OF OFFICERS (COUNCIL DECISION)

#### 13.1 Draft Local Planning Policy No. 2.1.6 – Percent for Public Art

|                            |   |
|----------------------------|---|
| <b>Applicant</b>           | N/A   |
| <b>File ref</b>            | C/POL1  |
| <b>Prepared by</b>         | Christine Catchpole, Planner Officer                          |
| <b>Supervised by</b>       | Gary Tuffin, Chief Executive Officer                          |
| <b>Meeting date</b>        | 7 November 2017   |
| <b>Voting requirements</b> | Simple Majority   |
| <b>Attachments</b>         | 1. Draft Local Planning Policy 2.1.6 - Percent for Public Art |

#### **Purpose**

The purpose of this report is for Council to consider the draft percent for public art policy and its adoption for advertising for community comment.

#### **Executive Summary**

The preparation of a draft Percent for Public Art Policy provides the statutory provisions to guide and enforce conditions of development approval requiring the provision of public art. It is proposed under the draft Policy that no less than 1% of the construction value of development be attributed towards the provision of public art either on or near the site. The draft Policy is applicable to applications for residential (for 15 or more multiple dwellings), commercial, non-residential and mixed use developments where the construction value is \$3 million or more until the construction cost reaches \$100 million and then the contribution rate is set at 0.75%. The provision of public art may either be provided in-kind by the developer on-site or within the adjacent public realm and/or as a cash-in-lieu contribution to the Town for the provision of public art in the immediate locality.

The draft Policy outlines the standards for public art works, acceptable forms of and exclusion to public art, approval processes, expenditure of cash in lieu of public art funds, copyright and ownership of public art, decommissioning of artwork and public art report guidelines. The proposed Policy will ensure that developers/applicants have a clear outline of what is required in relation to percent for public art contributions in all applicable developments in the Town and the manner in which the public art reports will be assessed and determined.

A Public Art Panel will then oversee and make recommendations to the Council, amongst other things, on matters related to the assessment and determination of the suitability of percent for public art proposals submitted in accordance with the Town's Percent for Public Art Policy.

The attached draft Policy has been developed to support the Public Art Strategy (adopted 18 September 2017) and to provide a clear process and reference for developers and applicants in relation to percent for public art contributions in proposed developments. Council's adoption of the draft Policy for advertising for public comment is sought.

#### **Background**

Council has previously discussed this Draft Policy at a Council Concept Forum meeting in October 2017.

The consultant, Helen Curtis from Apparatus raised the matter of developer percent for public art contributions and the requirement for a comprehensive policy. While there is no State or Federal legislation governing public art schemes applicable to developers she indicated that for schemes such as a percent for public art policy to be fully enforceable it needs to be included in the Council's Local

Planning Scheme or an area specific Structure Plan. Whilst not specifically connected to public art the consultant used the example of the WAPC *State Planning Policy 3.6 Development Contributions for Infrastructure, 2009* as the closest form of legislation which could be used as a guide to explaining the principles underpinning and informing a percent for public art policy. *State Planning Policy 3.6* states that development contributions must be levied in accordance with the following principles:

- **Need and the nexus** - The need for the infrastructure included in the development contribution plan must be clearly demonstrated (need) and the connection between the development and the demand created should be clearly established (nexus).
- **Transparency** - Both the method for calculating the development contribution and the manner in which it is applied should be clear, transparent and simple to understand and administer.
- **Equity** - Development contributions should be levied from all developments within a development contribution area, based on their relative contribution to need.
- **Certainty** - All development contributions should be clearly identified and methods of accounting for escalation agreed upon at the commencement of a development.
- **Efficiency** - Development contributions should be justified on a whole of life capital cost basis consistent with maintaining financial discipline on service providers by precluding over recovery of costs.
- **Consistency** - Development contributions should be applied uniformly across a Development Contribution Area and the methodology for applying contributions should be consistent.
- **Right of consultation and arbitration** - Landowners and developers have the right to be consulted on the manner in which development contributions are determined. They also have the opportunity to seek a review by an independent third party if they believe that the calculation of the contributions is not reasonable in accordance with the procedures set out in the draft Model Scheme Text.
- **Accountable** - There must be accountability in the manner in which development contributions are determined and expended.

### Consultation

The following people have been consulted in the development of this policy:

- Helen Curtis - Apparatus (Consultant)
- Gary Tuffin - Chief Executive Officer
- Andrew Malone - Executive Manager Regulatory Services
- Christine Catchpole - Senior Planner
- Stacey Towne - Urban Project Planner
- Wendy Cooke - Project Coordinator
- Elected Members via Council Concept Forum

Once a proposed policy has been endorsed by Council the statutory requirements for consultation are applicable and are outlined below.

### Statutory Process for the Adoption of a Local Planning Policy

Local Planning Policies are adopted under the Part 2 of LPS No. 3. Clause 2.4 of the Scheme requires that a proposed Policy is advertised for two consecutive weeks in a local newspaper and that submissions may be made during a period of not less than 21 days. Subsequent to the closure of the submission period, Council is then required to review the proposed Policy in the light of any submissions made and resolve whether or not to adopt the Policy with or without modification. If the Policy is adopted, a notice of the Policy must be advertised once in a local paper and it comes into force on the date of this advertisement. The Policy should also be forwarded to the Western Australian Planning Commission if Council decides it affects the interests of the Commission.

### **Statutory Environment**

Local Planning Scheme No 3 (LPS No 3) does not contain a specific requirement for Percent for Public Art. However, Council may adopt a Planning Policy for Percent for Public Art as a matter related to planning and development of the Scheme area. This Planning Policy is underpinned by the general provisions of the Scheme contained in:

- 1.5 Purpose of the Scheme;
- 1.6 Aims of the Scheme; and
- Clause 67 of the Deemed Provisions- Matters to be Considered by Local Government ; (g)any local planning policy and (n) the amenity of the locality including the following —  
(i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development.

### **Policy Implications**

The proposed Policy for Percent for Public Art would apply to development proposals within the Town and replace a similar provision in the *Town Centre Redevelopment Guidelines*. The provisions of the Policy will also apply to the Town Centre.

### **Financial Implications**

N/A

### **Strategic Implications**

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

*Strategic Priority 1: Social - A socially connected, inclusive and safe community*

*1.3 Strong community connection within a safe and vibrant lifestyle*

*1.3.1 Partner and educate to build a strong sense of community safety*

*1.3.2 Facilitate opportunities for people to develop community connections and foster local pride*

*1.3.3 Enrich identity, culture and heritage through programs, events and celebrations*

*1.3.4 Facilitate community group capacity building*

*Strategic Priority 3: Built Environment - Accessible well planned built landscapes which are in balance with the Town's unique heritage and open spaces.*

*3.2 Maintaining and enhancing the Town's character*

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

### **Comment**

The draft Percent for Public Art Policy will formalise mechanisms for collecting public art contributions (up to a value of 1% of the construction value for developments \$3 million or more and 0.75% of

construction value for developments over \$100 million) from developers for residential (15 or more multiple dwellings), commercial, non-residential and mixed use developments.

The Policy provides general guidance on the provision of public art, as opposed to providing detailed direction relating to the nature of public art, or the selection of specific art works or design concepts for particular areas within the Town. This is managed under the Public Art Strategy and Public Art Policy recently adopted by the Council.

The Percent for Public Art contribution may be provided in-kind by the developer for either public art installed on-site or within the adjacent public realm, and/or as a cash-in-lieu contribution to the Town for public art.

The draft Policy also outlines:

- definitions for public art, construction value and professional artist;
- the general standards for public art works;
- forms of public art acceptable and exclusions to public art;
- the approval process for public art contributions;
- the collection and expenditure of cash-in-lieu for public art;
- copyright and ownership of public art, as well as the moral rights of artists and acknowledgement of their artwork;
- decommissioning of public artwork; and
- public art report guidelines where the public art is to be provided in-kind by the developer.

The proposed Policy will ensure that developers/applicants have a clear outline of what is required in relation to Percent for Public Art contributions in all applicable developments in the Town.

Policy 4.1.5 - Public Art Panel was adopted by Council on 17 October 2017, will enable the formation of a Public Art Panel. The Percent for Public Art Policy therefore also contains provisions which provide a clear indication to applicants as to the manner in which public art reports will be assessed and determined by the Public Art Panel and the timeframe for decision-making.

The Public Art Panel will oversee and make recommendations to the Council on matters related to the strategic direction, policy and public program matters of the Town of East Fremantle Public Art Strategy; the development of public art project briefs; the deaccession, relocation, removal and disposal of public artworks; and to assess and determine the suitability of percent for public art proposals submitted in accordance with the Town's Percent for Public Art Policy. They will also consider the recommendations of specialist selection panels and assess the implementation of the public art annual action plan.

The attached Percent for Public Art Policy has been developed to support the Public Art Strategy (adopted 18 September 2017) and provide a clear process and reference for developers and applicants in relation to percent for art contributions to public art in proposed developments. Council's adoption of this draft Local Planning Policy for advertising for public comment is sought.

**13.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP081113**

**Cr Nardi moved, seconded Cr Collinson**

**That Council endorse the Draft Local Planning Policy: Percent for Public Art attached to this report, for the purposes of advertising for public comment pursuant with clause 2.4 of the Town of East Fremantle, Local Planning Scheme No3. (CARRIED UNANIMOUSLY)**

14. MATTERS BEHIND CLOSED DOORS

Nil.

15. CLOSURE OF MEETING

There being no further business, the Presiding Member declared the meeting closed at 7:25pm.

*I hereby certify that the Minutes of the ordinary meeting of the Town Planning & Building Committee of the Town of East Fremantle, held on 7 November 2017, Minute Book reference 1. to 15 were confirmed at the meeting of the Committee on:*

*5/12/2017*  
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*Presiding Member*