



MINUTES

Town Planning Committee

Tuesday, 1 September 2020 at 6.30pm

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MINUTES OF THE ORDINARY MEETING OF THE TOWN PLANNING COMMITTEE HELD IN THE COUNCIL CHAMBER, 135 CANNING HIGHWAY, EAST FREMANTLE ON TUESDAY 1 SEPTEMBER 2020.

1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

Presiding member opened the meeting at 6.30 pm and welcomed members of the gallery.

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. RECORD OF ATTENDANCE

3.1 Attendance

The following members were in attendance:

Cr C Collinson	Presiding Member
Mayor J O’Neill	
Cr A Natale	
Cr J Harrington	
Cr D Nardi	
Cr A Watkins	

The following staff were in attendance:

A Malone	Executive Manager Regulatory Services
K Culkin	Minute Secretary

There were 5 members of the public in attendance

3.2 Apologies

Nil

3.3 Leave of Absence

Nil

4. MEMORANDUM OF OUTSTANDING BUSINESS

Nil

5. DISCLOSURES OF INTEREST

5.1 Financial

Nil

5.2 Proximity

Nil

5.3 Impartiality

Nil

6. PUBLIC QUESTION TIME

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

Nil



6.2 Public Question Time
Nil

7. PRESENTATIONS/DEPUTATIONS

7.1 Presentations
Nil

7.2 Deputations
Nil

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Town Planning Committee (4 August 2020)

8.1 OFFICER RECOMMENDATION

Moved Cr Nardi, seconded Cr Watkins

That the minutes of the Town Planning Committee meeting held on Tuesday 4 August 2020 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER
Nil

10. REPORTS OF COMMITTEES
Nil

11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

11.1 Glyde Street No 87 (Lot 118) Proposed alterations and additions

Owner	Paul Meara & Natarsha Rawlins
Applicant	Yu Nie Chong
File ref	P068/20
Prepared by	James Bannerman, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	1 September 2020
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

The purpose of this report is for Council to consider a planning application for proposed alterations and additions at No 87 (Lot 118) Glyde Street, East Fremantle.

Executive Summary

It is proposed to undertake alterations and additions to an existing dwelling. Existing walls on the boundaries, as well as the slab are being retained and a 5-bedroom, 2-bathroom double storey dwelling with undercroft garage is being proposed. Significant discussions have been held with the applicant in an attempt to moderate the design and achieve an outcome acceptable to the surrounding property owners and the Town to ensure the variations to the Residential Design Codes and Residential Design Guidelines are kept to a minimum. The property is not heritage listed.

The applicant is seeking Council approval for the following variations to the Residential Design Codes and the Residential Design Guidelines;

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks - Northern Boundary – Garage – wall on one boundary only required, wall on 2 boundaries (southern boundary wall existing, northern boundary wall existing)
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Upper floor – Northern Boundary – 3.5m required, 1.5m provided
- (iii) Clause 5.1.6 – Residential Design Codes – Wall Height – Bathroom 1 – North-Eastern Corner – 7m required, 7.9m provided
- (iv) Clause 5.4.1 – Residential Design Codes – Visual Privacy Setbacks – 7.5m required, 5.2m provided

It is considered that the above variations can be supported subject to conditions of planning approval being imposed.

Background

Zoning: Residential R20
Site area: 508m²

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

Nil

Consultation

Advertising

The application was advertised to surrounding land owners from 8 to 23 July 2020. Four submissions were received. The submissions as well as applicant and Town officer responses have been included in a separate attachment.

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC.

External Consultation

Nil

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)

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.

Risk Implications

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Local Planning Policies including the Residential Design Guidelines, as well as the Residential Design Codes. A summary of the assessment is provided in the following tables.

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback			N/A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Southern boundary – ground floor – bed 2, 3, garden, bed 4, laundry, staircase		Existing wall	N/A
Southern boundary - pavilion	1m	1m	A
Western boundary - pool	1m	1.95m	A
Northern boundary – pool fence	1m	1m	A
Northern boundary - lounge 2, bed 5, bath2	1.5m	Part of wall is existing and on boundary while new part of wall is 1.5m from boundary	A
Northern boundary – staircase, toilet, study, terrace 4	2.6m	3.2m	A
Northern boundary - garage	Wall built to boundary on 1 side only	Wall built to boundary on both sides	D
Southern boundary – first floor – bed 1	1.2m	3.3m	A
Southern boundary – hallway, lounge 1, dining	1.5m	3.2m	A
Western boundary – feature wall	1m	1.95m	A
Northern boundary – kitchen, pantry, void, bathroom	3.5m	1.5m	D
Open Space	50%	52%	A
Wall Height	7m	7.9m (north eastern corner of master bedroom)	D

Roof Height	9m	8.4m (front) to 9m (rear)	A
Car Parking	0 car bays	1 car bay	A
Site Works	Excavation maximum of 0.5m except for vehicle access	Up to 1.45m excavation for vehicle access	A
Visual Privacy			
	Swimming pool deck	Screening added and additional height to boundary walls	A
First floor rear terrace	7.5m	5.2m - overlooking patio roof built close to boundary of 8 Marmion Street	D
Overshadowing	<25%	Marmion Street No 8 Lot 4 – 8% No 10 Lot 8 -19% No 12 Lot 9 - 25.5% - existing overshadowing No 14 Lot 6 – 26% - existing overshadowing Lot 801 – 24%	A
Drainage			To be conditioned

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
3.7.7 Building Setbacks and Orientation	A
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15.4.3.1 Fremantle Port Buffer Area	A
3.7.15.3.3 Garages and Carports	A

This development application proposes alterations and additions at No 87 (Lot 118) Glyde Street, East Fremantle. The proposed development is a contemporary design with skillion and flat roofs, open plan living areas and a combination of materials being used including 'customorb', face and painted brick, concrete and timber. The following changes to the existing dwelling are proposed;

- the addition of a second storey,
- the addition of a light well to break up the long parapet wall on the southern side of the property,
- the creation of an undercroft car park and storage area,
- significant changes to internal openings and rooms,
- a swimming pool with attached deck area, and
- rear pavilion.

The property is not heritage listed and significant portions of the building are proposed to be demolished. Existing features of the site including the significant height above surrounding properties and existing parts of the dwelling which do not comply with current planning regulations have been utilised as part of the alterations and additions. It is a narrow and long lot (12.251m and 41.481m respectively) and this creates constraints which have to be dealt with in the development application, including issues around setbacks, visual privacy and overlooking.

The garage is setback in alignment with the garage of the neighbouring property to the north at 85 Glyde Street. To maintain connection with the street and prevent the front of the garage being enclosed and becoming unwelcoming a visually permeable garage door is proposed to secure the garage.

The total height of the building is between 8.4m (top of front of dwelling) and 9m (top of rear of dwelling) and achieves the maximum height permitted by Table 3 of the Residential Design Codes. It is located on a limestone ridge, well above the rest of the street. This ridge, along with the existing residential dwelling, already limits the views of surrounding properties to the east, west and south that have significantly lower site elevations. There is no increase in overshadowing of those neighbouring properties to the south that already have overshadowing above 25% and only marginal increases in overshadowing for those properties with overshadowing less than 25%, and therefore does not require a request for a variation to overshadowing.

Visual privacy is maximised and overlooking reduced through the use of;

- Obscure glazing on major openings along the northern and southern sides of the dwelling,
- Fixed full height solid timber panels and solid walls on terrace 2 overlooking the northern neighbouring property,
- Fixed timber privacy screens on windows from the pantry, bathroom and bedroom windows, and
- Perforated metal screening with a height of 1.6m is to be added to the southern staircase from the ground level to the upper storey.

The rear terrace is set well back from the western boundary (in excess of 7.5m) so does not present privacy or overlooking issues.

A swimming pool and a deck area is proposed for the rear of the building. Privacy is maintained and overlooking reduced through the addition of extra height to the rear and side boundary fences. The additional height to be added to the rear and northern boundary fences is noted on the plans.

Sections of the roof are flat and will be able to support a garden. The rooftop has barriers that limit access by the residents to these spaces and it is not intended to become additional outdoor entertaining area.

Four variations are requested to the requirements of the Residential Design Codes in relation to:

- lot boundary setbacks;
- maximum wall height; and
- privacy setbacks.

These matters are discussed below.

Lot Boundary Setbacks - Northern Boundary - Garage

The garage wall is located along the northern boundary of the property. It is 12.15m long and on average less than 3m high. It has no major openings. Walls with a setback of 0m are permitted to one side boundary only for up to one third of the boundary length behind the front setback (13m). In this case there are walls built up to the boundary on both sides of the property. As such this wall does not meet the requirements of the deemed to comply requirements of the Residential Design Codes clause 5.1.3 C3.2 ii. However, the

location of the wall along the boundary does meet the design principles clause 5.1.3 P3.2 for the following reasons;

- Makes more effective use of the space for enhanced privacy for the occupants,
- There is no impact on sunlight or ventilation to the building, open spaces on site or the adjoining properties,
- Improves privacy and reduces overlooking on adjoining properties,
- Does not have an adverse impact on the amenity of the adjoining property, and
- Direct sunlight to habitable rooms and outdoor living areas for adjoining properties is not restricted and it positively contributes to the prevailing and future development context and streetscape as outlined in the local planning framework.

For these reasons, the proposed garage wall on the northern boundary can be supported.

Lot Boundary Setback - Upper floor – Northern Boundary

The northern wall of the upper storey is approximately 25.6m long and 7.5m high with no major openings. According to the Residential Design Codes deemed to comply clause 5.1.3 C3.1 i a wall like this is required to be setback 3.5m from the lot boundary. In this case the design shows the wall setback 1.5m. However, the wall does achieve design principles clause 5.1.3 P3.1 for the following reasons;

- There is reduced impact of building bulk on adjoining properties,
- It does not impact on sunlight or ventilation to the building and open spaces on site and the adjoining properties, and
- It minimises the extent of overlooking and loss of privacy on adjoining properties.

It is noted that the subject property is to the south of the adjoining property that is affected and as such does not have an impact as a result of overshadowing. It is also noted that the adjoining property has a wall facing the subject property for the length of the building that is setback between 1m and 4.5m, has no major openings, but overshadows the subject property.

For these reasons the reduced lot boundary setback of the upper storey to the northern boundary can be supported.

Wall Height - Bathroom 1 - North-Eastern Corner of Proposed Dwelling

The wall height of bathroom 1 is approximately 7.9m from natural ground level directly below the corner of the eastern and northern walls on the upper storey. This is in excess of the maximum permissible wall height of 7m for the top of an external wall for a concealed roof as required by Category B heights of Table 3 and deemed to comply clause 5.1.6 C6 of the Residential Design Codes. In this case the slope of the lot at this point results in the dwelling being higher than the rest of the building anywhere along this wall. The proposed increase in wall height is considered acceptable as it achieves the design principles for the following reasons;

- Adequate direct access to sunlight in to the building and open spaces,
- Adequate daylight into major openings of habitable rooms, and
- No impact on views of significance.

The height of this section of the wall does not result in a higher total roof height with the maximum height of the clerestory window and associated roof being between 8.4m and 9m for the full length of the building which is within the limits set by deemed to comply clause 5.1.6 Table 3 Category B of the Residential Design Codes.

For these reasons the increased height at this part of the proposed dwelling can be supported.

Privacy Setbacks

The rear balcony does not meet the 7.5m privacy setback that is required for outdoor living areas more than 0.5m above natural ground level by deemed to comply clause 5.4.1 of the Residential Design Codes for the rear of the property at 8 Marmion Street. The privacy setback is equal to 5.2m, however, the area being overlooked at 8 Marmion Street is fully covered by a patio roof and privacy is maintained by this roof. Overlooking does not reduce the level of privacy for this property so in accordance with design principles 5.4.1 P1.2 privacy is maintained through the roofing and as such can be supported. It is also noted that no submission was received from the owners of 8 Marmion Street in relation to the proposed development.

Response to Submissions

It is noted that there have been numerous phone conversations and face to face meetings with the applicant to address the concerns of surrounding residents and meet the Town's expectations regarding design. Following advertising and the submissions received from neighbouring properties the applicant, with the support of the owners, was willing to alter the design in response to concerns regarding height, privacy, overlooking, bulk and scale. A proactive approach was adopted by the applicant to achieve outcomes that addressed the issues highlighted by the Town, and following submissions received from neighbouring properties.

The following changes were made to the originally submitted plans;

1. The overall maximum height of the building was reduced such that the maximum height of the building at the front is 8.4m and at the rear it is 9m,
2. The pitch of the top roof above the clerestory windows was reduced to 31 degrees,
3. The front balcony (terrace 3) was removed completely from the design,
4. Examples of the colours and materials of the dwelling was included in the submitted plans,
5. A visually permeable garage door was added,
6. The landscaping plan was modified to show additional trees to be planted to act as supplementary privacy screening
7. Additional height was added to the rear fence to improve privacy and reduce overlooking between the subject property and 86 East Street,
8. Additional height was added to the northern dividing fence to improve privacy and reduce overlooking between the subject property and 85 Glyde Street,
9. Retention of face brick along the southern boundary wall, rather than the use of render and white paint
10. Additional visual privacy screening added to the southern staircase, and
11. Obscure glazing added to the pantry window and upper storey door leading onto the landing for the southern external staircase.

The changes addressed concerns from submitters regarding privacy and overlooking, scale, bulk, height, colour and materials. It is noted that an email was received from the owners of 85 Glyde Street supporting the latest amended plans. The changes have created a dwelling that is less imposing on the streetscape and will fit well with the neighbouring property to the north and other contemporary homes in the Plympton precinct.

Conclusion

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

- Yun Nie Chong (architect) provided background and supported the officer's recommendation.
- Natarsha Rawlins (owner) spoke in support of the officer's recommendation.

11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP010920

Moved Cr Nardi, seconded Cr Natale

That development approval is granted and Council exercises its discretion in regard to the following;

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks - Northern Boundary – Garage – wall on one boundary only required, wall on 2 boundaries (southern boundary wall existing)**
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Upper floor – Northern Boundary – 3.0m required, 1.5m provided**
- (iii) Clause 5.16 – Residential Design Codes – Wall Height – Garage – North-Eastern Corner – 6m required, 6.4m provided**
- (iv) Clause 5.4.1 – Residential Design Codes – Privacy Setbacks – 7.5m required, 5.2m provided**

for alterations and additions at No. 87 (Lot 118) Glyde Street, East Fremantle, in accordance with the plans date stamped received 6 August 2020, subject to the following conditions:

- (1) The crossover widths are not to exceed the width of the crossovers indicated on the plans and to be in accordance with Council's crossover policy (2017) and the Residential Design Guidelines.**
- (2) The garage door is to have visual permeability in excess of 60% and is to be installed prior to occupation of the residence.**
- (3) All privacy screens as marked on the plans submitted and received on 6 August 2020 are to be installed prior to occupation of the residence.**
- (4) 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.**
- (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) 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.**
- (8) If requested by Council within the first two years following installation, the roofing is to be treated to reduce reflectivity. The treatment is 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) 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 is 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.***

(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 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

11.2 George Street No 68 (Lot 2) Proposed alterations and additions

Owner	Margaret & Michael Coffey
Applicant	John Chisholm Design
File ref	P074/20
Prepared by	James Bannerman, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	1 September 2020
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

The purpose of this report is for Council to consider a planning application for proposed alterations and additions at No 68 (Lot 2) George Street, East Fremantle.

Executive Summary

The proposed development includes the demolition of the existing studio and carport at the rear of the existing building and the construction of a new triple garage and ancillary dwelling (above the garage) in the same location, as well as an expanded dining room on the ground floor of the main dwelling and larger bedroom 1 and lounge on the upper storey.

The applicant is seeking Council approval for the following variations to the Residential Design Codes and Local Planning Scheme No 3;

- (i) Clause 5.1.3 – Residential Design Codes – Rear Boundary Wall – 1m required, 0m provided
- (ii) Clause 5.8.3 – Local Planning Scheme No 3 – Plot Ratio – 0.5:1 required, 0.58:1 provided

It is considered that the above variations can be supported subject to conditions of planning approval being imposed.

Background

Zoning: Mixed Use R40
Site area: 330m²

Previous Decisions of Council and/or History of an Issue or Site
Within the George Street Designated Heritage Area.

Consultation

Advertising

The application was advertised to surrounding landowners from 4 to 18 August 2020. No submissions were received.

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC.

External Consultation

Nil

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)

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.*

Risk Implications

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Local Planning Policies including the Residential Design Guidelines, as well as the Residential Design Codes. A summary of the assessment is provided in the following tables.

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

Residential Design Codes Assessment & Local Planning Scheme No3

Design Element	Required	Proposed	Status
Street Front Setback			N/A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Northern wall – boundary – garage – ground floor	1m	0m	D
Western wall – garage – ground floor	0m	0m	A
Eastern wall – boundary – garage – ground floor	0m	0m	A
Northern wall – bedroom & bathroom upper storey	1.2m	1.2m	A
Western wall – bathroom, kitchenette, living – upper storey	0m	0m	A
Eastern wall – bedroom, living – upper storey	0m	0m	A
Western wall – dining – ground floor	0m	0m	A
Western wall – bedroom 1 – upper storey	0m	0m	A
Open Space	45%	47%	A
Plot ratio	0.5:1	0.58:1	D
Wall height	5.5m	5.141m	A
Roof height	8m	7.602m	A
Setback of Carport			N/A
Car Parking	2	3	A
Site Works			N/A
Visual Privacy			A
Bedroom ancillary accommodation	4.5m	4.5m	A
Living ancillary accommodation	6m	6m	A
Balcony ancillary accommodation	7.5m	7.5m	A
Bed 1 main building	4.5m	4.5m	A
Overshadowing			N/A
Drainage			To be conditioned

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	N/A
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	A
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15.4.3.1 Fremantle Port Buffer Area	A
3.7.15.3.3 Garages and Carports	A

This development application proposes alterations and additions to an existing dwelling at No 68 (Lot 2) George Street, East Fremantle. The proposed development includes the demolition of the existing studio and carport at the rear of the existing building and the construction of a new triple garage and ancillary dwelling (above the garage) in the same location, as well as an expanded dining room on the ground floor and larger bedroom 1 and lounge on the upper storey of the main dwelling.

One variation is requested to the requirements of the Residential Design Codes regarding the rear lot boundary setback and one variation is requested regarding the required plot ratio of the building on site in accordance with the Local Planning Scheme No 3.

Lot Boundary Setback – Rear Boundary Wall

The northern wall of the ancillary dwelling on the ground floor is 6.87m long and 3.091m high. In accordance with the Residential Design Codes deemed to comply clause 5.1.3 C3.1i and Table 2a & b requires a lot boundary setback of 1m. In this case the wall is located on the boundary and achieves design principles clause 5.1.3 P3.2 for the following reasons;

- Makes more effective use of space for enhanced privacy for the occupants or outdoor living areas,
- Provides adequate sunlight and ventilation to the building and open spaces on the site and adjoining properties,
- Minimises the extent of overlooking and resultant loss of privacy on adjoining properties,
- Does not have an adverse impact on the amenity of the adjoining property,
- Ensures direct sunlight to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted, and
- Positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.

For these reasons the reduced lot boundary setback should be supported.

Plot Ratio

The development has a plot ratio of 0.58:1 which does not meet clause 5.8.3 of Local Planning Scheme No 3. Under LPS 3 mixed use zones are supposed to have a plot ratio of 0.5:1. In accordance with clause 5.8.3 the plot ratio may be varied by the local government. In this case the development of 240m² is occurring

on a 412m² site (including common property). The variation is marginally more than required and is supported for the following reasons;

- The development is not excessive for a mixed-use site,
- New development is concentrated to the rear of the site rather than the front of the site,
- The proposed additions is similar in context and intent to what is proposed to be demolished, and
- Height is not excessive and in alignment with other sites along George Street.

It is noted that if the Residential Design Codes open space requirements were applied to the same site then 45% of the site would have to be dedicated to open space in accordance with Table 1 of the Residential Design Codes. In this case 47% of the site is open space and the proposed development would meet clause 5.1.4 deemed to comply requirements of the Residential Design Codes.

Heritage

The subject site is within the George Street Designated Heritage Area as defined in the Town's Local Planning Policy 3.1.6. The building is not a heritage building and is not listed on the Municipal Heritage Inventory or the Town's heritage list. It is not considered a contributory building according to Local Planning Policy 3.1.6, so the following principles apply;

Non- contributory Buildings – Additions and Alterations

General Principles

- Additions and alterations to non-contributory buildings are to respect and complement the significance and character of the existing contributory buildings and their contribution to the character of the Heritage Area.*
- Additions and alterations to non-contributory buildings are to respect and complement the scale, setbacks, bulk and proportions of the streetscape.*
- Applications for full demolition of dwellings may be supported for non-contributing buildings, subject to a satisfactory proposal being submitted to the Town for Council's consideration.*

In each case the proposed alterations and additions respect and complement the significance and character of the existing contributory buildings. As the development is concentrated at the rear of the existing building it does not impact on the streetscape. The proposed demolition of the rear studio and carport do not impact on the heritage character of the surrounding contributory buildings and part of the new development is occurring in the same location as the structures to be demolished.

Conclusion

With the exception of the rear boundary setback and the plot ratio the proposed development is compliant with the Residential Design Codes, Residential Design Guidelines, Local Planning Scheme No 3 and the George Street Designated Heritage Area. Based on the assessment the proposed development can be supported.

- John Chisolm (architect) responded to questions put by councillors and spoke in support of the officer's recommendations

11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP020920:

Moved Cr Watkins, seconded Cr Natale

That development approval is granted and Council exercises its discretion in regard to the following;

- (i) Clause 5.1.3 – Residential Design Codes – Rear Boundary Wall – 1m required, 0m provided, and**
- (ii) Clause 5.8.3 – Local Planning Scheme No 3 – Plot Ratio – 0.5:1 required, 0.58:1 provided**

for alterations and additions at No. 68 (Lot 2) George Street, East Fremantle, in accordance with the plans date stamped received 28 July 2020, subject to the following conditions:

- (1) The ancillary accommodation located at the rear of the dwelling is not to be used for short term accommodation unless a development application has been submitted with the Town for the consideration of Council.**
- (2) Approval is to be sought from the Water Corporation regarding connection to the sewerage prior to the submission of a building permit.**
- (3) 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.**
- (4) 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.**
- (5) 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.**
- (6) 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.**
- (7) If requested by Council within the first two years following installation, the 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.**
- (8) 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.**
- (9) 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.**
- (10) This planning approval is 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).*
- (vi) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

11.3 Gill Street No 36 (Lot 34) Proposed new residence

Owner	Mark (Rhys) & Louise Davies
Applicant	John Chisholm Design
File ref	P077/20
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	1 September 2020
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

The purpose of this report is for Council to consider a planning application for a proposed new residence at No 36 (Lot 34) Gill Street, East Fremantle.

Executive Summary

This development application proposes a new residence at 36 Gill Street, East Fremantle. The proposed dwelling is double storey with fibre cement weatherboard walls and a 'customorb' roof. The main dwelling comprises a double garage, study and 3 bedrooms and 3 bathrooms. The dwelling also has an ancillary dwelling that is integrated into the dwelling. The applicant and owner have both stated that the parents of one of the owners will be residing in the ancillary accommodation. A low white picket fence has been included along the front boundary. The lot that the dwelling is to be constructed on is currently vacant and generous in size with the proposed building easily achieving the required outdoor living area and minimum open space requirements. The applicant is seeking Council approval for the following variations to the Residential Design Codes and the Residential Design Guidelines;

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Garage - 1m required, 0m provided,
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Southern Wall – Upper Storey - 3.1m required, 1.65m provided,
- (iii) Clause 5.1.6 – Residential Design Codes – Wall Height – 6m required, 6.8m provided,
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch - 28 to 36 degrees required, 27 degrees provided, and
- (v) Clause 5.5.1 – Residential Design Codes – Ancillary Dwelling – Plot Ratio – maximum of 70m² required, 103m² provided
- (vi) Clause 5.3.7 – Residential Design Codes - Retaining Walls – maximum 0.5m required, greater than 0.5m provided

It is considered that the above variations can be supported subject to conditions of planning approval being imposed.

Background

Zoning: Residential R17.5

Site area: 910m²

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

Nil

Consultation

Advertising

The application was advertised to surrounding landowners from 4 to 18 August 2020. No submissions were received. However, plans were signed by the neighbours at 34, 35 & 37A Gill Street supporting the proposed development.

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC.

External Consultation

Nil

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)

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.

Risk Implications

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Local Planning Policies including the Residential Design Guidelines, as well as the Residential Design Codes. A summary of the assessment is provided in the following tables.

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6m	6m	A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Northern wall – bathroom, kitchen living, alfresco- ground floor	1.5m	3.005m	A
Northern wall – living, alfresco – ground floor	1.5m	8.6m	A
Eastern wall – alfresco north – ground floor	1m	16.3m	A
Eastern wall – alfresco south – ground floor	1.5m	6.2m	A
Southern wall - garage	1m	0m	D
Southern wall – bathroom, laundry, pantry, kitchen, alfresco – upper storey	3.1m	1.65m	D
Northern wall – store, bathroom, parent's bedroom – upper storey	1.2m	3m	A
Eastern wall – parent's bedroom – upper storey	2.8m	23.2m	A
Eastern wall – bedroom 3, ensuite – upper storey	3m	20.48m	A
Southern wall – bedroom, WIR, robe, ensuite – upper storey	1.3m	1.7m	A
Open Space	50%	65.2%	A

Wall Height	6m	6.8m	D
Roof Height	9m	8.414m	A
Setback of Garage	1.2m behind building line	1.2m behind building line	A
Car Parking	2 + 1	3	A
Site Works			N/A
Visual Privacy			
Parent's bedroom	4.5m	4.5m	A
Bedroom 3	4.5m	4.5m	A
Overshadowing	25%	12.3%	A
Drainage			To be conditioned

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	N/A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
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
3.7.15.4.3.1 Fremantle Port Buffer Area	N/A
3.7.15.3.3 Garages and Carports	A

This development application proposes a new residence at 36 Gill Street, East Fremantle. The proposed dwelling is double storey with fibre cement weatherboard walls and a 'customorb' roof. The main dwelling comprises a double garage, study and 3 bedrooms and 3 bathrooms. The dwelling also has an ancillary dwelling that is integrated into the dwelling. The applicant and owner have both stated that the parents of one of the owners will be residing in the ancillary accommodation. A low white picket fence has been included along the front boundary. The lot that the dwelling is to be constructed on is currently vacant and generous in size with the proposed building easily achieving the required outdoor living area and minimum open space requirements. A number of variations are requested to the requirements of the Residential Design Codes and the Residential Design Guidelines including lot boundary setbacks, maximum wall heights, roof pitch and plot ratio for the ancillary accommodation.

Lot Boundary – Southern Wall - Garage

The southern wall of the garage is 6.12m long and 3.35m high without major openings. In accordance with deemed to comply clause 5.1.3 C3.1 and Tables 2a of the Residential Design Codes the wall is supposed to be 1m from the boundary. In this case it is located against the boundary (nil setback). However, the proposed wall location achieves design principles clause 5.1.3 P3.2 for the following reasons;

- It makes more effective use of space for enhanced privacy for the occupants,
- It reduces the impact of building bulk on the adjoining properties,

- Adequate sunlight and ventilation is provided to the building and open spaces on site and adjoining properties,
- Minimises the extent of overlooking and loss of privacy on adjoining properties,
- Does not have an adverse impact on the amenity of the adjoining property,
- Does not restrict sunlight to major openings of habitable rooms and outdoor living areas for adjoining properties, and
- Positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.

For these reasons, the reduced lot boundary setback can be supported.

Lot Boundary – Southern Wall – Upper Storey

The southern wall of the upper storey is 16.3m long and 3.85m high with major openings. In accordance with deemed to comply clause 5.1.3 C3.1 and Tables 2a of the Residential Design Codes the wall is supposed to be 3.1m from the boundary. In this case it is located 1.65m from the boundary. However, the proposed wall location achieves design principles clause 5.1.3 P3.1 for the following reasons;

- It reduces the impact of building bulk on the adjoining properties,
- Adequate sunlight and ventilation are provided to the building and open spaces on site and adjoining properties, and
- Minimises the extent of overlooking and loss of privacy on adjoining properties,

For these reasons, the reduced lot boundary setback can be supported.

Wall Height

The highest section of wall on the proposed dwelling is 6.8m which exceeds the maximum permissible wall height of 6m in accordance with Category B of Table 3 as required by deemed to comply clause 5.1.6 of the Residential Design Codes. This increased wall height can be supported because there are minimal amenity impacts on adjoining properties. There is;

- Adequate access to direct sun into buildings and open spaces,
- Adequate daylight into major openings into habitable rooms,
- The bulk and scale of the building is considered acceptable, and
- No impact on access to views of significance

It is noted that despite the wall height being above what is permissible under Category B height requirements the roof above is well below the maximum roof height of 9m. It is for these reasons that the increased wall height can be supported.

Roof Pitch

The Residential Design Guidelines acceptable development provision 3.7.8.3 A4.1 requires that the roof pitch is between 28 and 36 degrees. In this case the proposed dwelling has a roof pitch of 27 degrees which achieves performance criteria 3.7.8.3 P4 that requires roof forms of new buildings to complement the traditional form of surrounding development in the immediate locality. The roof form adheres to the design intent of the immediate area. For this reason, the proposed roof pitch can be supported.

Ancillary Dwelling – Plot Ratio

The proposed dwelling has an ancillary dwelling integrated into the design. The ancillary dwelling meets all the deemed to comply requirements of clause 5.5.1 C1 except for the plot ratio area requirement of 70m².

The proposed ancillary dwelling has an area of 103m² which is carried over 2 floors. The owners have stated that the one of the owner's parents are to be residing in the dwelling. This increase in area of the ancillary dwelling can be supported on the basis that in accordance with design principles 5.5.1 P1 the development does not compromise the amenity of the surrounding properties. There is not excessive development on site (site coverage of the proposed dwelling is only 34.8%), adequate parking is provided for the residents of both the main dwelling and ancillary dwelling, as the development and the ancillary dwelling is compliant on a range of other criteria in terms of heights, setbacks, and privacy.

Retaining Walls

Retaining walls are indicated on the plans on the southern side of the lot. These walls are in excess of 0.5m for parts of the wall and as such do not meet the deemed to comply requirements of clause 5.3.8 C8 of the Residential Design Codes. However, the retaining walls meet design principles clause 5.3.8 P8 as the walls allow the land to be effectively used for the benefit of residents and do not detrimentally affect adjoining properties. There is minimal excavation or fill applied to the rest of the site. For these reasons the proposed retaining walls can be supported.

Conclusion

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. The proposed development has an ancillary dwelling fully integrated into the design of the house that does not detract from the streetscape or impact on the amenity of surrounding properties. It is relatively large as an ancillary dwelling but does not reduce the open space or outdoor living provision on the lot owing to the double storey nature of the dwelling and the large lot size. It is a good example of how intergenerational living can be integrated into low density residential development, and although not formally included as increased density it does help the Town demonstrate increased population density without increasing dwelling density. The other proposed variations to the Residential Design Codes and Residential Design Guidelines are not unique and are considered relatively minor. As such it is recommended that the proposed development be supported subject to planning conditions.

- John Chisolm (architect) responded to questions raised by elected members and spoke in support of the officer's recommendation.

11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP030920:

Moved Cr Nardi, seconded Cr Harrington

That development approval is granted and Council exercises its discretion in regard to the following;

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Garage - 1m required, 0m provided**
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Southern Wall – Upper Storey - 3.1m required, 1.65m provided**
- (iii) Clause 5.1.6 – Residential Design Codes – Wall Height – 6m required, 6.8m provided**
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch - 28 to 36 degrees required, 27 degrees provided**
- (v) Clause 5.5.1 – Residential Design Codes – Ancillary Dwelling – Plot Ratio – maximum of 70m² required, 103m² provided**
- (vi) Clause 5.3.7 – Residential Design Codes - Retaining Walls – maximum 0.5m required, greater than 0.5m provided**

for a new residence at No. 36 (Lot 34) Gill Street, East Fremantle, in accordance with the plans date stamped received 17 August 2020, subject to the following conditions:

- (1) The ancillary dwelling is not be used for short term accommodation. Any proposal for short term accommodation is to be submitted to the Town in the form of a development application for the consideration of Council.
- (2) The crossover widths are not to exceed the width of the crossovers indicated on the plans date stamped received 17 August 2020 and to be in accordance with Council's crossover policy as set out in the Residential Design Guidelines (2016).
- (3) The verge tree on Gill Street is to be protected during construction works to the satisfaction of the Chief Executive Officer and no pruning or removal of branches of the tree is to be undertaken during or at the completion of construction works.
- (4) 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.
- (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) 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.
- (8) If requested by Council within the first two years following installation, the 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) 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 is 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.*

(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 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

11.4 King Street No 30 (Lot 452) Proposed renovations

Owner	Christopher & Jennifer Macgregor McGrath
Applicant	Kensington Design
File ref	P080/20
Prepared by	James Bannerman, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	1 September 2020
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

The purpose of this report is for Council to consider a planning application for proposed renovations at No 30 (Lot 452) King Street, East Fremantle.

Executive Summary

This development application proposes renovations to an existing heritage building (Category B on the Heritage List) at 30 King Street, East Fremantle. An existing extension at the rear of the dwelling is to be demolished and replaced with a double storey extension that utilises the existing natural ground levels. The existing weatherboard and zincalume cottage will be left unchanged by the renovations. There are minimal streetscape impacts as the new additions at the rear are hidden by the existing dwelling and the use of the sloping site.

The applicant is seeking Council approval for the following variations to the Residential Design Codes and the Residential Design Guidelines;

- (i) Clause 5.1.3 – Residential Design Codes– Lot Boundary Setbacks – Southern Wall – Ground Floor – 2.7m required, 1.2m provided
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Northern Wall – Upper Storey – 2.8m required, 2.2m provided
- (iii) Clause 5.4.1 – Residential Design Codes – Visual Privacy Setbacks – 6m required, 2.3 m provided
- (iv) Clause 3.7.8.3 - Residential Design Guidelines - Roof Pitch – required to match roof pitch of existing dwelling– roof pitch of 26 degrees provided

It is considered that the above variations can be supported subject to conditions of planning approval being imposed.

Background

Zoning: Residential R20

Site area: 508m²

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

P208/2006 – gable roofed patio – approved 20 October 2006

Consultation

Advertising

The applicant gained the signed support of the neighbouring property owners to the north and south of the subject property (28 & 32 King Street). No further advertising was considered necessary as the proposed variations to the Residential Design Codes and the Residential Design Guidelines only impact on the northern and southern neighbouring properties.

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC as there are negligible streetscape impacts.

External Consultation

Nil

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)

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.

Risk Implications

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Local Planning Policies including the Residential Design Guidelines, as well as the Residential Design Codes. A summary of the assessment is provided in the following tables.

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback			N/A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Eastern wall – dining room – ground floor	1.5m	8.3m	A
Northern wall – ground floor	1.5m	2.2m	A
Southern wall – ground floor	2.7m	1.2m	D
Eastern wall – bed 3, landing, bathroom – upper storey	2.8m	15.5m	A
Northern wall – upper storey	2.8m	2.2m	A
Southern wall – upper storey	1.2m	1.2m	A
Open Space	50%	63%	A
Wall height	6m	6m	A
Setback of Carport	9m	<9m	A
Car Parking			N/A
Site Works			N/A
Visual Privacy			
Dining room	6m	<6m	D
Overshadowing	<25%	21.5%	A
Drainage			To be conditioned

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	N/A
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	A
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.16.3 Garages and Carports	N/A
3.7.16.4.3 Fremantle Port Buffer Area	A

This development application proposes renovations to an existing heritage building (Category B on the Heritage List) at 30 King Street, East Fremantle. An existing extension at the rear of the dwelling is to be demolished and replaced with a double storey extension that utilises the existing natural ground levels. The existing weatherboard and zincalume cottage will be left unchanged by the renovations. There are minimal streetscape impacts as the new additions at the rear are hidden by the existing dwelling and the use of the slope of the site. The extensions are also well below the maximum roof height of 9m and privacy between the subject property and northern neighbouring property is maintained through the use of glazing of upper storey windows, existing high boundary walls and visual privacy screening along parts of the existing dividing fence. Similar materials to the existing dwelling are to be utilised on the proposed extension including zincalume roof and fibre cement weatherboard.

Four variations are requested to the requirements of the Residential Design Codes related to lot boundary setbacks and visual privacy screening. One variation is requested to the Residential Design Guidelines related to roof pitch. These variations are discussed below.

Lot Boundary Setbacks – Southern Wall – Ground Floor

The southern wall on the ground floor of the proposed addition is 13.8m long and 3.68m high with major openings. In accordance with clause 5.1.3 C3.1i and Table 2b the wall is required to be located 2.7m from the side boundary. In this case it is 1.2m from the side boundary, however, it can be supported in accordance with design principles clause 5.1.3 P3.1 for the following reasons;

- Reduced impacts of building bulk on adjoining properties,
- Provides adequate sunlight and ventilation to the building and open spaces on site and adjoining properties, and
- Minimal overlooking and loss of privacy on adjoining properties.

The reduced lot boundary setback for the southern wall on the ground floor can be supported.

Lot Boundary Setbacks – Northern Wall – Upper Storey

The northern wall on the upper storey of the proposed addition is 7.8m long and 6m high with major openings. In accordance with clause 5.1.3 C3.1i and Table 2b the wall is required to be located 2.8m from

the side boundary. In this case it is 2.2m from the side boundary, however, it can be supported in accordance with design principles clause 5.1.3 P3.1 for the following reasons;

- Reduced impacts of building bulk on adjoining properties,
- Provides adequate sunlight and ventilation to the building and open spaces on site and adjoining properties, and
- Minimal overlooking and loss of privacy on adjoining properties.

The reduced lot boundary setback for the northern wall on the upper storey can be supported.

Visual Privacy

The dining room of the dwelling is required to have a visual privacy setback of 6m in accordance with clause 5.4.1 of the Residential Design Codes. In this case there is a privacy setback of 2.83m. The dining room has a view towards the east and looks diagonally across the rear yard of the southern neighbouring property. There is dense vegetation (mature olive trees) located along the southern boundary on the side of the neighbouring property which will act as privacy screening. At the same time the subject site is lower than the property to the south with more than 0.5m difference in ground levels so the combination of landscaping and existing dividing fence heights means that privacy between the dwellings is maintained. The southern neighbouring property owners have provided signed support for the proposed development so it is felt that that the reduced visual privacy setback can be supported in accordance with design principles clause 5.4.1 P1.1 and P1.2. Landscape screening combined with the dividing fence and the lower height of the subject property is an acceptable solution to the privacy screening issue. For these reasons the reduced visual privacy setback can be supported.

Roof Pitch

The Residential Design Guidelines acceptable development provision 3.7.8.3 A1 requires that the roof pitch of alterations and additions of contributory buildings are to match the original roof pitch. In this case the roof pitch of the addition is approximately 26 degrees whereas the roof pitch of the original heritage dwelling is 40 degrees. The variation is acceptable in accordance with performance criteria 3.7.8.3 P1 because the roof pitch of the new additions will contribute positively to the existing dwelling. It is noted that the proposed extensions are longer, but lower than the existing rear extension and this is partly as a result of the lower roof pitch being utilised. For these reasons the proposed roof pitch of 26 degrees can be supported.

Conclusion

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. It is noted that the proposed development is proposed on an area of the site where there is already an existing addition from an earlier period and is well below the maximum roof height of 9m. As such it is recommended that the proposed development be supported subject to planning conditions.

- Hugh Whetters (architect) responded to questions put by elected members and spoke in support of the officer's recommendations.

11.4 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP040920:

Moved Cr Nardi, seconded Mayor O'Neill

That development approval is granted and Council exercises its discretion in regard to the following;

- (i) Clause 5.1.3 – Residential Design Codes– Lot Boundary Setbacks – Southern Wall – Ground Floor – 2.7m required, 1.2m provided**
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Northern Wall – Upper Storey – 2.8m required, 2.2m provided**
- (iii) Clause 5.4.1 – Residential Design Codes – Visual Privacy Setbacks – 6m required, 2.3 m provided**
- (iv) Clause 3.7.8.3 - Residential Design Guidelines - Roof Pitch – required to match roof pitch of existing dwelling– roof pitch of 26 degrees provided**

for renovations at No. 30 (Lot 452) King Street, East Fremantle, in accordance with the plans date stamped received 3 August 2020, subject to the following conditions:

- (1) 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.**
- (2) 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.**
- (3) 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.**
- (4) 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.**
- (5) If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
- (6) 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.**
- (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 is 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.***

(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 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

12. REPORTS OF OFFICERS (COUNCIL DECISION)

12.1 State Planning Reforms, Response to COVID-19 and State Planning Policy 7.3 R-Codes Vol. 1 – Interim Review

Applicant	Town of East Fremantle
File ref	B/MPL1
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting Date:	1 September 2020
Voting requirements:	Simple Majority
Documents tabled	Nil
Attachments	1. Summary Table of Proposed Modifications to R-Codes Vol. 1 Interim Review - Town's Response

Purpose

The purpose of this report is to:

- outline the planning initiatives the State Government is implementing to reform the planning system and assist with the COVID-19 economic recovery;
- explain proposed changes to the Residential Design Codes Vol. 1 – Interim Review (R-Codes Review); and
- provide comments on the proposed R-Codes changes (for Council endorsement) which will form the basis of a submission to the Department of Planning.

Executive Summary

To implement the planning system changes and assist with COVID-19 recovery initiatives the State Government is reforming the *Planning and Development Act, 2005, Planning and Development (Local Planning Schemes) Regulations 2015* and State planning policies. The Government believes this will create a more flexible, responsive and contemporary planning system that can support WA's economic recovery. Expanded powers will temporarily be given to the WAPC to determine projects of major significance and/or those in strategic locations. This is aimed at stimulating the economy and creating business and employment opportunities.

The State planning reforms in respect to the R-Codes Review is now being integrated with the State Government's planning reforms to support Western Australia's economic recovery. Proposed changes are stated as being aimed at streamlining the approvals process for new home builds and renovations, thereby making it easier for homebuyers, local governments and developers. The Review is aimed at simplifying the R-Codes for easier interpretation, as well as streamlining the approvals process for single houses, grouped dwellings, multiple dwellings (coded less than R40), and smaller structures such as patios, pergolas, carports, decks and sheds. Another key objective of the review is to make it easier for local governments to deem more applications compliant, allowing applicants to proceed straight to a building permit whilst ensuring that residential design outcomes are not compromised by the proposed changes. In the longer term the R-Codes will be subject to more extensive review as part of the finalisation of the Design WA Medium and Low-Density Policy initiatives.

The proposed R-Code amendments have been circulated to all local government authorities and other stakeholders seeking their comments on proposed changes. Several proposed R-Codes changes are not supported by the Town due to the expected amenity, streetscape and environmental impacts, as well as undesirable built form outcomes. The Officer report outlines matters with which the Town has concerns;

these relate to residential amenity, heritage, streetscapes, the environment and design outcomes. The specific R-Code provisions of concern deal with exemption from planning approval for compliant houses on lots under 260m² and deemed-to-comply single house additions, ancillary dwellings, outbuildings (sheds), patios/ pergolas, front fences, carports and retaining walls. Reductions in carport setbacks, open space, lot boundary setbacks, building height, visual privacy setbacks and landscaping are also of concern. Notwithstanding the concerns outlined in the report, Local Planning Policy 3.1.1 - Residential Design Guidelines (RDG) will continue to apply. In the case of most development applications it is expected that variations to the RDG and the R-Codes will be sought, requiring applicants to submit a development application for Council's consideration.

It is recommended the comments in Attachment 1 form the basis of a submission on the Interim Review of the R-Codes Vol. 1 to the Department of Planning. The Department of Planning intends to consider submissions in September and report to the WAPC in October with the aim of gazettal of the amendments by November 2020.

Background

In August 2019 the State government launched a document entitled *Action Plan for Planning Reform*. This was the result of an independent review by planner Evan Jones who was engaged by the Minister for Planning in 2017 to undertake an independent review of the Western Australian planning system. The primary recommendations of the review were to elevate the importance of strategic planning and make the planning system more efficient, transparent and understandable to everyone. The consultant planner prepared a Green Paper outlining ideas for reform of the planning system which was released by the Minister for public consultation in May 2018.

Following public consultation, the Action Plan identified three goals for reform of the planning system and 19 reform initiatives to achieve the goals. The Minister also determined that instead of preparing a White Paper, the Department of Planning would collaborate with stakeholders to develop and implement the detail of many of the 19 reform initiatives to deliver the reform Action Plan.

With the onset of impacts of the Coronavirus pandemic in early 2020 the State Government has brought forward a number of measures within the *Action Plan for Planning Reform* as part of the COVID-19 economic recovery plans, together with a proposal to establish a new development application process for significant projects.

A program of major legislative, regulatory and policy changes will be progressively implemented to support WA's COVID-19 economic recovery plans. The following information is a summary of the initiatives and reforms. Full details of the legislation changes and reforms is available on the Department of Planning, Lands and Heritage website at <https://www.dplh.wa.gov.au/projects-and-initiatives/planning-reform/covid-19-planning-reforms>.

State Planning Reforms and Initiatives

The *Planning and Development (Amendment) Bill 2020* was passed by Parliament on 24 June 2020. The purpose of the Bill is described as amending the *Planning and Development Act* and other related Acts with two broad aims to:

- *Provide an urgent response to the COVID-19 pandemic by:*
 - facilitating significant development projects;
 - removing regulatory roadblocks and reducing red tape;
 - strategically refocusing what is considered important in urban and regional planning;
 - enhancing how development contribution funds are utilised for community benefit; and

- providing for a higher degree of professionalism and enforcement capability; and
- *Implement a comprehensive series of public, stakeholder and specialist reviews of the planning system in order to create a better planning system, which:*
 - creates great places for people;
 - is easier to understand and navigate; and
 - is consistent and efficient.

These aims will be implemented in two stages of legislation. The Bill passed in June was the first stage which will implement the aspects of planning reform with the most immediate impact on the planning framework, as a prioritised COVID-19 related response. The second stage will be facilitated by another follow-up Bill in the near future. The second Bill will include reforms with less immediate effect and therefore less urgency. The second Bill relates to reforms that will require new or amended regulations be drafted in order to commence and clarifies aspects of the current planning system in order to create a more legible and understood system.

R-Codes Interim Review

The R-Codes Review is now being integrated with the State Government's planning reforms to support Western Australia's economic recovery. Proposed changes are stated as being aimed at streamlining the approvals process and reducing red tape, thereby making it easier for first home builders, local governments and developers.

The Review is aimed at simplifying the R-Codes for easier interpretation, as well as streamlining the approvals process for single houses, grouped dwellings, multiple dwellings (coded less than R40), and smaller structures such as patios, pergolas, carports, decks and sheds. A key objective of the Review is to remove the need for a development approval if single houses, ancillary buildings, outbuildings and some additions/renovations comply with the 'deemed-to-comply' provisions. Another key objective of the Review is to make it easier for local governments to deem more applications compliant, allowing applicants to proceed straight to a building permit.

Consultation

The closing date for comments on the R-Codes Interim Review is 11 September 2020. The Department of Planning has stated that submissions will be considered and used to inform the final version of the R-Codes which is expected to be in effect by the end of 2020.

The Department of Planning has also allowed for Officer submissions to be made by the due date with a follow-up confirmation and endorsement of the submission subsequent to Council resolutions made at Council meetings held later in September.

Statutory Environment

Planning and Development Act, 2005

Planning and Development Amendment Bill 2020

Planning and Development (Local Planning Schemes) Regulations, 2015

Local Planning Scheme No. 3 (LPS 3)

Policy Implications

State Planning Policy 7.3 – Residential Design Codes Vol. 1

Local Planning Policy 3.1.1 - Residential Design Guidelines 2012 (as amended)

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.*

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact /Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not adopt the proposed Recommendation and a submission expressing the Town's view's is not forwarded to the Department of Planning, Lands and Heritage.	Unlikely (2)	Moderate (3)	Moderate (5-9)	COMPLIANCE Statutory impact of non-compliance with State planning request for comments in respect to the Interim Review of the R-Codes Vol. 1 (SPP 7.3).	Accept Officer Recommendation

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	6
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

N/A

Details

State Planning Reforms - Response to COVID-19

The State Government has brought forward several measures within the *Action Plan for Planning Reform* as part of the COVID-19 economic recovery plans, together with a proposal to establish a new development application process for significant projects. A program of major legislative, regulatory and policy changes will be progressively implemented to support WA's COVID-19 economic recovery plans. The following is a summary of the major reform initiatives. Further consultation with local governments will occur in relation to some of these initiatives. A summary of the initial reforms is provided below.

Streamline Significant Developments

Expanded approval powers will temporarily be given to the WAPC to determine proposals for certain sites, locations and projects which present opportunities for broad community value. This is a short-term initiative intended to stimulate the economy and to create new employment and business opportunities.

Key Reforms

- WAPC will be established as the new decision-making authority for all development proposals of State significance for a fixed 18-month period. This period has commenced.
- Under the new legislation, significant proposals must have an estimated cost of:
 - \$20 million or more in the metropolitan area; or
 - \$5 million outside the metropolitan region.
- The Premier, on recommendation of the Minister for Planning, can also refer proposals to the WAPC.
- Direct referral of the proposals to Planning Department, service authorities and government agencies.
- Department of Planning will undertake administrative and assessment processes and prepare report.
- WAPC responsible for clearance of conditions, enforcement and compliance.
- Consultation undertaken with local government and due regard to submissions.
- The WAPC will consider non-planning related matters that it considers are in the public interest.
- No other authority can make a decision that is inconsistent with the decision of the WAPC.
- Right of appeal through the State Administrative Tribunal will apply as normal.
- Governor can amend or cancel a WAPC approval.

Special Matters DAPs

Certain sites, locations or opportunities can deem a proposed development to be of broad community value. In the future these proposals will be determined by a new Special Matters Development Assessment Panel (SMDAP).

Key Reforms

- Government has already reduced the number of DAPs from 9 to 5, and it is intended to further reduce them to 3 panels.
- SMDAP's will be established to consider complex proposals e.g. proposals located in areas with significant tourism, unique aesthetic qualities or other unique features.
- New regulatory amendments, including criteria for developments will be prepared over the next 12 months.
- Proposals will be lodged directly with State Planning with referral to agencies and recommendations to SMDAP.
- Local government representative and the Government Architect will also sit on the SMDAP.

Cutting Red Tape

The State government believes the reforms will significantly cut red tape for users of the planning system and remove barriers to enable development, create jobs and support business. Greater clarity and consistency across the system and a reduction in the administrative burden on local governments is expected to save time and money.

Key Reforms

The Department of Planning believes the amendments will ensure local planning is easier to navigate and understand, provide greater consistency in how planning provisions are applied and improve

efficiency. Consultation is currently being undertaken with local government on the proposed regulatory changes, in the first instance with a review of the R-Codes. The following comprises the reforms considered of most significance to the Town:

- Introduce refined streams for MRS scheme amendments, reducing timelines for minor amendments.
- Provide the Minister with capacity to withdraw a MRS or planning scheme amendment during the process.
- Clarify and expand public works exemptions for State development projects.
- Introduce a new 10-year review for all State and local government planning documents.
- Provide for more streamlined approvals for the construction of roads and waterways.
- The EPA and State Planning will determine which proposals require environmental assessment.
- Reduce unnecessary holdups in the referral process - enable a development if response timeframes not met.
- Clarify 'stop the clock' mechanisms, including setting a maximum number of days or set circumstances.
- Enable online publication of planning documents, removing the requirement for hard copies.
- **Deemed approval** if an application is not dealt with in the statutory timeframe.
- **Change of use applications will be abolished for several different uses** to support small businesses wishing to establish or change their operations. This would include several uses which are well suited and anticipated in town centres, commercial areas, activity corridors, mixed use areas: including cafes, restaurants, consulting rooms, retail shops, small offices etc.
- **Provision of car parking to be more flexible and consistent** across the State. Update cash-in-lieu framework and waive shortfalls up to 10 bays.

Small Business

The State government's planning reforms are aimed at reducing red tape, streamlining approvals and removing barriers so business owners can focus on business operations and not paperwork.

Key Reforms

Three streams of planning reform – legislative, regulatory and policy – are being progressed. Changes to the *Planning and Development (Local Planning Schemes) Regulations 2015* propose a range of measures, including:

- A wider range of small residential projects becoming exempt from planning approval.
- Revised R-Code deemed-to-comply provisions expanded and simplified (also the subject of this report), enabling planning exemptions for more single residential dwellings.
- Change of use applications not required for several different uses.
- For example, uses in town centres, commercial areas, activity corridors and mixed-use areas including cafes, restaurants, consulting rooms, retail shops and small offices.
- An updated cash-in-lieu for parking framework and waiver for shortfalls up to 10 bays.

Improving Community Engagement

The aim of this suite of reforms is to ensure the planning framework, including planning schemes have been developed in early consultation with the community and are guided by a local planning strategy.

Key Reforms

There are three key components in improving community engagement and consultation:

Local Planning Strategies

Community consultation and engagement is viewed as integral to alleviating confusion and ensuring expectations are met about the types of development that can occur. Planning reform measures will:

- Ensure local planning strategies align with the State's planning framework;
- Give local planning strategies the highest level of importance in community planning and development;
- Give local communities a greater say in setting the future vision, early in the planning process;
- ***Extend the minimum period of community consultation from 21 to 35 days;***
- Reinforce the need to take a more strategic approach to the development of communities; and
- Provide meaningful opportunities for people to have their say.

Consistent and Transparent Consultation Practices

- Onsite signage displaying an image of the proposed built form, for all developments over a prescribed construction value.
- Introducing State-wide consultation processes, including mandating a radius model for major development applications and scheme amendments.
- Enabling access to on-line planning documents.
- Community engagement toolkit for all planning authorities to provide consistent and best practice guidance on how and when to engage during the planning process.
- Measures to streamline the planning document review process to ensure currency and reflect local aspirations and priorities.
- Planning schemes to provide greater clarity and more consistency in how land can be used, and what can and cannot be built.

Ensure Actual Community Benefits Flow from Major Developments

- Lack of guidance from State Government on what should be achieved under a community benefit, as a result, many communities have seen no real community benefits delivered.
- Provide a clear definition of community benefit in planning schemes.
- New State-wide, consistent guidelines for community infrastructure, and how development contributions are collected, held and used, including cash-in-lieu provisions for parks, recreation and public open space.

Good Design

The State government has based these reforms on the view that well-designed buildings and public spaces are essential to creating communities and places in which people want to live and visit.

Key Reforms

So far, a State Design Review Panel and an increased number of local design review panels have been established. Also, the first stage of Design WA policies for apartments is now in operation (R-Codes Vol. 2 – Apartments).

Policy reforms to be delivered over the next six-twelve months will support the implementation of legislative and regulatory changes. These policies include:

- Finalise policy for medium density – which includes multi-unit, two and three storey complexes.
- Finalise new benchmarks and policy to guide Precinct Design.
- Review the single house development requirements of the R-Codes Vol. 1 (has commenced).
- Bring forward reviews of State planning policies for activity centres and liveable neighbourhoods.
- Continue reviewing State planning policies, such as hazard management, bushfires and coastal erosion.

- State Planning Policy 4.2 – Activity Centres will be reviewed to provide guidance to deliver contemporary outcomes when planning major centres.
- A revised Liveable Neighbourhoods policy to create suburbs which are sustainable, connected, self-sufficient and have healthy communities.

Residential Design Codes Vol. 1 Review

Following on from the State planning reforms launch in mid-July the State government released the review of the Residential Design Codes Vol. 1 (R-Codes Review) and invited community-wide comment on the proposed changes. The key changes are briefly noted below and outlined in more detail in Attachment 1.

Key Changes

- To allow a wider range of smaller residential projects such as patios, decks and extensions to be exempt from development (planning) approval.
- Changes are proposed for open space, building setbacks, wall heights and visual privacy setbacks.
- Simplified language to improve both the understanding and usability of the R-Codes.
- Increase in the size of outdoor living areas and to provide for a tree to be planted for each dwelling.
- Carport and ancillary dwelling designs should complement the main dwelling.

These changes do not remove the requirement for a development proposal to comply with the Town's RDG where the provisions differ.

Summary of the Proposed Modifications to R-Codes Vol. 1 – Interim Review

The proposed changes to the R-Codes, the Department's rationale for the changes and the Town's response are explained in Attachment 1. The full details of the proposed changes can be found on the Department of Planning website at <https://www.dplh.wa.gov.au/planning-reform>.

The comments contained in the 'Town's Response' column will form the basis of the Council's submission to the Department of the Planning.

Comment

State Planning Reforms – Response to COVID-19

The general view of the Planning sector in WA is that the amendments to the *Planning and Development Act, 2005* are the most significant changes to the statutory framework since the Act commenced and most certainly since the 2010 amendments that facilitated the establishment of Development Assessment Panels (DAPs). Some viewpoints suggest these reforms will shift more of the development assessment role from local governments to the State Planning level.

A new assessment pathway has been endorsed to allow the State Government, through the WAPC, to assess and approve certain development applications over \$20 million in the Perth Metro area and \$5 million in regional areas for the next 18 months. An additional proposal will see the establishment of a 'Special Matters' DAP (SMDAP), which will only have a representative from the local government sector and not a local government Elected Member as in the current DAP system. Planners have noted that the scope for the current planning framework and associated controls to potentially be completely overridden is a possibility under the amendments.

Furthermore, while some of the proposals have a fixed term date, linked to the COVID-19 recovery period, it has been foreshadowed that it is intended for the new process for significant developments at

the State level to be retained but with the decision-making power to transition from the WAPC to the SMDAP thereafter. The amendments to the Act that establish the SMDAP also provide for this transition to be effected through subsequent subsidiary legislation.

The Planning sector has expressed some disappointment with the introduction of the *Planning and Development Bill 2020* in June, as there was little consultation on much of the detail contained within the Bill despite claims that it was premised on more than seven years of consultation and reviews. A main concern with the proposed legislation was with the potential for community feedback and concerns to be overlooked with no provision to ensure community input be considered in the decision-making process. It was not clear to what extent community input would occur and how the consultation would be undertaken; this is yet to be tested.

One of the most significant matters to note is that the 'Significant Development' process will allow the WAPC to grant development approvals for 'Significant Developments' in contravention of a local planning scheme. The legislation states that the WAPC is to have "*have due regard to*" the purpose and intent of any planning scheme that has effect in the locality to which the development application relates but "*is not limited to planning considerations...*".

While a State government response associated with the repercussions with COVID-19 is understood, reforms that provide for development approvals to be granted in contravention of local planning schemes is very significant, particularly so if the views of local communities are not taken into consideration or reduced in importance. The potential significance of the proposals likely to be considered by a SMDAP are likely to have far reaching consequences, so it would be appropriate that they be subject to high level assessment and meaningful input from local government. It is not clear whether there will be a review after the "recovery period" to inform any proposal to continue the planning process via the SMDAP.

As the COVID-19 state of emergency progressed a few practical support measures provided exemptions to delivery hours for supermarkets and service stations, provided flexibility for restaurants forced to only offer takeaways, and allowed greater flexibility in home business operations. The State government worked with the Planning sector and formally endorsed these approaches through the Minister's *Notice of Exemption*. This document provided additional clarity for many temporary variations to planning controls due to the exceptional circumstances. Since the introduction of the *Notice of Exemption* the Town has not been requested to consider exemptions from development approval or non-compliance with conditions of development approval.

The Town is expecting the submission of major development applications in the near future. The construction value of these applications would qualify them for consideration as a 'Significant Development'. They meet the criteria to qualify for a DAP application and may also meet the criteria to qualify for consideration by a SMDAP. The Council may therefore not have a decision-making role and may have a significantly reduced assessment and reporting roles in relation to the development process depending on the assessment path taken.

R-Codes Vol. 1 Interim Review – Town's Response

The purpose of the changes is to streamline the decision-making process for new home builds and renovations. The aim being to simplify the R-Codes, so they are easier to interpret, as well as streamline the approvals process for single houses, grouped dwellings, multiple dwellings (coded less than R40), and smaller structures such as patios, carports, decks and sheds. The desired outcome is that the changes will reduce a range of common triggers for single house development approval applications (including additions), simplify rules by streamlining assessments, while requiring design improvements

for more efficient building design and better outdoor spaces. It is believed this will reduce the application costs for home owners and help alleviate the administrative and regulatory burden on local governments.

Whilst it is understood reviewing the R-Codes to remove triggers for development applications may reduce the number of applications received by local government and quicken the approval process, the degree to which this assists or alleviates the regulatory burden depends on each local governments' specific circumstances and planning priorities. The land use, heritage, environmental and design outcomes sought by each local government can vary markedly. The local planning frameworks and local planning policies adopted by the Town of East Fremantle have been specifically drafted to address local land use, character, environmental, heritage and amenity considerations. It is not the intention of the R-Codes Review to override these policies and the local planning policies will still prevail over the R-Codes where there is a variation. However, there are some circumstances and developments where the provisions of the Town's local planning policies will not apply to all forms of development and where this is the case the development controls of R-Codes are applicable.

Notwithstanding the above, the Town expects that development applications will continue to be required for a significant proportion of proposals due to the implementation of the RDG. Full compliance with the Deemed-to-Comply provisions of the R-Codes and the Acceptable Development Provisions of the RDG will be difficult to achieve. In many cases the development site will be a heritage listed property (requiring a development approval) and variations to lot boundary setbacks, open space and visual privacy setbacks less than the minimum required by the R-Codes will trigger a development application.

The Town's RDG will remain as the primary planning instrument in the assessment of development applications, however the reduced standards proposed under the R-Codes will also apply to residential development in the Town. Concerns arise when planning principles and development controls are lessened to facilitate development without appropriate checks and balances, particularly in a setting where variations and relaxation of standards is frequently sought. If the R-Codes are weakened whereby amenity is eroded a community backlash is the likely outcome and this is usually borne by local government.

It is considered that some of the changes being proposed could be viewed as a means of assisting the development industry and circumventing the need for planning approval. The Town does not hold the view that by allowing more relaxed rules around design and construction of housing that better design outcomes will result. If poor planning outcomes result it is the community that has to endure the impacts of overdevelopment and the local government that needs to find solutions to the problems created by weakened regulations. The development application assessment process should be focused on mitigating the consequences of development on residents and ratepayers and in promoting sustainability and liveability. Facilitating an increased ability to build more, on increasingly smaller lots, should not be prioritised over good design and amenity outcomes.

The proposed changes to the R-Codes have therefore been considered in light of the potential for impact on amenity and good design from the Town's perspective. A summary of the changes and the Town's response is provided in Attachment 1. These responses and the general comments outlined in this report will form the basis of the Town's submission to the Department of Planning.

If the proposed changes to the R-Codes proceeds as is intended, the Town will continue to monitor Building Permit applications in order to ensure planning approval and community consultation is not required. It is expected that some development will occur that does not receive planning approval and

will therefore not be subject to community consultation. Monitoring of the potential impact on residential amenity and poor design outcomes will also occur. This may lead to future changes to local planning policy.

It is recommended that Council resolve to note the changes to planning legislation brought about by the *Action Plan for Planning Reform* and the COVID-19 emergency, as well as the Town's response to the Schedule of Proposed Modifications to the R-Codes Vol. 1 – Interim Review. A submission to the Department of Planning based on the comments contained in this report and the Town's response to R-Code changes, as outlined in Attachment 1, is intended following Council's endorsement.

It is hoped the Department of Planning will take the Town's comments into consideration in finalising the R-Codes document. Submissions will be considered in September with a view to reporting to the WAPC in October and gazettal of the amendments by November 2020.

12.1 OFFICER RECOMMENDATION/ COMMITTEE RESOLUTION TP050920

Moved Cr Nardi, seconded Cr Watkins

That the State Planning Reforms, Response to COVID-19 and the draft Schedule of Proposed Modifications R-Codes Vol. 1 – Interim Review 2020 be noted and a submission to the Department of Planning, Lands and Heritage in relation to the R-Codes Vol. 1 Interim Review 2020 be made based on the comments contained in the Officer Report and in Attachment 1.

(CARRIED UNANIMOUSLY)

13. MATTERS BEHIND CLOSED DOORS

Nil

14. CLOSURE OF MEETING

There being no further business the Presiding Member declared the meeting closed at 7.59 pm.

I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 1 September 2020, Minute Book reference 1. to 14 were confirmed at the meeting of the Committee on:

.....*6/10/20*.....



Presiding Member