



MINUTES

Town Planning Committee

Tuesday, 7 August 2018 at 6.31pm

Disclaimer

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

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

Persons should be aware that the provisions of the Local Government Act 1995 (section 5.25 (e)) establish procedures for revocation or rescission of a Committee decision. No person should rely on the decisions made by the Committee until formal advice of the Committee decision is received by that person.

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**MINUTES OF TOWN PLANNING MEETING
TUESDAY 7 AUGUST 2018**

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MINUTES OF THE ORDINARY MEETING OF THE TOWN PLANNING COMMITTEE HELD AT THE EAST FREMANTLE TOWN HALL, 135 CANNING HIGHWAY, EAST FREMANTLE ON TUESDAY 6 MARCH 2018.

1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

Presiding member opened the meeting at 6.31pm 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	<i>Presiding Member</i>
Mayor O'Neill	
Cr M McPhail	
Cr D Nardi	
Cr T Natale	
Cr A White	
Cr J Harrington	

The following staff were in attendance:

Mr A Malone	Executive Manager Regulatory Services
Ms G Cooper	Minute Secretary
Mr L Smith	Planning Support Officer

3.2 Apologies

Nil.

3.3 Leave of Absence

Nil.

4. MEMORANDUM OF OUTSTANDING BUSINESS

Nil.

5. DISCLOSURES OF INTEREST

5.1 Financial

Nil.

5.2 Proximity

Nil.

5.3 Impartiality

Nil.

6. PUBLIC QUESTION TIME

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

Nil.

6.2 Public Question Time

Nil.

7. PRESENTATIONS/DEPUTATIONS

7.1 Presentations

Nil.

7.2 Deputations

Nil.

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Town Planning and Building Committee (5 June 2018)

8.1 OFFICER RECOMMENDATION

Cr Nardi moved, seconded Cr Natale

That the minutes of the Town Planning and Building Committee meeting held on Tuesday 5 June 2018 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

Nil.

10. REPORTS OF COMMITTEES

10.1 Community Design Advisory Committee

Prepared by: Andrew Malone Executive Manager Regulatory Services

Supervised by: Gary Tuffin, Chief Executive Officer

Authority/Discretion: Town Planning & Building Committee

Attachments to be tabled: 1. Minutes of the Community Design Advisory Committee meeting held on 30 July 2018.

PURPOSE

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

EXECUTIVE SUMMARY

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

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

10.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP010818

Cr Harrington moved, seconded Cr M McPhail

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

(CARRIED UNANIMOUSLY)

Cr Nardi moved, seconded Cr M McPhail

That the order of business be changed to allow members of the gallery to speak to specific planning applications.

(CARRIED UNANIMOUSLY)

11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

11.1 King Street, No. 37 (Lot 439) – Construction of Ancillary Dwelling, Garage, Carport and Patio

Applicant	K Acton
Owner	R Lord
File ref	P/KIN37; P043/18
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	7 August 2018
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Location plan 2. Place Record Form 3. Photograph 4. Plans date stamped received 22 May 2018

Purpose

This report considers a development approval application for the construction of an ancillary dwelling, garage, carport and patio at No. 37 King Street, East Fremantle.

Executive Summary

The subject lot is located on King Street at the George Street end of the street block. The subject site is a lot of 508m² and contains a heritage listed dwelling (c1906 – Category C – Federation Bungalow) with vehicle access to the rear of the lot. The ancillary dwelling is proposed to be constructed at the very rear of the lot with an attached garage and single carport positioned in front of the garage. The application also includes the construction of a patio attached to the rear of the existing dwelling.

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

- Lot boundary setbacks – nil to each side boundary; and
- Roof pitch – permitted 28 - 36°; proposed 25°.

It is considered the variations proposed will not have a significant impact on the amenity of the adjacent lots and the application can therefore be supported subject to conditions relating to parapet walls, roof reflectivity, enclosure of the patio and the use of the ancillary dwelling.

Background

Zoning: Residential R20

Site area: 508m²

Consultation

Advertising

The application was advertised to the surrounding land owners from 30 May to 15 June 2018. One (1) submission was received which included the following comments. The Officer response is provided immediately following the submitter's comments:

"Whilst we have no over-riding objection to what 37 King Street is trying to achieve we do have some questions with regard to some of the details of the development.

- 1. There appears to be an awful lot of building and not very much garden - does this development fall within the rules of % block developed/built on?*

50% open space required; 53% open space indicated.

- 2. In connection with point 1 above - the Ancillary seems very large - is this building within size regulations?*

Plot ratio (excluding garage) is 53.96m²; permitted 70m².

- 3. The plans show a parapet wall on the northern boundary - is there a set back from the boundary? Is there a requirement for a set back from the boundary?*

The Council can exercise discretion and permit a wall to be built up to a boundary notwithstanding the R-Code setback requirement of 1.0 metre in this instance. Conditions on the finish of the wall on the neighbour's side are usually imposed.

- 4. If the parapet is to be erected on the boundary (within the rules of development in the Town) we would request that the development applicant have a professional survey completed and supplied to all neighbouring properties - the fence lines of these old properties are notoriously 'wrong' and we would not like to see a substantial structure built on an incorrect boundary.*

The site survey is the responsibility of the applicant. Should neighbours disagree in regard to the location of the dividing fence/wall/structure it is a civil matter to be resolved between the concerned land owners. The adjoining land owners can undertake their own site survey should they believe it necessary.

- 5. The drawings supplied are very unclear as to the side elevations and we would request some clarification so that we can determine if there are windows facing into our property.*

Side boundary elevations are provided. There are no windows directly facing side boundaries.

- 6. The drawing supplied are very unclear as to the building materials being used other than Colorbond roof - we would request details of the colour of the Colorbond and the details of the other building materials and finishes (particularly in respect to the side elevations).*

A condition of approval will be recommended which requests details of materials, colours and finishes to be submitted, to the satisfaction of the Chief Executive Officer at Building Permit application stage.

7. *We also require some clarification on how any potential development on the boundary will affect the stability of the dividing fence between our properties. The current fence is currently in need of general repair and retaining walls being installed to adequately hold the fence - we fear that any alteration to the current fence would undermine the integrity of the remaining fence as it stands today."*

The issue of the dividing fence is a matter to be resolved between the adjoining landowners in accordance with the Dividing Fences Act.

Community Design Advisory Committee (CDAC)

This application was referred to the CDAC requesting their comments and the Members did not provide a response in respect to this application.

Statutory Environment

Planning and Development Act 2005

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

Residential Design Codes of WA

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016

Municipal Heritage Inventory - 'C' Category

Fremantle Port Buffer Zone - Area 2

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

- 4.1 *Conserve, maintain and enhance the Town's open spaces.*
 - 4.1.1 *Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*

4.1.2 Plan for improved streetscapes parks and reserves.

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

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

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

Site Inspection

July 2018

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6.0m	No change to existing	A
Lot Boundary Setback (ancillary, garage & carport)	Rear - 1.5m	Rear 1.6m	A
	Side (north) - 1.0m	Side (north) - nil	D
	Side (south) - 1.0m	Side (south) - nil	D
Plot Ratio	70m ²	54m ²	A
Open Space	50%	53%	A
Outdoor Living	30m ²	~80m ²	A
Car Parking	1 2 bays required for existing dwelling	2 (garage and carport) Space for 2 vehicles available in driveway	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	≤25%	≤25%	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch (patio 8° and ancillary dwelling 25°)	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	A

3.7.18.3 Garages and Carports	A
3.7.15-20 Precinct Requirements	A

Building Height (R-Codes)	Required	Proposed	Status
Wall height (R-Codes)	6.0m	2.77m	A
Ridge height (R-Codes)	9.0m	4.7m	A

The application proposes the construction of an ancillary dwelling at the rear of an original cottage on King Street. The ancillary dwelling will comprise a combined family/meals/sitting area, bedroom, bathroom/laundry, storeroom and a garage under the main roof of the ancillary dwelling. The carport is positioned in front of the dwelling. The garage and carport are for use by the occupiers of the primary dwelling.

A patio of approximately 40m² is also proposed which will be attached to the rear of the existing dwelling and will cover an existing outdoor area. There are two variations to the R-Codes and the Residential Design Guidelines and these are discussed below.

Lot boundary setbacks

Nil lot boundary setbacks are proposed and the adjoining owners have not objected to the nil setbacks. The questions raised in relation to the nil setback and parapet walls are addressed through conditions of planning approval or are not considered relevant planning issues in respect to this application.

The Design Principles of the R-Codes in respect to the reduced lot boundary setbacks are considered satisfied, in that the ancillary dwelling does not unnecessarily contribute to building bulk on the adjoining lots, provides for adequate sun and ventilation to open spaces and the adjoining property. Overshadowing is within the acceptable limits for the R20 coding at less than 25% of the adjoining lot to the south. A condition regarding the finish of the parapet walls is, however, considered necessary to maintain the amenity of the adjoining sites.

Roof pitch

The minor variation in the roof pitch (28° - 36°permitted; 25° proposed) is insignificant as it will have no impact on building bulk or appearance of the dwelling as designed and therefore is considered to have negligible impact on neighbour amenity and the streetscape. Due to the roofing materials proposed the roof reflectivity condition is considered necessary.

Heritage

The dwelling is categorised as category 'C' in the Municipal Inventory. The proposal is considered to acknowledge the heritage value of the property because the existing dwelling maintains a strong presence on the site and the new building will sit as a distinct structure to the rear of the site with little to no visibility from the street. Details of colours, materials and finishes will be requested at Building Permit application stage to ensure the Town is satisfied with the construction materials in respect to overall development of the site.

Conclusion

It is considered the variations to the R-Codes and the Residential Design Guidelines as proposed will not have a significant impact on the amenity of the subject lot or adjoining sites and the application can therefore be supported subject to conditions relating to roof reflectivity, parapet walls, enclosure of the carport and use of the ancillary dwelling.

- Mr Mark Lord (owner) spoke in support of the officers recommendation

11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP020818

Cr White moved, seconded Cr Nardi

That Council grant development approval and exercise its discretion in regard to the following:

- (i) Clause 5.3.1 – Lot Boundary Setbacks of the Residential Design Codes of WA to permit lot boundary setbacks (north and south) less than 1.0 metre for the ancillary dwelling/garage and less than 1.0 metre for the carport (southern boundary); and
- (ii) Clause 3.7.8.3 – Roof Pitch of the Residential Design Guidelines 2016 to allow a roof pitch of less than 28° for the ancillary dwelling, garage, carport and patio,

for construction of an ancillary dwelling, garage, carport and patio at No. 37 (Lot 439) King Street, East Fremantle, in accordance with the plans date stamped received 22 May 2018, subject to the following conditions:

- (1) The ancillary dwelling is not to be used for the purpose of a home occupation, short term accommodation or bed and breakfast accommodation without further Council approval (*see Footnote (i) below*).
- (2) No enclosure of the carport on any side.
- (3) No installation of a garage door on the carport.
- (4) No enclosure of the patio on any side.
- (5) No clothes drying facilities/structures or bin enclosure to be visible from the street.
- (6) The ancillary dwelling is not to be constructed on a foundation pad or podium that exceeds 500mm above natural ground level.
- (7) The details of colour, materials and finishes to be used in construction of the ancillary dwelling, garage and carport to be to the satisfaction of the Chief Executive Officer and to be submitted at Building Permit application stage.
- (8) If requested by Council within the first two years following installation, the metal roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (9) The proposed works are not to be commenced until approval from the Water Corporation has been obtained and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (10) 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.
- (11) 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
- (12) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (13) 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.

- (14) 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.
- (15) This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (i) *In regard to condition 1, if use of the ancillary dwelling for any other purpose other than an ancillary dwelling is proposed a development approval application is to be submitted for Council's consideration.*
- (ii) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iii) *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.*
- (iv) *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.*
- (v) *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.*
- (vii) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise".*

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 June 2018 this application deemed determined, on behalf of Council, under delegated authority.

11.4 Bedford Street, No. 17 (Lot 631 & 633) – Alterations and Additions to Dwelling

Applicant	De Pledge Design
Owner	G and T Kerr
File ref	P/BED17; P037/18
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Location Plan 2. Photographs 3. Plans date stamped received 16 May 2018

Purpose

This report considers a development application for alterations and additions to the rear of the existing heritage listed dwelling at No. 17 (Lot 631 and 633) Bedford Street, East Fremantle.

Executive Summary

The application proposes demolition of previous rear additions to the dwelling and further internal alterations, as well as new additions to the rear of the property. The following issues are relevant to the determination of this application:

- Lot boundary setbacks: reduced setbacks to the northern and southern lot boundaries;
- Site works: excavation within 1.0 metre of the lot boundary greater than 500mm in depth;
- Retaining walls: greater than 500mm and less than 1.0 metre from the southern lot boundary; and
- Visual privacy: raised outdoor deck and kitchen, living, and dining areas less than 7.5m and 6.0m from the northern and southern lot boundaries respectively.

It is considered there will be minimal impact on the amenity of the adjoining lots and the heritage elements of the site and as such the additions and alterations can be supported subject to standard conditions of development approval being imposed.

Background

Consultation

Advertising

The application was advertised from 30 May to 15 June 2018. No submissions were received.

Community Design Advisory Committee (CDAC)

This application was referred to the CDAC. Comments were not received.

Statutory Environment

Planning and Development Act 2005

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

Residential Design Codes of WA

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016

Municipal Heritage Inventory - 'B' Category

Fremantle Port Buffer Zone - Area 3

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

Site Inspection

July 2018

Comment

LPS 3 Zoning: Residential R20

Site area: 662m²

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6.0m	As existing	A
Lot Boundary Setback	Northern – 4.8m Southern – 5.7m	3.1m – 6.1m 1.2m	D D
Open Space	50%	57.13%	A
Outdoor Living	30m ²	~130m	A
Car Parking	1	As existing	A
Site Works	Less than 500mm	686mm (south)	D
Retaining Walls	Greater than 500mm and closer than 1m from lot boundary	686mm (south) with a nil setback	D
Overshadowing	25%	22.7%	A
Drainage	On-site	On-site	A
Visual Privacy	Raised outdoor living area: 7.5m Kitchen: 6.0m Dining/Living: 6.0m	6.176m 3.1m 5.5m	D D D

Local Planning Policy 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	D
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
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
3.7.18.3 Garages, Carports and Outbuildings	N/A
3.7.15-20 Precinct Requirements	A

Building Height Requirement	Required	Proposed	Status
Building Height (wall) (R-Codes)	6.0m	4.8 – 6.0 (max)	A
Building Height (roof) (R-Codes)	9.0m	4.8 – 6.0 (max)	A

It is proposed to construct rear additions and alterations to replace previous additions to the rear of the property. An undercroft area will provide a games room, laundry and storage areas. Above the undercroft the rear of the dwelling will be extended to provide a side entry, kitchen, dining, living and alfresco area. The additions will not be easily viewed from the street and the undercroft area is below the finished floor level of the house and the ground levels at the boundary. Residential dwellings adjoin the site to the north and south and the lot to the rear is a commercial car parking area.

There are a number of variations to the R- Codes and the Residential Design Guidelines that are mostly due to the slope of the land away from the road, construction of the undercroft and additional wall length on each side of the house. These matters are discussed below.

Lot boundary setbacks

The proposed setback ranges from 3.4m to 6.1m on the northern boundary and the required setback is 4.8m. Similarly, on the southern side the required setback is 5.7m and the proposed setback is 1.2m. Setbacks are greater than that proposed due to the side elevations following the alignment of the existing walls and the land sloping to the rear, resulting in an average wall height greater than that normally required for single storey additions. However, the reduced setbacks are considered to have no impact on the amenity of the adjoining lots. The bulk and scale of the addition is reduced as it is below the floor level of the existing dwelling (undercroft section) and the alfresco area will be relocated to a position on the site that is further from the residential lot boundary. Essentially the new additions will not occupy a floor area that is much greater than the part of the house that is being demolished.

Whilst the 'Deemed to Comply' setback provisions are not achieved the 'Design Principles' of the R-Codes are considered satisfied, in that the building does not unnecessarily contribute to building bulk on the adjoining lots, provides for adequate sun and ventilation to open spaces and the adjoining property. Overshadowing is within the acceptable limits for the R20 coding at ~22% of the adjoining lot to the south.

Site works and retaining walls

The proposed excavation is in excess of that permitted under the 'Deemed to Comply' provisions of the R-Codes. The southern side of the site will be excavated to a ground level greater than 500mm to allow for construction of the undercroft. The existing ground level will remain as is, along the northern boundary. A retaining wall (686mm in height) will be built on the southern boundary for a length of approximately 3.5m to retain an area that will form a side access way and stairs.

Therefore this element requires assessment under the 'Design Principles' of the R-Codes which state as follows.

- P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.*
- P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the boundary of the site and the adjoining properties and as viewed from the street.*

The excavation and retaining walls proposed are supported as the height limit applying to the dwelling is not exceeded and the excavation of the site allows the addition to the house to be of a comparable height to the single storey residences in the street. Also, all finished levels will respect existing levels at the lot boundaries and as viewed from the street.

Visual privacy

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

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

The proposed addition does not comply with the 'Deemed to Comply' provisions of the R-Codes for the alfresco (raised outdoor deck) area and kitchen/entry area on the northern boundary and the dining/living area on the southern boundary which are all setback less than the required visual privacy setbacks of 7.5m and 6m respectively. The 'Design Provisions' of 5.4.1 allows for:

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

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

It is considered the proposed design will comply with the Design Principles of Element 5.4.1 Visual Privacy of the R-Codes despite the setback distances prescribed by the R-Codes not being met because of the existing site circumstances on the adjoining lots. The overlooking will be to the roof of an outbuilding on the southern boundary and the outlook to the northern boundary is primarily over the rear of a commercial property. Privacy and overlooking issues are therefore not considered to be a matter of concern. Furthermore, the removal of the existing alfresco area and its repositioning further from the lot boundary is considered to increase amenity and privacy. Screening is therefore not considered required to be imposed as a condition of planning approval.

Roof pitch

The non-compliance with the roof pitch (i.e. ~2° flat roof) is not considered to be an issue in regard to the heritage listing of the property. The flat roof minimises the impact of the bulk of the building and reduces its visual prominence. The site will be partly excavated thereby lowering the overall height of the addition. Minimising the overall height of the extension will result in the finished height of the dwelling sitting more comfortably between the adjoining residential buildings.

Conclusion

Given the comments above the application is recommended for approval. The alterations and additions to the existing heritage dwelling are not considered to detrimentally impact the amenity of the adjoining properties or the heritage values of the Precinct.

- Mr Brent De Pledge (*applicant*) spoke in support of the officer's recommendation and indicated the applicant would consider Council's Wood Encouragement Policy when considering materials for the building works.

11.4 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP030818

Cr M McPhail moved, seconded Cr Harrington

That Council grant development approval and exercise its discretion in regard to the following :

- (i) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a lot boundary setback of less than 4.8 metres from the northern boundary and 5.7 metres on the southern boundary;**
- (ii) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to permit excavation behind a street setback line and within 1 metre of a lot boundary that is greater than 0.5 metres below natural ground level at the boundary;**
- (iii) Clause 5.3.8 - Retaining Walls of the Residential Design Codes of WA to permit a retaining wall greater than 0.5 metres in height and less than 1.0 metre from the boundary;**
- (iv) Clause 5.4.1 – Visual Privacy of the Residential Design Codes of WA to permit a visual privacy setback of less than 7.5 metres for the raised outdoor area and 6.0 metres for the kitchen, dining and living areas from the northern and southern lot boundaries; and**
- (v) Clause 3.7.8.3 - Roof Form and Pitch of the Residential Design Guidelines 2016 to permit a roof pitch and form of less than 28°,**

for alterations and additions to the existing dwelling at No. 17 (Lot 631 and 633) Bedford Street, East Fremantle, in accordance with the plans date stamped received on 16 May 2018, subject to the following conditions:

- (1) If requested by Council within the first two years following installation, the Colourbond roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (2) 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.
- (3) 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 development approval unless otherwise amended by Council.
- (4) 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.
- (5) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (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 to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (i) This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) A copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (iii) It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (iv) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (v) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

(vi) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – “An Installers Guide to Air Conditioner Noise”.

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer’s recommendation, pursuant to Council’s decision regarding delegated decision making made on 17 June 2018 this application deemed determined, on behalf of Council, under delegated authority.

11.5 Woodhouse Road No. 1C (Lot 18) – Demolition and Construction of Three Level Dwelling

Applicant	Altus Planning
File ref	L N Godwin
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Voting requirements	Simple Majority
Documents tabled	Nil
Meeting date	7 August 2018
Attachments	1. Location Plan 2. Photographs 3. Amended plans date stamped received 3 July 2018

Purpose

This report considers a development approval application for demolition of the existing two storey residence and construction of a three level dwelling at 1C Woodhouse Road, East Fremantle.

Executive Summary

The application involves the demolition of a two storey residence with access from Woodhouse Road and its proposed replacement with a three level dwelling with access from Preston Point Road and Woodhouse Road to separate garages. The dwelling would comprise complete living quarters on both the ground and first floor levels. The basement level (accessed from Preston Point Road) comprises a three car garage, reversing bay, gymnasium, bathroom, cellar, store/workshop and lift.

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

- Building height - over height in the west to north west section of the site
- Views - loss of part of the existing views for adjoining and nearby land owners
- Secondary street setback
- Lot boundary setbacks
- Site works
- Retaining walls
- Visual privacy setbacks
- Front fencing
- Surveillance of the street
- Number of crossovers to the lot
- Garage width as a percentage of lot frontage

The variations can be supported with conditions of approval to ensure amenity of the site and area is maintained. Discussions with the applicant/owner and the adjoining land owners most impacted by the proposal have resulted in amended plans which have addressed some of the matters raised in submissions to the satisfaction of the Town. The adjoining land owner who was invited to comment on the amended plans has not objected to the proposal but has made comment in respect to the finish of a parapet wall and roofing materials. It is therefore considered non-compliance with development standards, including building height can be supported as reduction in the height, scale and bulk of the building be have been sufficiently addressed in this circumstance. Conditions of development approval in regard to front fencing, sight lines, surveillance of the street, crossover width, access and egress from the site, external fixtures, parapet walls, pool pump equipment and verge landscaping are recommended.

Background

The existing dwelling, constructed in the 1980s, is to be demolished.

Consultation

Advertising

The proposed application was initially advertised to surrounding land owners from 9 to 29 March 2018. Two (2) submissions were received both objecting to the proposal. The submissions are summarised below in italics. The applicant's response follows.

Submission 1

The overall height of the proposal represents a significant departure from local planning framework without demonstrating a sound basis for doing so. The impacts from the variation are cumulative and ultimately result in an unacceptable loss of quality river views and amenity.

The proposal is incapable of addressing the applicable design principles without modification.

The proposal's disregard for height requirements contributes to a loss of visual amenity, specifically views of significance.

The proposal directly obscures access to river views from both the ground and second floors. Whilst it would be unreasonable to expect ground floor river views to be unobstructed, the variation is modelled to completely obscure river views.

The R-Codes require proposed variations to building height to "create no adverse impact on the amenity of adjoining properties or the streetscape, including road reserves and public open space reserves." The diagrams prepared as part of this objection demonstrate that there is a substantial impact on access to views of significance, which would otherwise be retained by a compliant dwelling design.

The proposal's lack of adherence to the prescribed planning framework fails to meet the planning framework's intent and design principles. It results in an avoidable impact on views of significance and general visual amenity.

The reduced southern boundary setback increases the impact of building bulk on adjoining properties. The development is inconsistent with built form expectations for the area and applicable density code and as outlined in the local planning framework. Whilst a deemed-to-comply design could create a similar impact, the effect of this variation is cumulative with the proposal's north western most height variation.

Request a roof colour is used which reduces reflectivity.

- 1. The proposed development bulk and height is inconsistent with the relevant planning framework. The proposal has failed to demonstrate it is responsive to the site context, specifically the topography and neighbouring dwellings. The application is not supported as proposed.*
- 2. Should the Development Application be approved without modification for the submitted design, it would constitute a decision which significantly departs from the planning framework without the applicant demonstrating, through design, a sound basis for doing so.*
- 3. The opportunity to meet to discuss modifications to the proposal in a collaborative manner is welcomed.*

Applicant response

Height

The height requirement pursuant to Acceptable Development Provision A1.4 of clause 3.7.17.4.1.3 under LPP2.1.1 is 6.5m to the top of the external wall (concealed roof).

The proposed development proposes a maximum wall height of 7.913m at the north-western corner of the western elevation. Notwithstanding this, it is submitted that the proposed dwelling is compatible with the bulk and scale of development seen within the surrounding locality in accordance with the performance criteria under clause 3.7.17.4.1.3 of LPP2.1.1, especially having consideration to the developments at Nos. 74A, 76A & 76B Preston Point Road.

The site also has a significant downward slope from east to west towards the Swan River. This, as well as the views of the neighbouring property at 1B Woodhouse Road, was a significant consideration in the design of the proposed dwelling. The eastern end of the site was restricted to single storey to retain the predominately north-west and south-west views of the neighbouring property, whilst the western end was increased to three storeys.

As one would expect with a contemporary redevelopment, the proposed development is of a larger scale than what is currently existing, however, the overall height of the new dwelling, as shown on the diagram below, is only marginally higher than what exists on-site at the moment.

As identified above, it is also noted that the major openings of the neighbouring dwelling to the east are actually orientated north-west and south-west and not directly west over the subject site (refer to images below). It is submitted that the future views of the river will remain as the neighbouring dwelling (1B Woodhouse Rd) does not face true west and accordingly, direct views are not impeded.

Based on the above, it is considered that the proposed maximum wall height of 7.913m can be supported having regard to the performance criteria under clause 3.7.17.4.1.3 of LPP2.1.1 and noting that the proposed development will not be impeding any direct views of the neighbouring property at 1B Woodhouse Road.

Southern Setback

The setback to the southern boundary is compliant as outlined in the planning justification lodged as part of the application.

As the wall height for the ground floor is 3.257m and the upper floor is 3.0m, the proposed setback of 2.0m complies pursuant to Table 2b of the R-Codes. Furthermore, the minor projection at the eastern end of the upper floor has no major openings and is approximately 8.3m in length. This is also considered to comply with Table 2a of the R-Codes.

Roof Reflectivity

This can be taken into consideration and dealt with at building stage.

Rear Setback

It is acknowledged that there is no specific rear setback to the eastern boundary in lieu of the 1m setback required in accordance with Table 2a of the R-Codes. The boundary wall is therefore assessed against the relevant 'Design Principles' of clause 5.1.3 of the R-Codes.

Given the variance in the natural ground level (NGL) from 1B Woodhouse Road and the subject land, it is submitted that the garage wall will not protrude above the fence line of the neighbouring property to

the east and therefore would not adversely impact the neighbouring properties view or amenity. Furthermore, the proposed boundary wall will not impact on any direct sun light to major openings or habitable rooms at the adjoining residence. Based on the above it is considered that the variation to the setback can be allowed in accordance with the design principles.

Submission 2

1. *Concerns regarding the increased height of the development compared to the current.*
2. *Additional height as currently planned will obstruct views in a northerly direction.*
3. *Impacts on parking availability on Preston Point Road if development goes ahead in its current form.*

Applicant response

Point 1.

It is understood that the above submission is from a property four lots south of the subject land and is also setback approximately 70m from Preston Point Road.

The height requirement pursuant to Acceptable Development Provision A1.4 of clause 3.7.17.4.1.3 under LPP2.1.1 is 6.5m to the top of the external wall (concealed roof).

The proposed development proposes a maximum wall height of 7.913m at the north-western corner of the western elevation. Notwithstanding this, it is submitted that the proposed dwelling is compatible with the bulk and scale of development seen within the surrounding locality in accordance with the performance criteria under clause 3.7.17.4.1.3 of LPP2.1.1, especially having consideration to the developments at Nos. 74A, 76A & 76B Preston Point Road.

As one would expect with a contemporary redevelopment, the proposed development is of a larger scale than what is currently existing, however, the overall height of the new dwelling, as shown on the diagram below, is only marginally higher than what exists on-site at the moment.

Based on the above, it is considered that the proposed maximum wall height of 7.913m can be supported having regard to the performance criteria under clause 3.7.17.4.1.3 of LPP2.1.1.

Point 2.

It is not considered that the proposed development will substantially impede on the views of No. 74A Preston Point Road much more than the existing dwelling. Furthermore, given the difference in natural ground level between the subject land and No. 74A Preston Point Road provided by the sloping land, it is considered any obstruction of northern views would be negligible.

Point 3.

It is submitted that the proposed development will not have any undue impact on the parking availability along Preston Point Road. The proposed dwelling offers sufficient garage space for any visitors, with additional parking available on the driveways if required.

Additional consultation

The applicant initially indicated further thought would be given to the issues identified in the submissions and an attempt would be made to discuss the issues with the adjoining owner most impacted at 1B Woodhouse Road. Due to the personal circumstances of these land owners the meeting did not eventuate for several months. The outcome of the meeting between the two owners was

conveyed to the Town in an email dated 1 June 2018 from the adjoining land owner at 1B Woodhouse Road and stated as follows:

"We recognise the design scheme you seek whilst non-compliant with the planning framework with respect to building height, it ultimately preserves access to other views, it is for this reason we are able to support your proposal and withdraw the standing objection subject to two minor changes.

- 1) The roof colour be modified to be finished in 'Colourbond Shale Grey' to reduce reflectivity and glare.*
- 2) The external finish of the on boundary wall as it faces 1B Woodhouse, and is not adjoined by a retaining wall is to be finished in a Basic 'bag wash render' and painted in 'Colourbond Monument' or similar charcoal colour.*

Please confirm in writing to all addressed in this communication that you can accommodate these minor features in the design. Your approval will result in our conditional support of your proposal standing currently with the Town of East Fremantle."

Notwithstanding, the above comments the Town still has significant concerns with the non-compliance with building height, the amount of fill on a portion of the site and the overall scale and bulk of the dwelling.

Amended plans

As a result of submissions and Officer concerns, primarily with the height and scale of the proposal, but also with vehicle safety and access from Preston Point Road, the applicant submitted amended plans. The amended plans did not satisfactorily address the scale and height of the building so the Officer's report recommended approval of the application subject to the overall height of the building being reduced and the western section of the Level 1 clerestory windows being deleted. This would have had the effect of reducing the height and bulk of the building from all perspectives and decreasing the view obstruction for the owners of 1B Woodhouse Road. The Officer's report, however, was withdrawn from the Town Planning Committee agenda at the applicant's request so that discussions regarding amendments to the plans could occur.

Further amended plans (the subject of this report - date stamped received 4 July 2018) were then submitted which indicated a reduction in the overall building height of all levels of the dwelling by 250mm and the repositioning of the building closer to the eastern boundary of the site. These plans were advertised to the adjoining land owner at 1B Woodhouse Road from 5 to 20 July 2018. The land owner has responded and has not indicated any objection to the amended plans subject to Council imposing conditions which would reduce reflectivity of the roofing materials and ensure a particular finish to the parapet wall on the eastern boundary.

The submission by the land owner several lots further south on Preston Point Road in respect to the original plans (Submission 2 above) concerned losing views to the north toward the river. These views were over the rooftops of dwellings to the north. It is considered the reduction in the overall height of the building will result in less obstruction to those views from that property.

Community Design Advisory Committee (CDAC)

This application was referred to the CDAC meeting of Monday 5 February 2018. The only comment made by the Committee queried the need to demolish the existing dwelling.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

Town of East Fremantle Local Planning Scheme No. 3

Western Power – Restriction Zone – high voltage overhead power lines

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016

Financial Implications

Nil.

Strategic Implications

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

Built Environment

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

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

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

3.1.2 *Plan for a mix of inclusive diversified housing options.*

3.2 *Maintaining and enhancing the Town's character.*

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

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

3.3.1 *Continue to improve asset management practices.*

3.3.2 *Optimal management of assets within resource capabilities.*

3.3.3 *Plan and advocate for improved access and connectivity.*

Natural Environment

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

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

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

4.1.2 *Plan for improved streetscapes parks and reserves.*

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

4.2.1 *Reduce waste through sustainable waste management practices.*

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

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

Site Inspection

May 2018

Comment

LPS 3 Zoning: Residential R17.5

Note: the lot adjoins LPS No. 3 Local Scheme Reserve – Open Space

Site area: 1,037m²

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6.0m	7.756m (min) Setbacks vary between levels (achieves R-Code requirements)	A
Secondary Street Setback (Woodhouse Rd is a gazetted road)	1.5m	1.3m (min)	D
Lot Boundary Setback	North – 1.5m North – 3.0m South – 2.4m East – 1.0m (garage) East – 1.5m (dwelling)	North - 1.3m North – 1.3m South – 2.2m East – Nil (garage) East – 4.3m - 8.1m (dwelling)	D
Open Space	50%	51.1% (applicant's calculations)	A
Outdoor Living	36 ² m	≥36m ²	A
Car Parking	2	5	A
Site Works	Excavation or fill behind a street setback line: <ul style="list-style-type: none"> • Within 3m of front boundary • limited by compliance with building height limits and setbacks • within 1.0m of lot boundary 	Greater than 500mm ~2.5m – 2.8m fill and ~4.0m excavation	D
Retaining Walls	Retaining walls set back from lot boundaries in accordance with Table 1 – 1.0 Retaining walls up to or within 1.0 metre of a lot boundary for landscaping - <0.5m high	Nil and greater than 0.5m	D
Visual privacy setback floor level >500mm above NGL)	7.5m <ul style="list-style-type: none"> • (balcony – south boundary) • (balcony – north boundary) 4.5m (master bedroom)	6.9m 5.1m 4.4m	D
Overshadowing	25%	14.48%	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	D
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	D
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A

3.7.10 Landscaping	D
3.7.11 Front Fences	D
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	D
3.7.18.3 Garages, Carports and Outbuildings (Preston Point Road frontage)	D
3.7.15-20 Precinct Requirements	D

Building Height Requirement	Required	Proposed	Status
Building Height (RDG) (top of an external wall concealed roof)	6.5m	<ul style="list-style-type: none"> ▪ Central roof section: 6.15m (E); 6.95m (middle); 7.4m(W) ▪ Preston Point Rd – 6.35m - 7.42m ▪ Eastern (parapet wall on boundary) – 4.3m ▪ Eastern – 4.3m ▪ Northern – 4.3m – 7.42m ▪ Southern – 4.3m – 6.9m 	D (Non-compliant sections of the dwelling)

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

Street Front Setback – Secondary Street – Woodhouse Road

The western end of Woodhouse Road is a gazetted road that abuts a Local Scheme Reserve for Open Space. This part of the road reserve is not constructed. As it is classified as a road reserve it is assessed, in this case, as a secondary street frontage. The non-compliance is marginal (required 1.5m; proposed 1.3m minimum) and can be supported as the dwelling is setback a greater distance for the central section of the northern elevation (i.e. 8.6m). This lessens the visual impact and bulk of the building on the open space (bushland) reserve to the north. However, the scale and bulk of the building is considered to be detrimental to the area without appropriate conditions. Assessment of the setback is considered relevant in regard to the wider area amenity and the impact of the dwelling on the bushland and streetscape. If this frontage is assessed under the lot boundary setbacks the dwelling is non-compliant for some wall sections and this is discussed in the next section of the report.

Lot boundary setbacks

The lot boundary setbacks of the dwelling are not fully compliant with the R-Codes as outlined in the above table. Assessment of the setbacks is complicated due the varying non-compliant height of the walls on a sloping site and the length of the walls with various indented sections either with, or without major openings. When sections of the walls are assessed separately the setback requirements are generally achieved. Where there is non-compliance it is because the setback required for the full length of the wall is not achieved. The impact on the amenity of the adjoining owners to the south from the point of building bulk or overlooking/privacy matters is not significant, however, in regard to the presentation to the street (Preston Point Road), the building will present as a significant building with scale and bulk. However, it should be kept in mind that in this location the setback of a dwelling can impact on a view corridor. In this case a slight reduction in the setback for a building that is over height can obstruct a view of significance and in this case the section of non-compliance is in an area where the dwelling is over height so it could be argued that it will result in an impact on views.

The following is a summary of the applicant's argument in support of reduced lot boundary setbacks:

Southern boundary

The required setback in accordance with the R-Codes is 2.4 metres and the setback provided is 2.2 metres. The setback must then be assessed against the 'Design principles' under clause 5.1.3 of the R-Codes. It is considered that the revised setback meets the relevant 'Design principles' as follows:

- There will be no over-looking to the neighbour's property to the south due to the obscure glazing on the windows and/or the window height being above 1.6 metres.
- The building bulk is considered to be in line with similar developments within the locality.
- The raised level of the lot reduces the scale and bulk of the building.
- Due to the narrowness of the adjoining lot to the south and the east-west orientation, it is submitted that regardless of the size of the development at the subject site the neighbouring property will be subjected to some overshadowing.

Northern boundary

The alfresco area that abuts the TV room to the west and which is also located on the ground floor is to be set back in accordance with the R-Codes as it is an outdoor living area. An unenclosed outdoor active habitable space must be setback 7.5 metres from the lot boundary. Notwithstanding this, as the bushland north of the subject site is not residential it is not considered that this setback is relevant. Furthermore, screening to a height of 1.6 metres is provided, limiting overlooking to the reserved land to the north. The remainder of the balcony on the ground floor is setback 5.1 metres from the northern boundary and is also considered acceptable given that there is no residential land abutting the site to the north. These reduced setbacks again add to the scale of the building.

The games room and ensuite on the first floor of the northern elevation requires a setback of 3.0 metres making the setback at 1.3 metres non-compliant. The pool area and surrounds is similarly setback 1.3 metres from the northern boundary with the eastern half being screened to a height of 1.6 metres by the boundary fence. Notwithstanding that the setback to the games room and ensuite and the pool area does not comply with the required setbacks under the R-Codes, it is reiterated that the northern adjoining land is bushland. It is therefore considered that the reduced setback on the northern boundary will not have any adverse impact on the amenity of the area or the adjoining land to the north. However, it could have an impact on views if the building is constructed over height.

Eastern boundary

The garage is proposed to be constructed up to the lot boundary rather than set back 1.0 metre as required under the R-Codes. This is not considered an issue for the adjoining land owner as the height of the garage wall will not impact views from the property to the east and is below their line of sight. It is noted that whilst the setback is not significant it does add to the overall impact of scale and bulk. It is considered important that the finish of the wall is to a high standard, as viewed from the abutting site, so a condition in regard to parapet walls is recommended to be applied. This will address the matter raised in the submission. All other sections of the dwelling along this eastern boundary will comply with the required setbacks under the R-Codes.

Site works and retaining walls

Site works

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

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

Both excavation and fill on the lot are required to facilitate construction of a three level dwelling. In the eastern section of the site, the fill is in excess of the 'Deemed to Comply' provisions, that is, greater than 500mm above natural ground level. The ground level is proposed to be increased by slightly less than 3.0 metres. This will raise the level at the rear of the lot enabling easier access to the proposed first level entry and the Woodhouse Road garage and overcoming the steep main entry access to the

property. This is now considered acceptable in that the overall height of the building as it extends over the western and north western section of the lot has been reduced in height.

This level of fill is considered to satisfy the 'Design Principles' of the R-Code. The R-Codes state as follows in respect to the 'Design Principles'.

- "P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.*
- P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the boundary of the site and the adjoining properties and as viewed from the street."*

The non-compliance with maximum fill through the eastern third of the site contributes to the portion of the building that is over height at the western end. However, the height of the building has now been reduced, so to a certain degree, the negative impact on the amenity of the property to the east is reduced. This combined with excavation on the lot (i.e. to ~4m), required to construct a large basement garage, amenities and the ground floor, also reduces the height of the dwelling through the central and western section of the site. The 'Design Principles' of the R-Codes are therefore considered satisfied in that levels at the boundary of the site and the adjoining properties are not substantially changed, having already been established through the development of those sloping sites.

Retaining walls

Proposed retaining walls on this site do not comply with the R-Code requirements as outlined in the above table. Various retaining walls across the site are closer than 1.0 metre to the lot boundary and greater than 0.5 metres in height so land can be retained for side access pathways, stairs and outdoor entertaining areas. This is considered to meet the 'Design Principles' of the R-Codes in that the walls are for the purpose of benefitting the residents and do not detrimentally impact on adjoining properties. However, they do increase the overall bulk as experienced from the Woodhouse Road reserve.

The non-compliance with retaining walls is therefore considered to meet the 'Design Principles' of the R-Codes in that the finished levels will respect the natural ground level at the boundaries of the site and as viewed from the street and is therefore supported.

Overall building height – concealed roof

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

Where views are an important part of the amenity of the area and neighbours' existing views are to be affected the maximum building heights are as follows:

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

The amended plans do not fully comply with the height limit as demonstrated in the above table, however, overall the height of the dwelling has been reduced by 250mm (from that indicated in previous revisions of the plans). The building will also be positioned further back on the lot toward the eastern boundary, increasing the setback from Preston Point Road by slightly more than 1.0 metre so that it is fully compliant with the street front setback. The result being that a smaller portion of the building will exceed the 6.5 metre height limit plane than initially proposed. The amended plans also indicate a less impeded viewing corridor to the river over the rooftop of the dwelling (Drawing No. 7). This should assist in maintaining some views of the water from neighbouring properties. The amended plans are therefore considered to be more in keeping with the intent of the Residential Development Guidelines in that the bulk and scale of the building is more of a compatible form and should not reduce amenity where views from those lots are an important part of that amenity.

In respect to non-compliance with the 'Acceptable development provisions' and the 'Performance criteria' the following points are made:

Bulk and Scale of Dwelling

The proposed dwelling does not sit entirely within the 'building envelope' as determined by the R-Codes and the Residential Design Guidelines. That is, the street and lot boundary setbacks do not fully comply, however ~51% open space is achieved (50% required) and following submission of amended plans, a greater proportion of the dwelling complies with the height limit;

Loss of Views

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

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

The amended plans are considered to satisfy Points (i) and (ii) in this instance. Whilst the dwelling is unquestionably a very large residence, comprising what is effectively two fully self-contained separate dwellings on each level and a basement, the revised design can be supported. It has addressed the concerns of the adjoining land owner and given the specific site circumstances, the scale and bulk of the development has been reduced. The floor space of the dwelling, positioned to the rear and in the central portion of the site, is the most likely section to impact views being closer to the 1B Woodhouse Road residence. This portion of the dwelling is within the height limit plane.

As noted there have been two submissions, from adjacent and nearby land owners, commenting on loss of an aspect of their view. The views impacted are westward and north westward to the river and ocean. It is estimated from the elevations and the overlay of the existing dwelling with the proposed dwelling, that views will be impacted. The Residential Design Guidelines 'Acceptable Development Provisions' take views into account in the overall assessment of the application as stated above in Clause 3.7.17.4.1.3.

Each application needs to be assessed on its merits and in respect to the current residential development policy. The provision in the Residential Design Guidelines which addresses the issue of

views specifically states that where views are to be affected then the issue of building height is a consideration. Compliance with the heights is required but an additional 'Acceptable development provision' is that the development proposal must demonstrate design, bulk and scale that responds to adjacent development and the established character of the area. The scale and bulk of this development will be greater than that of surrounding dwellings, however, the reduction in the height of the building and the repositioning of the building toward the rear of the lot has lessened its bulk and scale impact on Preston Point Road and the adjoining open space reserve. The impact on views of the adjoining owners at 1B Woodhouse Road has been reduced to a point where the adjoining owner has not raised objection.

In conclusion, the applicant has made an attempt to address the issues related to non-compliance with the R-Codes and the Residential Design Guidelines, including reducing the non-compliance with building height and the obstruction of views noted by the adjoining owners. The non-compliance with building height is therefore supported.

Visual privacy

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

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

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

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

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

The two balcony sections and master bedroom non-compliance as noted in the table above is marginal in terms of distance. Due to the location of the balcony and the bedroom window in relation to the position of the dwelling to the south which is toward the rear of that lot, any overlooking of the nearest residential dwelling would be over the setback area and road verge. The remainder of the balcony on the ground floor is setback 5.1m from the northern boundary and is also considered acceptable given that there is no residential land abutting the site to the north.

The visual privacy issue related to the section of the first level balcony that extended past the western wall of the main bedroom has been removed as part of the balcony. The applicant has explained the ledge will remain as part of the development, however, the balustrade will stop in line with the northern wall of the main bedroom, eliminating any view from the balcony over the neighbouring property to the south. The ledge will need to remain as it forms part of the ceiling of the main bedroom

on the ground floor. As such the variations from the R-Code provision is in both cases is considered acceptable.

Front fencing

Compliance with front fencing as per the Residential Design Guidelines is considered important in respect to both street frontages from a streetscape perspective and surveillance of the street. It is noted the front fences to both street frontages do not strictly comply with the Residential Design Guidelines.

Preston Point Road

The site slopes upwards away from the front boundary and is raised a number of metres above the footpath level. It is important that a front fence not appear to add to building bulk and screen the entry to the dwelling by creating a large blank wall across the width of the site. The plans do not clearly indicate the intention with regard to front fencing so it is therefore recommended a condition of planning approval be imposed which stipulates that fencing must be in compliance with the Residential Design Guidelines for the Preston Point Road frontage. If it does not comply a further development application for front fencing will be required.

Woodhouse Road

Fencing on the Woodhouse Road frontage is indicated as a high solid front wall (~1.8 metres high) with permeable sliding gate. This solid wall continues along the length of the northern boundary and at points is greater than 3.0 metres in height. It is considered this wall should also remain open to the street frontage so that the proposal complies with clause 5.2.3 of the R-Codes in respect to street surveillance. It is therefore recommended that a condition of development approval be imposed which requires that the first 18.0 metres of fencing comply with the front fences provision of the Residential Design Guidelines. This will ensure the frontage of the house is visible from the street. The scale and height of this blank brick wall is substantial for almost the full length of the lot. As it abuts an area of public open space and a walkway connecting Woodhouse Road to Preston Point Road it may be subject to vandalism and graffiti. It is therefore recommended that a condition of approval which requires an anti-graffiti treatment be applied so that the wall is easily cleaned if required and does not become an eyesore which is visible from a public place.

Garage width

The width of the garage as it fronts Preston Point Road is 12.5 metres, which equates to 50.8% of the width of the lot frontage. This is not compliant with the Residential Design Guidelines which requires that the garage width not exceed 30% of the lot frontage. Timber feature panelling has been proposed for part of the garage wall fronting the street and the garage door and this treatment improves the appearance of the garage and basement level as it is viewed from the Preston Point Road. The additional width in this circumstance is considered supportable as the balcony and windows above the garage level reduce the visual dominance of the large garage and blank façade. There are also other openings and an entry to the dwelling on this level which also detract from the width of the garage. The non-compliance with the garage width provision is therefore supportable.

Number of crossovers

The proposed development is proposing two crossovers, one being to Woodhouse Road and the other to Preston Point Road. Notwithstanding the provision of the Residential Design Guidelines which restricts lots to one crossover, two crossovers to the lot are supported on the basis that the crossovers are from two roads and two frontages and on the proviso that both do not exceed the width requirement of the Guidelines.

The width of the crossover to Preston Point Road has been reduced to 5.0 metres in amended plans, however, the width of the crossover on Woodhouse Road is indicated as being greater than 5.0 metres and this will also be required to be reduced to 5.0 metres to comply with Council Policy. This is stipulated as a recommended condition of development approval.

Sight lines, street trees and verge vegetation

In order to provide sight lines to Australian Standards for the crossover to Preston Point Road the Operations Manager has advised that the entire verge will need to be cleared of vegetation above a height of 750mm. In effect this will result in loss of a large tree and other significant shrubs. The applicant is therefore required to replace the vegetation and as such a landscaping plan for the verge will be required to be submitted. The amendments to the plans to address the concerns about the grade of the crossover from the road to the boundary and the line of sight as you exit onto Preston Point Road were addressed in amendments to the plans but at the cost of the mature vegetation that currently exists on the verge needing to be removed. To substitute the existing vegetation with low growing shrubs is not acceptable to the Town. A financial contribution to the Town's tree planting program to provide for 3 x 150L trees to be planted within our Parks and Reserves is therefore recommended. This will be imposed as a condition of planning approval.

Conclusion

Preston Point Road and the Richmond Hill Precinct comprises dwellings of various scales and built forms. Many are two storey and comprise large family homes. Properties in the area are characterised by the dwellings oriented to obtain river, port and ocean views. The proposed dwelling does not comply with a number of provisions of the R-Codes and the Residential Design Guidelines. The variations are supportable following the submission of amended plans which indicate the proposed dwelling will be reduced in height and repositioned further to the rear of the lot. This results in a building which has less visual impact on Preston Point Road and on the views from surrounding properties. Furthermore, the most impacted land owner in respect to views and building bulk has not raised objection to the amended proposal. Other concerns expressed in the adjoining land owners' submissions and by the Town's Officers have been addressed through conditions of development approval.

Development conditions in respect to front fencing, sight lines, surveillance of the street, crossover width, access and egress from the site, external fixtures, parapet walls, pool pump equipment and verge landscaping are recommended to ensure the proposal complies with the requirements of the R-Codes and the Residential Design Guidelines.

- Mr Joe Algeri (*applicant*) spoke in support of the officer's recommendation and thanked Mr Malone and Ms Catchpole for their work.

The Officer's Recommendation was supported with a minor typographical error to Condition (14), amending to read '*8 metres of fencing*'.

11.5 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP040818

Cr M McPhail moved, seconded Cr Natale

That Council grant development approval and exercise discretion in regard to the following:

- Clause 5.1.2 – Street Setback of the Residential Design Codes of WA to permit a secondary street setback of less than 1.5 metres;**
- Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit a lot boundary setback of less than 1.0 metre for the eastern boundary and 2.4 metres for the southern lot boundary;**

- (iii) Clause 5.3.7 – Site Works of the Residential Design Codes of WA to allow excavation and fill greater than 0.5 metres behind a street setback line and within 1.0 metre of a lot boundary;
- (iv) Clause 5.3.8 – Retaining Walls of the Residential Design Codes of WA to permit a retaining wall greater than 0.5 metres in height less than 1.0 metre from the lot boundaries;
- (v) Clause 5.4.1 – Visual Privacy of the Residential Design Codes of WA to permit a visual privacy setback of less than 7.5 metres and 4.5 metres respectively for balconies and the master bedroom from the northern and southern side boundaries;
- (vi) Clause 3.7.14 Footpaths and Crossovers of the Residential Design Guidelines 2016 to allow more than one crossover per lot;
- (vii) Clause 3.7.15.3.2 – Garages, Carports and Outbuildings of the Residential Design Guidelines to allow the width of the garage to exceed 30% of the lot frontage; and
- (viii) Clause 3.7.17.4.1.3 – Building Height, Form, Scale and Bulk of the Residential Design Guidelines to allow the top of an external wall (concealed roof) to exceed 6.5 metres in height,

for the construction of a three level dwelling at No. 1C (Lot 18) Woodhouse Road, East Fremantle, in accordance with the plans date stamped received on 3 July 2018, subject to the following conditions:

- (1) The 'Relative Levels' (RL) indicated for the dwelling on the plans date stamped received 3 July 2018 to be indicated on the Building Permit application plans.
- (2) The roof colour of the dwelling to be modified to be finished in 'Colourbond – Shale Grey' to reduce reflectivity and glare to the satisfaction of the Chief Executive Officer. The details to be indicated on the Building Permit application plans.
- (3) The external finish of any boundary wall facing 1B Woodhouse Road, not adjoined by a retaining wall, is to be finished in a basic 'bag wash render' and painted in 'Colourbond – Monument' or similar colour, to the satisfaction of the Chief Executive Officer. The details to be indicated on the Building Permit application plans.
- (4) No external fixtures, fittings, masts, satellite dishes, telecommunication devices, solar collectors, solar hot water systems or appliances, roof terraces, shade structures, vegetation or the like to be installed on the roof of the dwelling or garage without further Council approval.
- (5) Obscure glazing being installed for openings on the southern elevation as indicated on the plans date stamped received 3 July 2018.
- (6) All vehicles being able to exit the garages and crossovers on Preston Point Road and Woodhouse Road in a forward direction. This is to be demonstrated to the satisfaction of the Chief Executive Officer on the plans submitted with the Building Permit application.
- (7) Sight lines at the vehicle entry to the lot on Preston Point Road and Woodhouse Road being provided to Australian Standards and indicated on the Building Permit application plans to the satisfaction of the Chief Executive Officer.
- (8) The crossover width not to exceed 5.0 metres for all crossovers to the lot and to be in accordance with Council's crossover policy as set out in the Residential Design Guidelines 2016 (as amended) for the Preston Point Road and Woodhouse Road frontages.
- (9) The construction of the crossover and driveway to Preston Point Road at a gradient which is to the satisfaction of the Town's Operations Manager and indicated on plans submitted with the Building Permit application.
- (10) In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
- (11) A landscaping plan for the road reserve verge on Preston Point Road to be approved by the Chief Executive Officer prior to the submission of a Building Permit application.

- (12) A street tree(s) and/or other vegetation and/or a monetary contribution in lieu of the street trees (i.e. a financial contribution to the Town's tree planting program to provide for 3 x 150L trees to be planted within the Town's Parks and Reserves) as determined by the Operations Manager and to be provided by the applicant at the applicant's cost (refer to footnote (i) below) prior to the issue of a Building Permit application.
- (13) All fencing within the street setback area on the Preston Point Road frontage to be in compliance with the front fence provisions of the Residential Design Guidelines 2016. The details to be to the satisfaction of the Chief Executive Officer and indicated on the Building Permit application plans.
- (14) The first 8 metres of fencing from the eastern boundary on the Woodhouse Road frontage to be in compliance with the front fence provisions of the Residential Design Guidelines 2016. The details of the fencing to be to the satisfaction of the Chief Executive Officer and indicated on the Building Permit application plans.
- (15) Anti-graffiti treatment to be applied to the northern side of the boundary wall on the northern elevation to the satisfaction of the Chief Executive Officer. Relevant Officers of the Town to be contacted prior to the treatment being applied to the wall to provide details of when the treatment is to be applied on-site.
- (16) The development approval is for a single residential dwelling only and the dwelling is not to be used for the purposes of a home occupation, ancillary dwelling, short term or bed and breakfast accommodation.
- (17) Pool filter and pump equipment is not to be located on the eastern boundary of the lot and is to be located a minimum distance of 1.0 metre away from all other boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
- (18) 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.
- (19) The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (20) 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.
- (21) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (22) 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.
- (23) 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.
- (24) This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (i) In regard to condition 12 (purchase of street trees) the applicant is to contact the Town's Operations Manager prior to the submission of a building permit application for instruction in regard to payment for the purchase of street trees. It should be noted the manner in which the vegetation to be removed from the Preston Point Road verge is to be replaced or compensated for is at the discretion of the Operations Manager.***
- (ii) This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (iii) 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.***
- (iv) 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.***
- (v) 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.***
- (vii) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise".***

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 June 2018 this application deemed determined, on behalf of Council, under delegated authority.

11.6 Preston Point Road, No. 65C (Lot 9) – Construction of Three Level Dwelling on Vacant Lot

Applicant	Arktek Design
Landowner	K Keyhan
File ref	P/PPT65C; P012/18
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Voting requirements	Simple Majority
Meeting date	7 August 2018
Documents tabled	Nil
Attachments	1. Site Plan 2. Photographs 3. Plans dated 30 July 2018

Purpose

This report considers an application for development approval for the construction of a three level dwelling at No. 65C (Lot 9) Preston Point Road, East Fremantle.

Executive Summary

The application involves the construction of a three level dwelling on vacant land. The site is a rear battle-axe lot which is one of four lots subdivided at a density of R30. This lot is located in the north western corner of the parent lot and is 292m².

Access to a double garage is at the end of the battle-axe driveway. The first two levels of the dwelling will comprise fully self-contained living quarters on each level. The third level comprises a rooftop loft (single room) and open air rooftop terrace.

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

- Lot boundary Setbacks: reduced setbacks proposed to all boundaries with the exception of the western boundary;
- Visual Privacy: reduced visual privacy setbacks;
- Site works: fill exceeds 500mm;
- Building Height, Form, Scale and Bulk: exceeds building height limits;
- Views; and
- Vehicular access – driveways shall be no closer than 0.5 metres from a side lot boundary.

It is considered the non-compliance with the visual privacy setbacks cannot be supported and conditions requiring compliance with these setbacks is considered necessary to address the concerns of adjoining land owners. Other variations are considered supportable subject to conditions of development approval in regard to building height, sight lines, external fixtures, parapet walls and other general amenity issues.

Background

Zoning: Residential 30
Land area: 292m²

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

December 2015: Council granted planning approval for a new two storey dwelling at 65D Preston Point Road. This lot is immediately adjacent to the subject site and has planning and building approval for a three level dwelling which includes a roof terrace. Development of the

two remaining vacant lots in this subdivision has not commenced, however, planning approval has been granted.

Consultation

Advertising

The application was initially advertised to surrounding land owners from 22 February to 9 March 2018. Eight (8) submissions were received all objecting to the proposal mainly on the basis of the dwelling exceeding the building height limit (impact of scale and bulk on surrounding properties and obstructing views). Privacy and overlooking were also noted as areas of concern.

Following discussion of the issues raised in the submissions with the applicant and owner amended plans were submitted and a second round of advertising was undertaken from 11 to 25 June 2018. Four (4) submissions were received and are noted below. The response from the applicant is noted in italics following each submission.

Submission 1

It has been noted the building height has been lowered to the regulated 8.1 metres height limit and also note that a portion of the roof apex remains above this limit.

With a sloping site it is difficult to have the entire roof under the height limit. The point of the height limit is to reduce possibility of views being blocked by new development. It is our opinion that no views will be blocked by the small percentage of roof that is currently over height.

We still have reservations as to the social impact of the roof terrace and the possibility of the installation of temporary/permanent structures.

There cannot be any installation of structures on the terrace without planning approval. The proposed design is for a couple with one child and their elderly parents. There are a lot of properties in the local area with elevated outdoor terraces large enough to host large numbers of people, with these spaces i.e. terraces at 36 Riverside Road and a new development at 33 Riverside Road – all have potential to host parties, but this does not mean this will happen, complaining about the social impact of a new outdoor area is speculation.

Submission 2

We strongly object to the plans as proposed. It is an over development of the site that fails to meet principles of proper planning and the LPS.

Prior to this proposal going to CDAC etc. we consider it is critical that we are informed by a detailed report setting out the variations being sought – we will take planning/legal advice and revert in a format that can become part of the process.

The design is seeking variations on setbacks, height, overlooking and overshadowing, possibly site coverage.

A significant imposition on our amenity. The use of our swimming pool and deck will be compromised by having 3 levels of direct overlooking.

- (1) We are a little confused by the plans, it seems a 3 bedroom house on the ground floor and a 3 bedroom house on the upper floor. –

The design is a single 5-bedroom home with a study for the client and his elderly parents whom he is the primary carer. While the complainant may have other views depending on their interpretation of the plans, it would be crucial for the planning committee to consider the needs of the family that owns the block as well.

- (2) 2 houses on 1 lot – does this concept comply with the zoning of the site. –

It is not 2 houses please refer to above point 1.

- (3) The west facing elevation is all glass with very little articulation, far too bulky. –

The complainant is complaining about elements for the built structure that he will not be able to view from his property.

- (4) When the living and dining room sliding doors are open (on either level) the space will be like a covered terrace – requiring a 7.5m setback.

Opening doors to an internal space does not change the use of the space. There is also no possibility of overlooking from these spaces due to the topography of the land. With a screen over the wall on the boundary which is already 2.1m high and the property at Riverside Road being 5m lower than 65C and D Preston Point Road, it is physically impossible for a person to look down into the pool and deck at Riverside Road. The point of the setbacks in the R-Codes is to prevent overlooking into another property's outdoor living areas and other habitable spaces. Where this is not physically possible there is no need to enforce minimum setbacks if there is no adverse impact on adjoining properties.

- (5) The roof terrace seeks variations for overlooking on all sides – a very large space, we do not support the variations.

There are no overlooking issues, the terrace has been setback where necessary to avoid overlooking at 36 and 37 Riverside Road. This setback obscures any possible visual lines to both properties.

Submission 3

- (1) The overall building presentation and visual appearance is inconsistent with the area and other properties adjacent and will lower the appeal and value of the locality.

This is a matter of opinion. There will be three buildings on the site at 65 Preston Point Road and all will be different in their own right. Apart from 63 Preston Point Road all developments in the immediate locality are different in their visual appearance. How is the appeal of an area valued?

- (2) From the plans it appears that the loft will exceed the height of roof apex of the adjacent 65D by 3 metres, the central pergola by some 2 metres and the solid wall by 1.6 metres. It should be clearly noted that the roof apex of 65D is already significantly in excess of maximum building heights.

While the roof of the loft is higher than 65D Preston Point Road the roof terrace is at the same height. The 1.6 high solid wall is acting as a privacy screen between the two houses and is the same height as the proposed privacy screen at 65D. Based on the floor level of the neighbouring properties the increased height of 65C will not impact any views from the neighbouring properties.

- (3) These over height structures will severely negatively affect the views and viewing channels of our and several other dwellings in the 63 Preston Point Road strata development.

Properties at 63 Preston Point will not be impacted by the development at 65C as they do not have viewing channels to the river over 65C. They views to the river are directly over the sewer easement at 65D also over 34, 35 and 36 Riverside Road.

- (4) Multiple views from the eastern side of Preston Point Road and Fraser Street will also be negatively impacted as their viewing channels are blocked.

65C Preston Point Road has a finished floor level of 13.786 while 65A is at 16.680 which is 2.894m higher than 65C. 65A will still enjoy views over 65C and between 65 and 67 Preston Point. All properties on Fraser Street are also higher than 65 with view channels over Gourley Park for

properties north of Fraser Street and between 63 Preston Point Road and 65D Preston Point Road for properties south of Fraser Street.

- (5) The use of shade structures, trees and outdoor furniture and appliances will further increase the height of the eastern section of the dwelling and all deployment or use of such items should be forbidden.

It is our understanding that the use of such structures in an area with height sensitivities would require prior planning approval, as this is not the case at this point we cannot comment on what the complainant views as possibilities of future non-compliance with planning policy. We believe the Town has the right to request any such items be removed if installed without approval.

- (6) The use of lighting on the rooftop terrace will shine directly into our main bedroom at night from above the level of 65D and our property will be directly impacted by any noise from the residents using the roof top terrace.

The roof terrace at 65C does not exceed the roof level at 65D. The orientation of the two properties will make it hard for lights to affect the living spaces at number 65D. Noise can come from any property along the road. The roof terrace does not increase the possibility of noise from social gatherings.

We would request that the East Fremantle Town Planning Committee reject this planning application and that a requirement be placed such that no structure or temporary item should have a height greater than the current over height apex of the roof of the dwelling approved for 65D.

This would be an assumption that the owners of 65D are the only owners in East Fremantle that have the right and privilege of being able to develop their property as they wish and they can enforce their property as the benchmark for all developments. The Planning Committee has a responsibility to all residents including the owners of 65C Preston Point Road.

Also that restrictions on noise and light be placed on any rooftop terrace approved.

Noise and light restrictions would be fundamental to quiet enjoyment of neighbouring properties. This should be imposed on both 65B, C and D. If not already imposed on the other 2 properties we request the Planners revisit the approval to those properties and exercise their right to amend the approval.

As can be seen from the photo (not included) the tree and its planter box has increased significantly the height and visual impact of this three level dwelling (estimate – 4 metres). This has had significant impact on adjacent neighbours. Furthermore, during a storm the tree toppled over and came very close to falling over the edge onto the neighbour's drive and cars. This is a potential safety issue. As adjacent neighbours we would strongly request that the East Fremantle Council take steps to ensure this cannot happen at 65C Preston Point Road.

We note that the photo is not of a property in East Fremantle. Planning approval would be required and the Town would have the power to request the tree be removed if not approved.

Submission 4 – (repeat of Submission 3 above)

Officer Response

The Officer's response to the submissions is addressed in detail in the 'Comment' section of the report. In summary the height of the dwelling as proposed is supported, however, the applicant had been advised that the visual privacy issues must be addressed through amendments to the plans indicating compliance with the R-Codes.

Following discussions with the Town in respect to compliance the applicant submitted amended plans. The amended plans whilst addressing the visual privacy setbacks are still not in full compliance so conditions of planning approval are recommended to be imposed to ensure that the setbacks are compliant at Building Permit application stage.

Community Design Advisory Committee (CDAC)

This application was not referred to the CDAC. The site is a battle-axe lot which is ~40 metres from the street.

Statutory Environment

Planning and Development Act 2005

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

Policy Implications

Residential Design Guidelines 2016

Fremantle Port Buffer Zone – Area 3

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

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

Site Inspection

July 2018

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Local Planning Policies. A summary of the relevant assessment criteria 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	4.0m	N/A	N/A
Lot Boundary Setback	South: 1.5 (GF) 3.0m (UF)	South: nil – 1.2m (GF & UF)	D
	North: 1.5m (GF) 6.1m (UF)	North: 1.1 – 2.0m (GF & UF)	D
	West: 1.8m (GF) 3.0m (UF)	West: 5.995m – 6.7m (GF & UF)	A
	East: 1.5m (GF) 3.0m (UF)	East: 1.25m (GF & UF)	D
Open Space	45%	≥45%	A
Outdoor Living	30m ²	44m ²	A
Car Parking	2	2	A
Site Works	Less than 500mm	~up to 1,028mm – fill	D
Retaining Walls	Greater than 500mm and closer than 1m from lot boundary	Not indicated on plans	N/A
Overshadowing	35%	≤35%	A
Drainage	On-site	On-site	A
Visual Privacy	Roof top deck:	Roof top deck:	D
	Balcony (north):	Balcony (north):	D
	Dining/living:	Dining/living:	D
	Study/Gym: 4.5m	Study/Gym: 2.0m	D
	Master bed: 4.5m	Master bed: 1.1m	D
Bedroom 5: 4.5m	Bedroom 5: 1.1m	D	

Local Planning Policy 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	D
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	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	A
3.7.14 Footpaths and Crossovers	N/A
3.7.18.3 Garages, Carports and Outbuildings	A
3.7.15-20 Precinct Requirements	D

Building Height Requirement	Required	Proposed	Status
Building Height (wall) (RDG)	5.6m	West: 6.6m North: 6.4m South: 7.1m East: 6.0m	D
Building Height (top of external wall) (RDG)	6.5m	North: 6.4m South: 7.1m	D
Building Height (roof) (RDG)	8.1m	West: 6.8m North: 9.0m South: 8.5m East: 8.1m	A D D A

Lot boundary setbacks

The lot boundary setbacks of the dwelling do not comply in respect to all lot boundaries with the exception of the western boundary. It is not unexpected that on a lot ~10 metres wide and 292m² in area that non-compliant setbacks will be proposed. Redevelopment of small narrow lots with large houses designed to maximise views results in walls which require greater setbacks from the side boundaries even where there are no major openings. This is the case with this application. The lot area makes it difficult to minimise bulk through lot boundary setbacks. Most major openings face north or west along the boundary where the building has a minimal setback. The details of the variations and conditions imposed are discussed below.

Eastern boundary

The non-compliance with the setback to the access driveway as outlined in the table above can be supported as there is minimal impact on the amenity of the surrounding sites. Adjoining land owners have not objected to the reduced setback with respect to the dwelling itself. A reversing area is indicated behind the garage so cars are able to exist onto Preston Point Road in a forward direction. This setback has been designed to align with the other dwelling on the remaining rear lot in this subdivision.

Southern boundary

The setback from the southern boundary does not meet the R-Code requirements. Essentially a nil setback is proposed for the full length of the wall. The adjoining owner has been consulted in relation to the reduced side setback and has not objected. The southern elevation will be constructed up to the lot boundary. This has minimal impact on the dwelling to be constructed to the south (at 65D) as the northern elevation of that dwelling is also constructed up to the boundary, with only small service courtyards adjacent to each other. A condition is recommended to ensure vehicles exit the site in a forward direction.

Northern boundary

There is a slight setback from this boundary, however, it is still non-compliant. The adjoining owners have not objected to the setback. If the ~6 metre wide access driveway on the adjoining lot is included in the distance between the two dwellings then the setback distance required under the R-Codes is satisfied, so the reduced setback is supported. It is considered adequate separation is provided between the dwellings.

Notwithstanding the non-compliance with the setback distances, in this circumstance the reduced setbacks of the R30 coded site are supported. The scale of the dwelling in proportion to the lot size is similar to the other lots developed at R30 in the area and the dwellings constructed on the two rear lots will be over 40 metres from the road and behind another two dwellings, so the impact and visual dominance of these dwellings on Preston Point Road is minimised because of their limited visibility.

With regard to the overall setback variations the 'Design Principles' of the R-Codes are considered satisfied in that the building does not unnecessarily contribute to building bulk on the adjoining lot (given the adjoining development to the south is built to the lot boundary and the development to the north is separated by a ~6 metre wide access driveway. Adequate sun and ventilation to open spaces is available and overshadowing is not over open space or outdoor living areas because the deck and roof terrace areas are at the very western end of the lot. As there are a number of variations to the R-Codes it is considered that this development can only be supported on the basis that development of the lot does not impact the streetscape and that other non-complying aspects of the development that impact adjoining owner amenity are required to comply with the R-Codes.

Site works

The proposed fill (up to ~1.028m) is outside the parameters of the R-Codes. The applicant is filling a portion of the site to varying degrees to level the site as it slopes approximately 2 metres from east to west. This allows for the rear of the site to be raised which improves views and the outlook from the property. Whilst this can be supported as it does not have too great an impact on building height from the eastern perspective, it does contribute to overlooking of the property to the west, particularly as the visual privacy setbacks cannot be met. This is discussed further in the "Visual privacy" section of the report.

Boundary walls are already in place and retaining walls are not indicated on the plan. Fill of the site does add to the height of the building but at the point of the site where the building is over height the fill is less than the 500mm maximum specified in the R-Codes. The 'Design principles' are considered satisfied in that the fill proposed does not result in the ground levels at the lot boundary to the south or north being markedly different. The lot to the west is already at a much lower level due to the steeper slope of the land to the river and the previous development of that lot at a much lower level.

Building height

The R-Code provisions in respect to building height are substituted by the height control under the Residential Design Guidelines. Clause 3.7.18.4.1.3 states that:

Where views are an important part of the amenity of the area and neighbours' existing views are to be affected the maximum building heights are as follows:

- 8.1 metres to the top of a pitched roof;*
- 6.5 metres to the top of an external wall (concealed roof); and*
- 5.6 metres to the top of an external wall and where the following apply.*

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

Non-compliance with the external wall height limits and the concealed and pitched roof heights must therefore be assessed in respect to the 'Performance Criteria' of the Residential Design Guidelines.

Views

Clause 3.7.18.4.1.3 states that *where views are an important part of the amenity of the area and neighbours' existing views are to be affected, amongst other things, the following matters are to be considered:*

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

The proposed dwelling for the site has been designed to achieve river views and to maximise these views with the addition of a rooftop terrace, as with the two other dwellings approved in this subdivision. This also provides some outdoor living areas on the site because it cannot be achieved at ground level, with the exception of a small deck area.

Due to the slope of the land downhill toward the river and the resultant filling of the lot to level the building pad, the dwelling will exceed the permitted height limit in part (not from the eastern perspective) for a pitched roof (permitted 8.1m; proposed 8.1m – 8.5m) and for a flat roof (permitted 6.5m; proposed 6.2 – 7.2m). The balustrades on the roof top terrace will also add to the height of the dwelling. However, this does not impact sites to the east. Although the roof pitch of the rooftop loft (height compliant from the eastern perspective) is higher than the balustrading and the rooftop terraces are to be constructed to the same height. From a southern perspective the balustrade will be lower than the building to be constructed to the south. Residents who are further south have commented on views being impeded, however, views from this direction have already been impeded by approval of the three level dwelling on the lot to the south of the subject site (No. 65D), so there is no further impact on views. The only views available are westwards through setback areas/easements and over the dwellings on Riverside Road. From the northern perspective the dwelling at the street front of No. 67 Preston Point Road is oriented to gain views over Gurley Park and the rear house has views to the south west, west and north west. Surrounding properties on higher ground on the other side of Preston Point Road should still maintain views over the dwelling when constructed.

The non-compliance with the building height limit can therefore be supported as the bulk and scale corresponds to other dwellings approved for the immediate area and the open space required under the R-Codes for the site has been achieved. The dwellings still to be constructed in this subdivision are all of a similar bulk, scale and height. The remaining lots to be developed are a considerable distance from Preston Point Road and therefore have limited impact on the streetscape.

Visual Privacy Setbacks

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

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

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

- P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through: building layout, location; design of major openings; landscape screening of outdoor active habitable spaces; and/or location of screening devices.*
- P1.2 Maximum visual privacy to side and rear boundaries through measures such as: offsetting the location of ground and first floor windows so that viewing is oblique rather than direct; building to the boundary where appropriate; setting back the first floor from the side boundary; providing higher or opaque and fixed windows; and/or screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).*

The non-compliance with the visual privacy setbacks is primarily of concern for the residential property immediately to the west on Riverside Road. The property has a swimming pool and outdoor living area adjacent to the western boundary of the subject lot. The subject lot is on higher ground so the rooftop terrace and the first level living and dining area overlook the property to the west. Stackable/fully opening doors are proposed to open across the full width of this level. Therefore the applicant's suggestion that the windows be obscured with the application of visually impermeable film or fitted with obscure glazing to a height of 1.6 metres was not considered satisfactory in that the doors are not permanently fixed in place and so can be opened thereby causing overlooking of the property to the west. In the amended set of plans the applicant has attempted to set back the dwelling to meet the visual privacy setbacks for the first level but has not done so for the full length of the façade. It is therefore considered necessary to impose a condition which requires the dwelling be setback the required minimum distance as per the R-Codes. This minimum distance of 6.0 metres is to be indicated on the Building Permit application plans.

Similarly, the amended plans do not indicate the rooftop terrace is set back the required distance from the western lot boundary that is 7.5 metres. For the same reasons as discussed above a condition requiring the visual privacy setback distance be met, as required under the R-Codes, is considered necessary for the rooftop terrace. If not, then the terrace balustrade will need to be raised to a height of 1.6m from the floor level, be constructed in a visually impermeable material and permanently fixed in place. Likewise if the dwelling is not setback the required distance for the living/dining room area (Upper Floor plan) then the major openings along the western elevation will be required to be permanently fixed in place and screened with visually impermeable screening or glazing to a height of 1.6 metres from the finished floor level. Stackable and fully opening doors or windows will not be permitted at the proposed setback distance. Without these measure being implemented neither the 'Deemed to comply' nor the 'Design principles' of the R-Codes are considered satisfied.

One of the comments made in the submissions was that further rooftop structures or vegetation to provide weather protection will be required once the space is in use. This is a potential concern because if this was to occur there would be further breaches of the building height limits and additional bulk added to the dwelling. A condition is therefore recommended that requires a development approval application to be submitted if any additional structures are proposed to be constructed or installed on the roof terrace or roof of the third level of the dwelling. This condition applies to rooftop shade or weather protection structures or appliances, lighting poles/structures, external fixtures, fittings, masts, satellite dishes, telecommunication devices, appliances or large potted plants.

Driveway access and crossover

The R-Codes specify that driveways shall be no closer than 0.5 metres from a side lot boundary. This is a 'Deemed to comply' provision in order that the impact of access ways on the streetscape is reduced and safety standards are maintained. In this situation landscaping of the driveway will be of little benefit to the streetscape. The driveway is close to 40 metres in length and only 4 metres wide. It provides the only pedestrian access to the rear lots. In this situation it is considered important that vehicles and pedestrians have as much separation as possible. If landscaping was installed it would reduce the width of the driveway and also impact sight lines at the entry to Preston Point Road. As the driveway is very long and narrow with a high brick wall running the length of the driveway on the northern lot boundary it is not considered appropriate or necessary to require it to be landscaped for this length. Non-compliance with this provision is therefore considered acceptable.

Single dwelling approval

It is noted this dwelling could potentially function as two separate living quarters/apartments under the one roof, with separate and secure access via the main entry to the second level and direct access from the garage to the first level. This approval is for a single dwelling only as multiple dwellings or apartments are not permitted in a R30 zone. If it is contemplated that the property be used for short term or bed and breakfast accommodation then a separate application to Council for its consideration will be required. However, a separate street number (i.e. address) for the property will not be issued by the Town as the development approval is for a single dwelling only. A footnote in this regard is recommended as the dwelling will not be recommended for approval for more than one dwelling as this is not permitted under LPS No. 3.

Rooftop terrace

The submissions have noted that noise disturbance and light spill could occur from social activities on the rooftop terrace. As with any other outdoor living space matters relating to noise are regulated by the *Environmental Protection (Noise) Regulations 1997 (as amended)* and matters relating to lighting are assessed under a development application if lighting involves the installation of poles or other structures and the impact of light spill can be assessed by the Town's Environmental Health Officer.

Conclusion

The proposed development is surrounded by R30 density development and has been designed to be similar in design, scale and bulk to the surrounding development in the immediate area. The overall height of the dwelling is of a very similar height to the dwelling to be constructed on the site immediately to the south. The non-compliance with elements of the R-Codes and the Residential Design Guidelines can be supported in part, however, the non-compliance with the visual privacy setbacks cannot be supported. It is recommended that a condition be imposed which requires the required setback (for the rooftop terrace and the living/dining room area) to be indicated on the plans submitted for a building permit application. There are a number of other planning conditions which are recommended to ensure compliance with the height indicated on the plans and requiring further planning approval for any use of the property other than for single residential purposes, as well as other conditions relating to residential amenity. The recommended conditions of development approval are considered to address the submissions made in respect to visual privacy and other matters considered to be relevant planning considerations.

- Mr Geoff Gilmour (36 Riverside Road) addressed the meeting and raised the following concerns in regards to the proposed development:
 - Overlooking; size and bulk of the building; reflectivity from windows and roof; reduced setback from the western boundary and overall height.

OFFICER RECOMMENDATION

Mayor O'Neil moved, seconded Cr Harrington

That Council grant development approval and exercise discretion in regard to the following:

- (i) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit lot boundary setbacks of less than:
 - (a) 1.5m southern boundary (ground floor)
 - (b) 3.0m southern boundary (upper floor);
 - (c) 1.5m northern boundary (ground floor);
 - (d) 6.1m northern boundary (upper floor);
 - (e) 1.5m eastern boundary (ground floor); and
 - (f) 3.0m eastern boundary (upper floor);
- (ii) Clause 5.3.5 – Vehicular Access of the Residential Design Codes of WA to allow a setback of less than 0.5 metres from a side lot boundary;
- (iii) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to allow fill greater than 0.5 metres behind a street setback line and within 1.0 metre of a lot boundary and where development not in compliance with building height limits and building setback requirements;
- (iv) Clause 5.4.1 – Visual Privacy of the Residential Design Guidelines to allow a visual privacy setback of less than 7.5 metres for the balcony (north and east), 4.5 metres for the study/gym, the master bedroom and bedroom 5; and
- (v) Clause 3.7.18.4.1.3 – Building Height, Form, Scale and Bulk of the Residential Design Guidelines 2016 to permit the building wall height to exceed 5.6 metres to the top of an external wall, 6.5 metres to the top of an external wall (concealed roof) and the overall height to exceed 8.1 metres to the top of a pitched roof,

for the construction of a three level dwelling at No. 65C (Lot 9) Preston Point Road, East Fremantle, in accordance with the plans date stamped received on 30 July 2018, subject to the following conditions:

- (1) The Building Permit application plans to demonstrate full compliance with the visual privacy setbacks for the western boundary as required under clause 5.4.1 C1.1 of the R-Codes to the satisfaction of the Chief Executive Officer. If full compliance is not indicated then the western facing openings of the 'Upper Floor' must be designed to meet the requirements of clause 5.4.1 C1.1 of the R-Codes to the satisfaction of the Chief Executive Officer at Building Permit application stage.
- (2) The balustrade of the roof deck to be setback a minimum of 7.5 metres from the western lot boundary for the full length of the balustrade along the western edge of the rooftop terrace. If the minimum setback distance of 7.5 metres is not achieved then the balustrade must be a permanently installed structure that is visually impermeable and 1.6 metres in height from floor level. The details to be indicated to the satisfaction of the Chief Executive Officer at Building Permit application stage.
- (3) Permanent installation of a visually impermeable privacy screen on top of the existing dividing wall/fence on the western boundary, to the satisfaction of the Chief Executive Officer. Details of the screening device to be to the satisfaction of the Chief Executive Officer and to be indicated on the Building Permit application plans.
- (4) The Building Permit application plans to indicate the same finished floor levels as indicated on plans date stamped received 30 July 2018.
- (5) No rooftop shade or weather protection structures or appliances, lighting poles/structures, external fixtures, fittings, masts, satellite dishes, telecommunication devices, appliances or large potted plants to be installed on the roof or on the floor of the roof terrace of the dwelling without further Council approval.
- (6) The space for solar collectors indicated on the northern plane of the pitched roof (plans date stamped received 30 July 2018) are not to be installed on a raised frame/platform without further

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- Council approval. Direct attachment to the roofing material is all that is permitted under the current development approval.
- (7) The development approval is for a single dwelling only and the dwelling is not to be used for the purposes of an ancillary dwelling, short term or bed and breakfast accommodation or a home occupation.
 - (8) All vehicles must exit the garage and crossover on Preston Point Road in a forward direction. This is to be demonstrated on the plans submitted with the Building Permit application to the satisfaction of the Chief Executive Officer.
 - (9) The crossover on Preston Point Road is to be no greater than 3 metres in width (including splays/wings) and is to be in compliance with Council's Residential Design Guidelines in respect to crossovers.
 - (11) In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
 - (12) Sight lines at the intersection of the access way leg with Preston Point Road on the southern lot boundary to meet Australian Standards. This is to be demonstrated on the plans submitted with the Building Permit application to the satisfaction of the Chief Executive Officer.
 - (13) All parapet walls/building structures to adjacent property faces are to be finished by way of agreement between the property owners and at the applicant's expense.
 - (14) The metal roofing colour to be selected to reduce reflectivity to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 - (15) The proposed works are not to be commenced until approval from the Water Corporation has been obtained and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 - (16) No building construction is permitted to encroach into or over the easement indicated on the Certificate of Title in the south eastern corner of the lot.
 - (17) 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.
 - (18) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 - (19) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 - (20) 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.
 - (21) 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.
 - (22) This planning approval to remain valid for a period of 24 months from date of this approval.
-

Footnote:

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

- (i) This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (ii) A copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (iii) It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (iv) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (v) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (vi) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise"

11.6 PROCEDURAL MOTION/COMMITTEE RESOLUTION 050818

Moved M McPhail, seconded Nardi

That the item be deferred to allow the applicant to amend their design to comply with conditions (1), (2) and (3) at the Development Approval Stage rather than Building Permit Stage:

- (1) The Building Permit application plans to demonstrate full compliance with the visual privacy setbacks for the western boundary as required under clause 5.4.1 C1.1 of the R-Codes to the satisfaction of the Chief Executive Officer. If full compliance is not indicated then the western facing openings of the 'Upper Floor' must be designed to meet the requirements of clause 5.4.1 C1.1 of the R-Codes to the satisfaction of the Chief Executive Officer at Building Permit application stage.
- (2) The balustrade of the roof deck to be setback a minimum of 7.5 metres from the western lot boundary for the full length of the balustrade along the western edge of the rooftop terrace. If the minimum setback distance of 7.5 metres is not achieved then the balustrade must be a permanently installed structure that is visually impermeable and 1.6 metres in height from floor level. The details to be indicated to the satisfaction of the Chief Executive Officer at Building Permit application stage.
- (3) Permanent installation of a visually impermeable privacy screen on top of the existing dividing wall/fence on the western boundary, to the satisfaction of the Chief Executive Officer. Details of the screening device to be to the satisfaction of the Chief Executive Officer and to be indicated on the Building Permit application plans.

(CARRIED 5:2)

Reason for Change

The Committee would like to have an opportunity to view the amended plans prior to granting approval.

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 17 June 2018 this application deemed determined, on behalf of Council, under delegated authority.

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

11.2 Sewell Street, No. 44 (Lot 1) – Alterations and Additions to Existing Dwelling, including repositioning of Crossover

Owner/Applicant	L & S Sicree
File Ref	PSEW/44; P048/2018
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	7 August 2018
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Location plan 2. Photographs 3. Plans date stamped 6 June 2018

Purpose

This report considers a development application for alterations and additions to the existing dwelling, including a repositioning of the crossover at No. 44 Sewell Street, East Fremantle.

Executive Summary

The development application proposes amendments to the previously approved alterations and additions to a small cottage on a 6 metre wide lot. The proposal also includes repositioning of a crossover to the site. The lot is adjacent to another 6 metre wide lot to the south. Construction of the previously approved alterations and additions are in progress.

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

- Street setback;
- Lot boundary setbacks;
- Front fencing;
- Crossover; and
- Car parking.

The application is therefore recommended for approval subject to conditions relating to construction materials, parapet walls, fencing, sight lines and the crossover.

Background

Zoning LPS No. 3: Residential R20

Site area: 253m²

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

7 November 2017 – Council granted approval for alterations and additions, including an outbuilding (studio/storeroom) to the existing cottage.

Consultation

Advertising

The proposed application was advertised to impacted land owners from 22 June to 9 July 2018. No submissions were received.

Community Design Advisory Committee (CDAC)

This application was referred to the CDAC meeting of 30 July 2018. The Committee commented that the proposal was acceptable.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

Town of East Fremantle Local Planning Scheme No. 3

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016

Fremantle Port Buffer Zone - Area 2

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

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

Site Inspection

July 2018

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6.0m	3.3 – 4.4m	D
Minor incursion (verandah)	5.0m	3.3m	D
Lot Boundary Setback	northern verandah GF: 4.8m	1.4m	D
	southern verandah GF: 1.8m	Nil	D
Open Space	50%	As approved	A
Outdoor Living	30m ²	72m ²	A
Car Parking	2	As approved	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	≤25%	As approved	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

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

There are some variations from the R-Codes and the Residential Design Guidelines due to the very narrow width of the lot and amendments to the previous approval (dated 7.11.17). Notwithstanding, the variations are supported and are discussed below.

Street setback and minor incursion

The street setback of the dwelling will be altered from that approved in 2017 because the owner wishes to increase the area of the front setback to make it more functional. The verandah as approved by Council in 2017 encroached into the front setback area. The applicant proposes to extend the dwelling's roof line in place of the original verandah proposal. This design will allow a greater front setback area to be achieved. Variations to the front setback have been approved with the previous application, however, the amendments propose to set the verandah back 3.3 metres at a minimum and 4.4 metres at its maximum, forming a triangular shaped verandah and angled edge to the roofline. The front façade of the dwelling is described as feature timber cladding and will still contain the front door and a window which face the street.

The reduced front setback is considered supportable as the Design Principles of the R-Codes are considered satisfied. The dwelling will present as a single storey house so the size and scale of the dwelling is appropriate. Minor projections such as the roofline and the verandah do not detract from the streetscape, the façade is considered to address the streetscape and is not contrary to the development context of the area.

Lot boundary setbacks

The southern lot boundary setbacks do not comply with regard to the verandah. A nil setback is proposed. This is supportable on the basis that it is not considered to impact greatly on the amenity of the adjoining lot. The amendments to the verandah were advertised and the adjoining land owners have not objected to the proposal.

The northern boundary setback is also non-compliant. The required setback being 4.8 metres based on the length of the wall with major openings. Without walls being built up to or very close to the lot boundary it would be impossible to develop the lot for a home of modern standards. Also, the setbacks are increased in this instance because of the length of the wall, not the height of the building. This setback is supportable on the basis that it is not considered to impact greatly on the amenity of the adjoining lots and the adjoining land owners have not objected to the proposal to redevelop the cottage.

The setbacks are considered supportable as the Design Principles of the R-Codes are satisfied in that the proposed changes to the verandah do not unnecessarily contribute to building bulk on the adjoining lots or add to overshadowing. Landscaping and adequate outdoor living areas have been provided as best as possible on a lot of this size and the building height permitted is not exceeded.

Car parking

The applicant is proposing that a car can be parked in the front setback area with rearrangement of the verandah and frontage. However, a car bay of the minimum dimensions specified in the R-Codes cannot be provided on-site because the depth of the setback area is not adequate. Even with changes to the front façade of the dwelling, as proposed, a car bay that meets Australian Standards dimensions cannot be constructed in the front setback area as there is insufficient space.

Under the R-Codes two car bays are required because the lot is located just over 250 metres to Marmion Street and a high frequency bus route. Given the proximity to Canning Highway (just over 350 metres) and Marmion Street and because the site did not have any parking in the first place, the shortfall of parking has already been supported by Council. It is not recommended that Council approve the car bay proposed by the applicant in the front setback because it would be approving a non-compliant car bay. This could be problematic if vehicles attempting to park in such a bay caused pedestrian and vehicle hazards or accidents. Residents of the property can utilise street parking if required.

It is therefore recommended that Council approve a front setback area that can be accessed by a crossover but not approved as a vehicle bay. A condition is recommended which does not permit the use of this area for a vehicle bay.

Front fence and setback

The front fence proposed complies with the Residential Design Guidelines. A condition will be imposed to ensure that compliance with the fencing height extends to the fencing along the side boundaries. Gates have been included which will allow for access to the front setback area so it can be utilised as open space on the lot given access to the rear is very limited with only a pedestrian width access way providing access to the rear.

Crossover

A crossover already exists, however, this crossover serviced a parking bay that traversed the lot boundary between No. 44 and No. 46 Sewell Street. The crossover therefore needs to be repositioned for it to be useful for providing access to the lot. There are no objections to the repositioning of the crossover provided it does not exceed 3 metres in width (including splays/wings). The section of redundant crossover must be removed and the footpath replaced at the applicant's expense and this is recommended to be imposed as a condition of development approval.

Heritage

The site is classified category C under the Municipal Inventory and could have been demolished without the need to obtain development (planning) approval because it is not on the heritage list of the Planning Scheme. The variations to the front façade are considered acceptable in regard to the alternative of the cottage not being retained and renovated and are not considered to be detrimental to the streetscape overall.

Conclusion

The application is supported, notwithstanding the variations, on the basis that the applicant has retained the cottage and minimised the impact of reduced setbacks and building height on the adjoining lots. The renovated cottage will still maintain a low scale presence in the streetscape which respects the heritage character of the Plympton Precinct. The application is therefore recommended for approval subject to conditions relating to construction materials, parapet walls, fencing, sight lines and the crossover.

11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP020618

Cr White moved, seconded Cr Natale

That Council exercise its discretion in granting development approval in regard to the following:

- (i) Clause 5.1.2 - Street Setback of the Residential Design Codes of WA to permit a street setback of less than 6.0 metres and minor incursions of less than 5.0 metres; and**
- (ii) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a southern lot boundary setback of less than 1.8 metres and a northern lot boundary setback of less than 4.8 metres,**

for alterations and additions including repositioning of the crossover at No. 44 (Lot 1) Sewell Street, East Fremantle, in accordance with the plans date stamped received 6 June 2018, subject to the following conditions:

- (1) A vehicle parking bay is not to be installed/constructed in the front setback area.**
- (2) Details of construction materials, colours and finishes to the satisfaction of the Chief Executive Officer to be submitted at Building Permit application stage.**
- (3) All parapet walls are to be of a suitable material to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**

- (4) Front fencing to be erected as indicated on the plans date stamped received 6 June 2018 and all fencing, including side boundary fencing, to comply with the Town's Residential Design Guidelines in respect to fencing within the street setback area.
- (5) The crossover to comply with the Residential Design Guidelines and not exceed 3 metres in width including splays/wings.
- (6) Compliance with the Residential Design Codes of WA and the Australian Standards in respect to sight lines where boundary fencing meets the street front property boundary.
- (7) If requested by Council within the first two years following installation, the Colourbond roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (8) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (9) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (10) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (11) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (12) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (13) Prior to the commencement of any works on site, the applicant to notify affected adjoining landowners of intended commencement date.
- (14) This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (i) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *A copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (iii) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (iv) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (v) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

(vi) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – “An Installers Guide to Air Conditioner Noise”.

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer’s recommendation, pursuant to Council’s decision regarding delegated decision making made on 17 June 2018 this application deemed determined, on behalf of Council, under delegated authority.

11.3 Units 103, 107 and 108, No. 1 (Lots 128, 132 and 133) and Unit 26, No. 3 (Lot 141) Silas Street, East Fremantle – Richmond Quarter – Additional Use for Consulting Rooms

Applicant	AFG Developments
Landowner	AFG Developments
File Ref	P/SIL1; P/SIL3; P/044/18
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Date of Meeting	7 August 2018
Voting Requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Applicant's correspondence

Purpose

This report considers an application requesting approval for the additional use of consulting rooms for four 'shop/office' and 'shop' approved tenancies within the Richmond Quarter complex at, Units 103, 107 and 108 (Lots 128, 132 and 133) No. 1 Silas, and Unit 26 (Lot 141) No. 3 Silas Street, East Fremantle. The 'consulting rooms' use would be added to the list of 'approved' uses for these tenancies.

Executive Summary

The proposal seeks approval for 'consulting rooms' to be added to the list of approved uses for the above mentioned tenancies. Two of the tenancies front the plaza in the south west corner of No. 1 Silas Street (approved for shop use). One other tenancy faces Stirling Highway and the walkway from Stirling Highway through to the plaza (shop/office approved use) and the fourth tenancy is on the south side of the plaza in the No. 3 Silas Street building (shop/office approved use) adjacent to the cafe.

Consulting rooms are a permitted use in the Town Centre so the proposal raises only the issue of car parking to be considered in the determination of the application. The use of the tenancies for 'consulting rooms' does not add to the overall parking shortfall already approved for the site therefore the additional use is supported subject to conditions limiting the number of consulting rooms and staff per tenancy at any one time and standard conditions of development approval for commercial tenancies relating to matters such as signage and further changes of use.

Background

Zoning: Town Centre

MRS: Subject property abuts Canning Highway a Primary Regional Road Reserve under the MRS. Referral to Main Roads WA is not required for this type of application.

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

13 December 2011 - Council granted planning approval for a Mixed Use Activity Centre.

The Western Australian Planning Commission endorsed Council's approval for the proposed 'Mixed Use' development in 2011. Council subsequently (in October 2012) endorsed various minor amendments to the initial drawings submitted for planning approval for a Mixed Use Activity Centre at 147 Canning Highway (Royal George Tavern and adjacent lands). The 2012 approval granted approval for 25 commercial tenancies, residential units and associated car parking. The applicant in 2014 requested Council consider a change of use application for nine of the 'office' tenancies to have a dual use of 'shop/ office' in order to rationalise the development to ensure successful occupancy and best use of the development.

-
- 2 October 2012** Council granted approval for amendments to the initial drawings submitted for a Mixed Use Activity Centre.
- 5 February 2013** Council granted approval for a Mixed Use Development - Commercial and Residential Units.
- 2 August 2014 -** Council granted approval for a Mixed Use Development – Change of use application to add shop use as an approved use for 9 of the commercial tenancies previously approved for offices.
- 18 April 2017** Council granted approval for the proposed change of use to a medical centre for No. 1 (Lots 110 – 112) Silas Street (radiology services).

Consultation

Advertising

The application was not advertised beyond the strata management company. The strata management company has provided written confirmation that there is no objection to the owners lodging a development application seeking Council's approval for the additional 'consulting rooms' use for each of the tenancies listed.

Community Design Advisory Committee

This application was not referred to the Committee.

Statutory Environment

Planning and Development Act 2005

Town of East Fremantle Local Planning Scheme No. 3 (LPS3)

Policy Implications

Town Centre Redevelopment Guidelines

Fremantle Port Buffer Zone – Area 2

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

Site Inspection

July 2018

Comment

Use

A consulting room use is classified as a 'P' use (i.e. permitted) under LPS3. It is therefore considered an acceptable use for a tenancy in the Richmond Quarter complex. A number of medical and health related services are already established in this mixed use development. However, due to the parking situation for the site any proposed change of use for any use other than the uses previously approved by Council for each unit/tenancy is to be the subject of a fresh development approval application to be submitted for Council's consideration. This is recommended to be imposed as a condition of development approval.

Car parking

The Richmond Quarter complex had 133 car parking spaces approved in 2012 for the commercial uses comprising of office, shop, tavern and café uses. In August 2014 a change of use application comprised of a request for 9 of the 11 office tenancies to be allocated a dual 'shop/office' use, providing greater flexibility in the use of the proposed commercial tenancies as the 'shop/office' classification allowed for a range of uses. The proposed bulk change of use application from 'office' to 'shop/office' ensured such matters as parking, and the strategic development of the Town Centre could be addressed as a whole.

When the change of use application was assessed in regard to car parking, the car parking ratio for a 'shop' use under LPS3 was applied as this use was considered to be the highest car parking generator. By applying this parking ratio adequate parking was considered to be provided throughout the development, should the tenancies be utilised for their highest and preferred use, that is, for a shop. Under LPS3, the proposed change of use for the 9 tenancies generated the need for an additional 11 car parking bays. However, a further request to remove 4 car bays to provide for motor cycles and scooters (so these vehicles would not utilise car specific bays) resulted in an overall shortfall of 15 bays (i.e. 146 total car parking bays required). This car bay shortfall was approved by Council at its meeting of 14 August 2014.

Notwithstanding the above car bay shortfall the proposal to add an additional approved use of consulting rooms for the 4 tenancies results in the car parking situation outlined in the following table.

Tenancy	Approved Uses	Car bays as approved (2014)	Proposed additional use	Car bays required under LPS3 - consulting rooms (1 consulting room & 2 staff)
Unit 103	shop/office	4	Consulting rooms	4
Unit 107	shop	4	Consulting rooms	4
Unit 108	shop	4	Consulting rooms	4
Unit 26	shop/office	4	Consulting rooms	4
Total		16		16

Note: LPS3 car bay requirement - 2 bays for each consulting room and 1 additional bay for each staff member.

As the above table demonstrates the overall parking shortfall on the site does not have a direct bearing on the assessment of the current application. This is provided only 1 consulting room is permitted within each of the tenancies (i.e. one consultant per tenancy and a maximum of two staff including the consultant at any one time). Therefore an additional approved use for consulting rooms can be supported subject to a condition of approval being imposed which restricts the use of the tenancy as noted above. If this condition is applied there is no increase in the car parking shortfall already approved by Council.

With regard to Clause 67 (Deemed Provisions) of LPS3, the proposed use is considered to adhere to the Town Centre objectives, primarily *“to provide for a range of commercial shopping, civic and community facilities to meet the day to day needs of the community and which will contribute towards the vibrancy of the Town”*. Whilst the Richmond Quarter already has a number of medical and allied health services occupying a number of tenancies, there is a significant number of vacant tenancies. Therefore whilst more medical and health related services is not in the interest of generating a diverse high activity centre, the additional approved use which may result in the tenancies being occupied is considered a better outcome than having vacant tenancies.

The traffic likely to be generated by the use of these tenancies for consulting rooms and the probable effect on traffic flow are considered negligible and consistent for a shop with medium frequency customer turnover. Furthermore, in support of the proposal it could be argued that people visiting health services may utilise other businesses/shops in the area, thereby activating the Town Centre. In conclusion, it is considered that granting approval for the additional use of consulting rooms for these tenancies will not be detrimental to the orderly and proper planning of the area.

Signage

As with any application for signage in the Town a further application will be required if a tenancy is used for any of the proposed purposes. An application is to be submitted and will be assessed under the Town’s Signage Design Guidelines. A condition of approval is recommended in this regard and the applicant is advised that signage and or screening on external glazing of the tenancy so as to decrease visibility of internal use of the tenancy is unlikely to be supported. It is important that the street frontage and the internal plaza of the Richmond Quarter building remain activated and interesting for pedestrians and visitors to the complex.

Conclusion

A vibrant, efficient and active Town Centre benefits the Town and the wider community. Providing suitable services within the Town is also necessary. It is recommended that Council approve the proposed additional approved use of the tenancies to facilitate occupation of the tenancies subject to appropriate conditions related to the number of consultancies and staff, signage and alterations to the tenancy frontages.

11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP070818

Cr Natale moved, seconded Cr Nardi

That Council exercise its discretion in granting development approval for 'consulting rooms' use in addition to 'shop' use for Units 107 and 108 (Lots 132 and 133) No. 1 Silas Street and in addition to 'shop/office' use for Unit 103 (Lot 128) No. 1 Silas Street, and in addition to 'shop/office' use for Unit 26 (Lot 141) No. 3 Silas Street, East Fremantle, subject to the following conditions:

- (1) Units 103, 107 and 108, No. 1 Silas Street and Unit 26, No. 3 Silas Street to only be used for the purpose of one consulting room (i.e. one consultant) with a maximum of two staff members (including the consultant) for each of the units/tenancies at any one time (refer to Footnote (i) below).
- (2) A proposed change of use for any use other than those uses previously approved by Council for each unit/tenancy (noted in the development approval) is to be the subject of a fresh development approval application to be submitted for Council's consideration.
- (3) No change to the external glazing of the frontages/facades of any of the units/tenancies the subject of this development approval without further Council approval.
- (4) This application does not include any detailed signage for the approved additional use of 'consulting rooms'. All detailed signage to be submitted in the form of a development approval application for Council's consideration.
- (5) The commercial buildings kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours to the satisfaction of the Chief Executive Officer.
- (6) The proposed use is not to be commenced until all conditions attached to this development approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
- (7) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (8) This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (i) If the proposed use of either of Units 107, 108, 103 and 26 is for more than one consulting room (i.e. one consultant) and 2 staff members (including the consultant) at any one time then a further development approval application is required to be submitted for Council's consideration.*
- (ii) This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iii) The approval does not include approval of any advertising signage. A separate development approval application is required for any signage proposal or any proposed change to the external glazing of the frontages/façade of each unit/tenancy.*

(CARRIED 6:1)

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 17 June 2018 this application deemed determined, on behalf of Council, under delegated authority.

12. REPORTS OF OFFICERS (COUNCIL DECISION)

12.1 Comment/Submission – Green Paper - Modernising the Western Australian Planning System

File ref	B/PTP1
Prepared by	Stacey Towne, Urban Project Planner
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting Date:	7 August 2018
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Town of East Fremantle Submission – Response Template

Purpose

The purpose of this report is for Council to consider the Green Paper – *Modernising the Western Australia's Planning System* on planning reform in Western Australia and provide comments to the Department of Planning, Lands and Heritage (DPLH).

Executive Summary

The Minister for Planning recently commissioned an independent review of the planning system to identify ways to make it more efficient, open and understandable. A Green Paper (*Modernising the Western Australia's Planning System*) was developed by the Planning Reform team, led by Evan Jones, and was released for public comment in May 2018.

The Green Paper identifies four key principles to underpin the planning system in WA (fairness, transparency, Integrity and efficiency) and focuses on five key reform areas (Strategically-led, legible, transparent, efficient and delivering smart growth).

Attachment 1 includes a draft Council response to each of the reform proposals in a response template format (provided by the reform team). Attachment 1 is for Council's consideration for endorsement (or otherwise) which is then recommended to be used as the basis for a submission to the DPLH.

The moves towards an improved planning system in WA is commended, albeit somewhat overdue. The reform proposals are predominantly supported, however, care is required to ensure that local government is well-represented on developing further details and that local government is adequately supported and resourced to deal with future outcomes of the review.

It is also urged that the State take a greater lead role in promoting State planning policy to inform the community in general and to clarify that certain local planning is what is expected and required of local governments as a result.

Submissions closed on 20 July 2018, however, the review team has accepted the Town of East Fremantle's request to provide a late submission, to allow time for Council's full consideration of this matter.

The Green Paper is an independent discussion paper that identifies issues, options and proposals and provides an opportunity to suggest alternative solutions that address the issues raised. All feedback will help inform the preparation of a White Paper that will be provided to the State Government for consideration for planning reform.

Background

The Minister for Planning, Hon Rita Saffiotti MLA, established this review based on the following terms of reference:

- Make strategic planning the cornerstone of all planning decisions by shifting the emphasis of the planning system to strategic planning and land use policy so that important issues are resolved before development proposals and rezoning requests, which will improve the quality and timeliness of development assessment.
- Clarify State and local planning roles by setting clear roles, responsibilities and functions of the WAPC and the DPLH in conjunction with State departments and agencies, and local government.
- Open up the planning system so that it is understandable to the wider community, recognising the need for community participation.
- Create more certainty for industry by clearly defining development assessment pathways.
- Link planning and infrastructure delivery to strategic planning for growth.
- Ensure that the planning system facilitates a sustainable settlement pattern, ensuring land use is fully integrated with transportation and infrastructure, giving priority to infill development and ensuring any new areas of growth are contiguous with existing communities.
- Respond to community concerns about the accountability and transparency of Development Assessment Panels in the approvals process.
- Examine how the use of technology can be used to improve the planning system.

An outline of the key reform proposals were provided to Council at its Forum held on 12 June 2018. A summary of the proposals is again detailed in the following section of this report.

To assist in making a submission, the planning reform team has provided a response template that itemises each reform proposal. After attending a number of information and discussion sessions regarding the Green Paper, and as a result of an internal workshop, Council's planning officers have drafted comments on each of the reform proposals within the provided response template (Attachment 1) for Council's consideration.

Details

The Green Paper proposals include:

Key reform 1: A strategically-led planning system – Make strategic planning the cornerstone of the planning system

- Require local governments to maintain up-to-date local planning strategies in consultation with their communities, and to review the strategy prior to a scheme amendment.
- Amend the Planning and Development Act to make strategic planning for sustainable development the purpose of planning in Western Australia.
- Develop a new State Planning Policy that defines sustainable development and decision-making for sustainable outcomes.
- Require local governments to prepare a local housing strategy to show where growth will be accommodated and what types of housing are needed.

Key reform 2: A legible planning system Make the planning system easy to access and understand

- Consolidate State Planning Policies into a single concise framework with easy-to-understand guidance.
- The links between State Planning Strategy and State Planning Policies, and local planning strategies and schemes should be strengthened and made clear and understandable.

-
- Define common strategic elements for the State planning framework and require all planning documents to be organised around these elements.
 - Require all local planning schemes, strategies and policies to be published in a single, easy-to-navigate, standardised format, to be known as a Comprehensive Local Planning Scheme.
 - Reduce red tape for business by standardising land use permissibility for the most commonly-used zones.

Key reform 3: A transparent planning system – Open up the planning system and increase community engagement in planning

- Develop a Community Engagement Charter to require contemporary community engagement practices, with a focus on community involvement in developing the vision and strategic plans.
- Provide reasons for decisions on planning proposals and develop a guideline for planning decision-makers.
- Require local governments to report on their performance in undertaking planning responsibilities, including decision-making timeframes and outcomes, and the status of their local planning strategy and scheme.

Development Assessment Panels:

- Schedule DAP meetings at regular times to improve accessibility.
- Require each DAP meeting to be recorded and made available on the DAP website.
- Require the DAP to provide reasons for all of its decisions.
- Create more flexibility in DAP processes for proposals which seek significant variations, to enable better scrutiny and to provide for advice and input from community and stakeholders.
- Require proposals amended as a result of a SAT mediation process be readvertised unless fully compliant.
- Appoint a Presiding DAP Member with responsibility for monitoring, advising and mentoring DAP members.
- Draw specialist DAP members from a state-wide pool of members based on the nature of application being heard.
- Provide that new specialist members be included when SAT invites the DAP to reconsider a decision, to ensure fresh consideration of the proposal.
- Encourage the SAT to prepare a framework that allows third parties with a strong interest to be considered during SAT mediation of DAP matters.

Key reform 4: An efficient planning system – Make the planning system well-organised and more efficient

- Revise the WAPC membership down to five - seven members with a breadth of skills and experience focused on State policy, regional plans and planning for smart growth.
- Give the WAPC the flexibility to form expert committees as required in response to emerging issues or specific projects.
- Increase delegation of statutory and administrative matters from the WAPC to accredited local governments with delegations in place.

The following proposals will streamline processes that prolong approvals.

- Use a track-based approach to assess regional scheme amendments, local strategies and local structure plans/activity centre plans.
- Provide a process for decision-makers and applicants to collaborate during the assessment process, including formal pre-lodgement advice.
- Create rules for efficient referral of planning matters.
- A maximum timeframe for decision-makers to request additional information from applicants.
- Provide for up-front agreement on the scope and content of Local Structure Plans.

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- Require that Structure Plans and Activity Centre Plans be read as part of the scheme to provide greater certainty to the community and applicants.
 - Create a maximum 30-day planning approval process for single houses proposals with only minor variations to the Residential Design Codes.
 - Incorporate development contribution schedules in Comprehensive Local Planning Schemes.
 - Require local government to report on administration of development contributions.

Key reform 5: Planning for connected smart growth – Refocus the planning system to deliver quality urban infill

- State Government to develop clear arrangement for the planning and delivery of key infill locations in partnership with local governments and other agencies.
- State Government to provide local governments with advice on forward planning of State infrastructure.
- WAPC to assume a leadership role and collaborate with local government for planning of priority infill areas and assist with land use and infrastructure coordination.
- WAPC to prepare a new Consolidated and Connected Smart Growth State Planning Policy to guide planning and delivery of smart growth.
- Elevate Liveable Neighbourhoods to a State Planning Policy.
- Provide for an Industrial Deferred Zone in the Metropolitan Region Scheme to plan effectively for future economic activity.
- Ensure that arrangements for provisions of State infrastructure are in place prior to permitting development in Urban or Industrial Deferral zones.
- Include Urban Corridor as a road category in the Metropolitan Region Scheme, requiring a coordinated transport response for planning proposals within urban corridors.

Consultation

The Green Paper and its key reform proposals was released in May 2018 for public comment and the submission period closed on 20 July 2018. The reform team has agreed to accept a late submission from the Town of East Fremantle.

All submissions will be assist in developing a White Paper for State Government consideration regarding planning reform.

Statutory Environment

Reform proposals may lead to changes to various planning legislation (including the *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015*), as well as planning documents developed thereunder (including local planning strategies, schemes and policies) and approval processes.

Policy Implications

Reform proposals may require future changes to the format and structure of local planning policies.

Financial Implications

Some reform proposals have the potential to necessitate increased resource commitment (for example staff and time).

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

Site Inspection

Not applicable

Comment

A review of the planning system in WA is welcomed and may even be considered by some as being overdue. The Productivity Commission reported some six years ago (in its *Performance Benchmarking for Australian Business Regulation : Role of Local Authority as Regulator, 2012*) that Australian State planning system reform efforts should be directed at focusing on the earlier stages of planning when strategic land use policy and its associated plans are put in place.

As noted in Attachment 1, the proposals included in the Green Paper are predominantly supported or supported in part (at least ‘in principle’) and are considered worthy of further development. There are some concerns with a number of proposals and those not supported include:

2.4.3	Local governments currently undertaking, or about to embark on, a substantive review of their planning frameworks delay preparation of local planning strategies and local planning schemes (and related omnibus amendments) until guidance on the format and content of local planning frameworks is available.	Strongly disagree. The Town of East Fremantle is well-progressed with its local planning strategy and does not wish to endure any further delays. Unless otherwise directed, the Town of East Fremantle intends to continue with development of the current draft local planning strategy.
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2.7.3	<p>Provide in the LPS Regulations that there are deemed provisions which set out standardised zones, land uses and land use permissibility which:</p> <ul style="list-style-type: none"> i group like-land uses into themes for which common development standards can be prepared ii identify low risk land use proposals by including suitable parameters for which a streamlined planning process apply iii are mandatory for local government to adopt within their municipalities through the next scheme review or omnibus amendment. 	<ul style="list-style-type: none"> • Streamlining the number of zones and similar land use categories is considered appropriate, however, the mandating of this proposal is not supported. • Standardising land use permissibility is strongly not supported. • Standardising development standards is strongly not supported. • Identifying low risk land use proposals by including suitable parameters to enable a streamlined planning process requires further detail and explanation. <p>Local governments greatly vary in size, character and land use and a “one size fits all” approach should be avoided. What is considered to be a low risk land use in one LG, may not be the same for another LG. It is essential that a LG has the option of whether a land use is appropriate or otherwise in specified locations and the standards that should apply to mitigate any impacts.</p> <p>Some form of uniformity is encouraged, however, this could be in the form of guiding principles and model provisions, rather than mandating as deemed provisions.</p>
3.6.1	<p>Provide for DAP meetings to be held at regular times and outside of business hours.</p>	<p>The benefits of regular meetings times and outside of business hours are acknowledged in some circumstances where certain DAP areas experience a high and regular number of applications; and/or where an application is likely to involve a high level of community interest and optimum opportunity is given for meeting attendance.</p> <p>DAP areas can vary quite considerably in relation to the number, frequency and type of applications being considered. Regular meetings and holding them outside of business hours is not necessary for all DAPs. This option should be available to DAPs in consultation with the relevant local governments within its jurisdiction, but should not be a requirement.</p> <p>Local Governments are predominantly responsible for hosting DAP meetings, including the provision of venue and providing administration staff for minute taking and other duties. An increase in the number of DAP meetings and providing for staff to attend outside of usual business hours places an added burden on local government resources.</p>
3.6.2	<p>Provide for the recording of each meeting of a DAP and made available on the DAP website of DPLH.</p>	<p>Agendas and minutes of DAP meetings are provided, and applicants and members of the public are not restricted from attending a DAP meeting. The purpose of providing a recording of the DAP meeting after the event is not clear. It is assumed that local government officers would also be expected to carry out this added responsibility which would further add to a burden on local government resources.</p>
4.2.13	<p>Provide in the LPS Regulations for a voluntary ‘deemed-to-comply’ check for single houses and provide in the P&D Regulations a specified fee for the service.</p>	<p>Strongly oppose this proposal. Uncertain how this would work without some form of professional assessment and certification, which has not been supported in the past. It is uncertain how a “deemed to comply” check could be confirmed without an assessment being carried out.</p>

4.2.14	Provide in the LPS Regulations and R-Codes a fast-track 30-day planning approval process for single house applications that require only minor variations to the R-Codes.	<ul style="list-style-type: none"> • There could be some contention with regard to what are classified as “minor variations”. • Although some proposed variations may be considered “minor”, a 30 day fast-track approval process would hinder the ability to advertise/seek comment from third parties who may be impacted by the proposal. This scenario is not supported.
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It is essential that details of all proposals involve the continued input and scrutiny from local government. It is suggested that a working group/s be established to assist and that these groups include representatives from local government who are experienced in strategic and statutory planning and includes planners who have had experience working in metropolitan and regional local government areas.

A number of proposals include or may result in increased responsibility and workloads for local governments. Caution and care needs to be taken to ensure that local governments are not unnecessarily burdened and that they are appropriately supported, resourced and compensated where required.

It is considered that State Government needs to take a lead role in developing a robust public awareness and information campaign to explain and promote the proposals of the Green Paper reform as well as any general strategic planning and higher level planning policy as it comes to fruition. It is suggested that such a campaign be of a level similar to those used to promote road safety and health. It is also considered important for it to be communicated to the community that many local government strategic and statutory planning matters are the result of higher level State planning policy and strategic direction which has been imposed.

The reform proposals make mention of a number of guidelines and guiding documents. It is considered essential that local governments be involved in the preparation of these and that the development of these guides is not delayed.

A number of proposals suggest enforcement by regulation, whereas guidelines may be more appropriate to implement some proposals.

Caution and care needs to be taken when attempting to streamline and provide uniformity. A “one size fits all” approach is not necessarily appropriate for some proposals especially due to the complexity and differences of local governments and DAP jurisdictions.

Some further changes are suggested also in regards to DAPs for consideration. It is put forward that an independent DAP assessment team/s be formed to assist with development assessments in addition to assessments provided in the Responsible Authority Report (RAR); and that local government DAP members and specialist members be given greater opportunity to develop a greater sense of a decision-making partnership, rather than a sense of being on opposing sides of a team. Care should be taken when making any changes to ensure no additional burden is placed on local government resources in respect to costs and staff times.

It is recommended that the submission as detailed in Attachment 1 be adopted and forwarded to the DPLH together with the more general comments as outlined in the Officer Recommendation.

- *The Committee would like to thank the Staff involved for their diligence and commitment to providing a thorough and thoughtful report.*

12.1 OFFICER RECOMMENDATION/COMMITTEE RECOMMENDATION TP080818

Cr M McPhail moved, seconded Cr White

That Council:

- (1) Adopt the Town of East Fremantle Submission – Response Template, shown as Attachment 1 to the Agenda, as a basis for a submission to the Department of Planning Lands and Heritage regarding details of the planning reform proposals of the Modernising Western Australia’s Planning System Green Paper (May 2018); and**
- (2) Forward the adopted Town of East Fremantle Submission – Response Template referred to in (1) above, to the Department of Planning, Lands and Heritage together with the following general comments:**
 - (i) The Town of East Fremantle commends the moves towards developing an improved planning system within the State and supports the reform principles of the Green Paper on *Modernising Western Australia’s Planning System* including fairness, transparency, integrity and efficiency; and generally supports the five key reform proposals that include being strategically-led, legible, transparent, efficient and delivering smart growth.**
 - (ii) Whilst the Town of East Fremantle supports many of the proposals in principle, some require more detail before full support can be considered, as noted in the submission response template and comments herein.**
 - (iii) It is essential that details of all proposals involve the continued input and scrutiny from local government. It is suggested that a working group/s be established to assist and that these groups include representatives from local government who are experienced in strategic and statutory planning and includes planners who have had experience working in metropolitan and regional local government areas.**
 - (iv) A number of proposals include or may result in increased responsibility and workloads for local governments. Care needs to be taken to ensure that local governments are not unnecessarily burdened and that they are appropriately supported, resourced and compensated where required.**
 - (v) It is considered that it would be in the interests of the State Government and the community in general if the State was to take a lead role in developing a robust public awareness and information campaign to explain and promote the proposals of the Green Paper reform as well as any general strategic planning and higher level planning policy as it comes to fruition. It is suggested that such a campaign be of a level similar to those used to promote road safety and health. It is also considered important for it to be communicated to the community that many local government strategic and statutory planning matters are the result of higher level State planning policy and strategic direction which has been imposed.**
 - (vi) The proposals make mention of a number of guidelines and guiding documents. It is considered essential that local governments be involved in the preparation of these and that the development of these guides is not delayed.**
 - (vii) A number of proposals suggest enforcement by regulation, whereas guidelines may be more appropriate to implement some proposals.**
 - (viii) Care needs to be taken when attempting to streamline and provide uniformity. A “one size fits all” approach is not necessarily appropriate for some proposals especially due to the complexity and differences of local governments and DAP jurisdictions.**

- (ix) In regards to DAPs: (i) it is suggested that an independent DAP assessment team/s be formed to assist with development assessments in addition to assessments provided in the RAR; (ii) Local government DAP members and specialist members be given greater opportunity to develop a greater sense of a decision-making partnership, rather than a sense of being on opposing sides of a team; and (iii) In making changes to DAP procedures care should be taken not to add a burden on local government resources in respect to costs and staff time.

(CARRIED UNANIMOUSLY)

12.2 Endorsement of Draft Town of East Fremantle Housing Capacity Study

File ref	B/LPS1
Prepared by	Stacey Towne, Urban Project Planner
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting Date:	7 August 2018
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Draft Town of East Fremantle Housing Capacity Study 2018

Purpose

The purpose of this report is for Council to consider endorsement of the Draft Town of East Fremantle Housing Capacity Study 2018 as a baseline guiding document for investigation and development of future housing/planning strategies.

Executive Summary

The Draft Town of East Fremantle Housing Capacity Study 2018 was carried out in-house by Council's planning staff to identify existing housing capacity within the Town of East Fremantle for additional dwellings. This document will assist in planning for future additional dwellings to accommodate a share of growth for the Perth and Peel Regions with a population of 3.5 million. The target set for the Town of East Fremantle is 890 additional dwellings by 2050. (Note that at the time of drafting the Housing Capacity Study, the target set by the May 2015 draft Perth and Peel @ 3.5 million – Central Sub-regional planning framework was 900 dwellings and changed slightly to 890 dwellings when Perth and Peel @ 3.5 million was finalised and released in March 2018).

The study provides a baseline demonstration of existing residential capacity under current controls. An estimate of development potential in terms of additional dwellings, likelihood of development and timing is provided together with explanatory commentary where applicable.

It investigates potential sites for development and/or redevelopment for residential dwellings, taking into consideration:

- Current statutory heritage, zoning, and density codes controls under Local Planning Scheme No. 3 (LPS 3) together with local planning policy direction provided by the Residential Design Guidelines and the Town Centre redevelopment guidelines; and
- Constraining factors such as Metropolitan Region Scheme (MRS) reservations and future land requirement (in particular Canning Highway).

In addition, this study identifies general areas and specific sites for further investigation.

Background

A copy of the Draft Town of East Fremantle Housing Capacity Study 2018 was provided to Council for information at its Forum held on 13 February 2018. It has since been slightly updated to include the final adoption of the Perth and Peel @ 3.5 million planning frameworks and any recent progress made to development proposals referred to within the study.

Existing Residential zoned land within the Town of East Fremantle has almost been completely developed. As of February 2018, Council's rates records show that there were less than 50 vacant Residential zoned lots within the Town and approximately 20 of those were under construction or had current planning/building approvals.

It is evident that there is limited potential for increased dwellings in the existing Residential zoned areas under current controls. Even if density codes were increased, demolition of existing buildings would be required on a significant scale. There is little incentive or support for such an approach given high capital investment in current housing stock, as well as the substantial number of heritage listed dwellings within the Town whereby demolition is not encouraged from a regulatory, streetscape character and community viewpoint.

Some of the issues and challenges affecting development potential include:

- Heritage Listing under Local Planning Scheme No. 3 (LPS 3);
- Canning Highway Reservation under the Metropolitan Region Scheme (MRS) (in terms of land requirement and vehicular access);
- Fremantle Ports Inner Harbour Buffer;
- Multiple Land Ownership;
- Community attitude to existing character;
- Investment, age and condition of existing development.

Some of the opportunities that may positively influence development potential include:

- Possible amendment to reduce the width of the Canning Highway Reservation under the MRS which would free up land for further development;
- Large lot size;
- Vacant property;
- Underdeveloped in terms of dwelling density potential;
- Single party land ownership of site and/or multiple adjoining sites;
- Ageing and less than reasonable condition of existing development.

Several projects are in various stages of proposal/approval that have the potential to provide for additional dwellings and other forms of accommodation including:

- The former Woodside Hospital site is proposed for redevelopment as a private Aged Care Facility.
- Amendment No. 14 involves properties on the corner of Canning Highway, Sewell Street and St Peters Road which could result in a multi-storey mixed use development including apartments.
- Amendment No. 15 involves the Royal George Hotel building and adjacent vacant land which could result in a multi-storey mixed use development including apartments.
- The Leeuwin Barracks site on Riverside Road is earmarked for sale by the Department of Defence and a Vision Plan Concept endorsed by Council in 2016 includes possible development of approximately 1,440 apartments.

In addition to these, the study identifies "Further Investigation Areas" to help plan for and encourage further additional dwellings. The most promising prospects for future residential development exist in areas not currently located within the Residential Zone (that is the Town Centre, Mixed Use and Special Business zones) and potentially in strategic locations currently zoned Residential, whereby changes to density codes would be required to support any significant dwelling numbers and variety.

Consultation

This study involves an audit of the existing residential capacity of the Town of East Fremantle for which no community consultation was required.

Recommended areas for further investigation for increased residential development potential will need to involve consultation with servicing agencies as well as the general community. This will take place as a matter of course as part of further studies and any changes to the local planning framework (for

example local planning strategy, local planning scheme and local planning policies) and where required for development and subdivision applications.

Statutory Environment

Nil

Policy Implications

There are no policy implications at this time, however, as a result of further investigations review and/or new local planning policy may be required in the future.

Financial Implications

The Town of East Fremantle may need to set aside funding for additional studies for further investigation areas and for developing/updating its local planning framework.

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.

Site Inspection

Not applicable

Comment

The Draft Town of East Fremantle Housing Capacity Study 2018 shows that the potential for additional dwellings is significantly limited and a lesser additional dwellings target would be more realistically achievable. It may be reasonable to seek from the WAPC a revision of the 890 (previously 900) additional dwellings target. As an alternative, the WAPC could be requested to include any residential development that occurs as part of the future Leeuwin Barracks redevelopment within that 890 additional dwellings target.

Existing local planning tools will ultimately require review to guide, control and implement recommendations of this study. It is anticipated that this study will guide the preparation of the Draft Local Planning Strategy which is expected to be available for Council consideration in the near future. Opportunity will be available to the community to be involved with the process of developing any forthcoming strategic and statutory planning documents.

12.2 OFFICER RECOMMENDATION/COMMITTEE RECOMMENDATION TP090818

Cr Nardi moved, seconded Cr M McPhail

That Council:

- (1) Endorses the Draft Town of East Fremantle Housing Capacity Study 2018 as a baseline document for investigation and development of future housing/planning strategies.**
- (2) Seeks from the Western Australian Planning Commission (WAPC) a revision of the additional dwellings target as required by *Perth and Peel @ 3.5 million March 2018* by either:
 - (a) Lowering the 890 additional dwellings target level; or**
 - (b) Agreeing to the inclusion of additional dwellings provided as part of any future development of the Leeuwin Barracks site within the current 890 additional dwelling target.****

(CARRIED UNANIMOUSLY)

12.3 Basic Amendment No. 16 to Local Planning Scheme No. 3 – To Rectify Typographical Errors in the Scheme Text

Owner	Various
Applicant	Town of East Fremantle
File ref	TPS3A16
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting Date:	7 August 2018
Voting requirements:	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose and Executive Summary

The purpose of the report is to rectify typographical errors in the Scheme Text resulting from the incorrect version of Amendment No. 10 being gazetted.

Following adoption of the Amendment by Council and consideration by the Department of Planning further modifications were required before it was considered by the WAPC and the Minister for Planning. During this time there were a number of versions of the Amendment in circulation between the Town and Department of Planning Officers. Following determination by the WAPC and the Minister an incorrect version was published in the Government Gazette.

The Town sought advice from the Department of Planning in regard to rectifying the matter and was advised that a correction notice in the Government Gazette would not be supported for two reasons. Firstly, it was not clear at which point in the amendment process the mistake occurred and secondly, as one of the corrections required a change to a planning provision in the Scheme Text. A basic amendment to Local Planning Scheme No. 3 would therefore be required to correct the Text and ensure transparency with the process.

The basic amendment process requires Council to resolve to prepare the Amendment and then to refer it to the EPA. Following referral the Town will address any comments from the EPA, incorporate any conditions and then following execution of the document forward it to the Commission. The Commission then considers the Amendment and makes a recommendation to the Minister. Advertising is not required in the basic amendment procedures.

Background

After gazettal of Amendment No. 10 the Town discovered the gazetted version contained mistakes. Whilst mostly of a typographical nature the errors required correction to ensure there were no misinterpretations of the planning provisions and clauses in the Scheme Text.

Following the Town's adoption of Amendment No. 10 modifications were requested by the Department of Planning. It is thought that during the process of finalising the modifications an incorrect version of Amendment No. 10 was approved by the Minister for Planning and published in the Government Gazette.

The Town requested a correction notice be published in the Government Gazette and provided a correct copy of the Amendment documents to the Department of Planning. However, the Department has subsequently advised that:

The Planning and Development (Local Planning Schemes) Regulations 2015 make provision for administrative errors to be corrected by way of a basic amendment where an administrative error has occurred. In this instance, it appears that the errors are administrative, largely relating to discrepancies between land use permissibilities in the amendment text and table, and incorrect cross-referencing to footnotes and between clauses.

It is recommended that the Town consider initiating a basic amendment to correct the administrative errors.

A correction notice is not supported in this instance given:

- *the proposed corrections may not reflect Council's position at the time the Amendment was initiated and adopted; and*
- *a basic amendment ensures a transparent process in accordance with the Local Planning Scheme Regulations.*

The first bullet point refers to a correction that changes use class permissibilities in the Zoning Table. This is discussed in the 'Details' section of the report.

Details

The corrections required are listed below:

- Zoning Table (Residential Zone column) - correct symbols and footnote numbers as applied to consulting rooms, grouped dwelling, multiple dwelling, office and telecommunications structures use classes;
- Rectify typographical errors in Zoning Table Footnotes 1 and 2; and
- Correct a clause number referenced in Schedule 10.

The corrections are mostly concerned with typographical errors, however, in relation to the corrections noted for the Residential Zone column the gazetted version of the Amendment specified that consulting rooms in the Residential zone fronting Canning Highway were designated as 'D', that is a discretionary use. This has been corrected to classify the use as 'A', that is a use which must be advertised. This is the matter the Department of Planning referred to as possibly not reflecting the Council's position at the time the Amendment was adopted. Planning staff were not certain if this was a typographical or unintended technical error.

In response it is reasonable to assume that Council's approach in requiring advertising for consulting rooms adjacent to the Highway and in a Residential zone is reasonable based on principles of orderly and proper planning. This is not considered a major change in regard to the planning provisions of the Amendment. However, as it has consequences in so far as how an application is assessed, the Department of Planning believes it necessary to amend the Scheme according to proper procedures rather than classify it as an administrative error.

The specific corrections to the Scheme Text are outlined below:

- (i) Modify the Zoning Table to change the symbols applicable to the following uses in the Residential zone column:
 - a) consulting rooms from 'X/D¹' to 'X/A¹';
 - b) grouped dwelling from 'D' to 'D²';
 - c) multiple dwelling from 'X/A²' to 'X/A³';

- d) office from 'X/D¹' to 'X/A¹'; and
- e) telecommunications infrastructure from 'A³' to 'A⁴';
- (ii) Modify the Zoning Table Footnotes as follows:
 - a) in Footnote 1. replace 'D' with 'A'; and
 - b) in Footnote 2. replace 'R1.5' with 'R12.5'; and
- (iii) Modify Schedule 10 by replacing Clause '5.8.2' with '5.8.5'.

The footnotes will then read as follows:

1. Consulting Rooms and Office are an 'A' use only for those residential dwellings that are located adjacent to Canning Highway.
2. In areas with a density coding of R12.5, where a density bonus is sought for Grouped Dwellings on corner lots, applications shall be dealt with as an 'A' use. (Sub-clause 5.3.1)
3. In areas with a density coding of less than R40, Multiple Dwelling is an 'X' use.
4. Subject to the provisions of: the Telecommunications Act 1997; the Telecommunications (Low-impact Facilities) Determination 1997 and Amendment No. 1; and the Telecommunications Code of Practice 1997.

Consultation

Under the *Local Planning Schemes Regulations, 2015*, the Town is not required to advertise a basic amendment for public comment unless the Minister for Planning or an authorised person directs the Town to advertise pursuant to regulation 61(1) of the *Local Planning Scheme Regulations*.

If supported by Council the Amendment will need to be referred to the Environmental Protection Authority for comment prior to forwarding to the WAPC for determination.

Statutory Environment

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

Local Planning Scheme No. 3 (LPS No. 3)

Policy Implications

Draft Local Planning Strategy 2016

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

- 3.1 *Facilitate sustainable growth with housing options to meet future community needs.*
 - 3.1.1 *Advocate for a desirable planning and community outcome for all major strategic development sites.*
 - 3.1.2 *Plan for a mix of inclusive diversified housing options.*
- 3.2 *Maintaining and enhancing the Town's character.*
 - 3.2.1 *Ensure appropriate planning policies to protect the Town's existing built form.*

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

3.3.1 *Continue to improve asset management practices.*

3.3.2 *Optimal management of assets within resource capabilities.*

3.3.3 *Plan and advocate for improved access and connectivity.*

Natural Environment

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

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

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

4.1.2 *Plan for improved streetscapes parks and reserves.*

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

4.2.1 *Reduce waste through sustainable waste management practices.*

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

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

Site Inspection

N/A

Environmental Implications

There are no known significant environmental implications associated with this proposal.

Comments

Amendment No. 16 is required to be prepared because there are errors in Local Planning Scheme No. 3 following the incorrect version of Amendment No. 10 being gazetted. It is considered a basic scheme amendment because it meets one of the criteria under the LPS Regulations for basic amendments that is "to correct an administrative error".

The Department of Planning was not supportive of the correction being dealt with as a correction notice in the Government Gazette and suggested that the matter be dealt with as a basic Scheme Amendment primarily to ensure transparency in the amendment process. This is considered the most straight forward and transparent means of correcting the errors in the Planning Scheme.

Advertising is not required for a basic scheme amendment as there are no changes to the intent of the Planning Scheme provisions. The Amendment details involve mostly correcting typographical errors and ensuring the symbol for the consulting rooms use in the Residential zone requires advertising be undertaken.

Conclusion

Following Council's resolution to prepare Amendment No. 16 it will be referred to the EPA as the legislation requires. Once a response has been received from the EPA Council will be required to execute the Scheme Amendment Report document and then forward it to the WAPC for its consideration and the Minister for Planning's determination. It should be noted that Recommendation No. 4 of the Officer's Recommendation requires Council to authorise the execution of the documents as the Amendment is not required to be reported back to Council. Once the response from the EPA is received the Amendment is to be forwarded to the WAPC.

12.3 OFFICER RECOMMENDATION/COMMITTEE RECOMMENDATION TP100818

Cr White moved, seconded Cr Natale

That Council:-

- (1) Pursuant to section 75 of the *Planning and Development Act, 2005* prepares basic Scheme Amendment No. 16 to Local Planning Scheme No.3 to rectify typographical errors in the Scheme Text:
 - (i) Modify the Zoning Table to amend the symbols for the following uses in the Residential zone column:
 - (a) consulting rooms from 'X/D¹' to 'X/A¹';
 - (b) grouped dwelling from 'D' to 'D²';
 - (c) multiple dwelling from 'X/A²' to 'X/A³';
 - (d) office from 'X/D¹' to 'X/A¹'; and
 - (e) telecommunications infrastructure from 'A³' to 'A';
 - (ii) Modify the Zoning Table Footnotes as follows:
 - (a) in Footnote 1. replace 'D' with 'A'; and
 - (b) in Footnote 2. replace 'R1.5' with 'R12.5'; and
 - (iii) Modify Schedule 10 by replacing Clause '5.8.2' with '5.8.5';
- (2) Pursuant to Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, resolves that Amendment No. 16 is a basic Scheme Amendment, as the amendment is to correct an administrative error;
- (3) Pursuant to section 81 of the Planning and Development Act, 2005, refers basic Amendment No. 16 to the Environmental Protection Authority; and
- (4) Pursuant to Regulation 62(3) of the Planning and Development (Local Planning Schemes) Regulations 2015, authorises the affixing of the common seal and endorses signing of the Amendment documentation by the Mayor and the Chief Executive Officer.

(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 7:57pm.

I hereby certify that the Minutes of the ordinary meeting of the Town Planning & Building Committee of the Town of East Fremantle, held on 7 August 2018, Minute Book reference 1. to 14 were confirmed at the meeting of the Committee on:

4 SEPTEMBER 2018



Presiding Member