

1 December 2015

AGENDA

REPORT NO 12.5

PRESTON POINT ROAD NO. 65D (LOT 8) NEW DWELLING

RESPONSIBLE DIRECTOR	Jamie Douglas Manager of Planning Services
AUTHOR	Andrew Malone Senior Planning Officer
FILE NUMBER	PPT 65D
APPLICATION NUMBER	98/15
ATTACHMENT	Location Plan Submission Neighbours Objections Plans
AUTHORITY / DISCRETION	Town Planning and Building Committee

PURPOSE

This report considers an application for planning approval for a two storey dwelling located on a vacant rear battle-axe lot at 65D (Lot 8) Preston Point Road, East Fremantle.

EXECUTIVE SUMMARY

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

- variation to the side boundary setback requirements (northern elevation) – Building on the boundary. Required maximum wall height on the boundary 3.5 metres. Proposed maximum wall height on the boundary 7.4 metres;
- variation to the overall boundary setback requirement (southern elevation) – required setback 3.0 metres. Proposed setback 2.2 metres;
- variation to Element 5.3.7 Site Works of the Residential Design Codes and Element 3.7.4 of the Residential Design Guidelines Site Works;
- variation to Element 5.4.1 of the Residential Design Codes Visual Privacy; and
- element 3.7.17 of the Residential Design Guidelines: Building Design Requirements;

The proposed dwelling is recommended for approval subject to conditions.

BACKGROUND

Suburb/Location	Preston Point Road 65D (Lot 8), East Fremantle
Applicant	Hooman Raei
Owner	CityPak Pty Ltd
Zoning	Residential R30
Site area	341m ²
Structure plan	N/A

Date Application Received

12 August 2015

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

Nil

Documentation

Relevant forms and letter date stamp received on 12 August 2015.

Revised plans and forms date stamp received on 10 November 2015.

DETAILSImpact on Public Domain

Tree in verge: No impact.

Light pole: No impact.

Crossover: No impact.

Footpath: No impact.

Streetscape: No impact.

Issues and options consideredStatutory Assessment

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Legislation / Strategic Community Plan / Policy Implications

Legislation Local Planning Scheme No. 3 – Residential R30 (LPS 3)

Strategic Community Plan

Key theme N/A

Objective N/A

Strategic initiative N/A

Policy N/A

Risk management considerations

N/A

Financial / budget implications

N/A

Regional significance

N/A

Sustainability implications

N/A

Consultation

Advertising

The application was advertised to surrounding neighbours for a two week period between 18 August 2015 and 1 September 2015. Two submissions were received by Council, both containing similar concerns. The submissions are summarised below. The applicant has made changes to the proposal, which is detailed below.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>As per the proposed plan, the new dwellings will affect sunlight to our properties. The proposed dwellings will be very close to our fence wall contravening building regulations and the buildings proposed in the current state has excess bulk.</p> <p>According to the proposed plan, the dwelling units B and D at 65, Preston Point Road have separation of just 1.2mtrs from our fence wall. For the proposed size and height of the building, the regulations specify a minimum distance of 1.5metres.</p> <p>The proposed dwellings in the current plan will be tall and bulky. This height and bulk will significantly affect sunlight into our living area including kitchen and dining as well as our backyard. We are concerned that in winter, our houses will be in the dark for an extended period of time each day.</p> <p>The proposed dwellings will be built after filling up the land to a height of 800mms. This will raise the final height of the proposed dwelling to over 6 metres plus the height of the roof.</p> <p>Stone cladding and storm water pipes of the dwellings will be very close to our fences again blocking sunlight and contravening building regulations.</p> <p>The proposed windows facing out properties need to be frosted or obscured for privacy reasons.</p>	<p>Amended plans submitted. Changes to the design include: The design is being driven by the small Lot area.</p> <p>The first floor, ground floor entry, bedroom 5 and the ensuite have undergone a considerable redesign. Bedroom 5 has been moved north away from the southern boundary in order to gain compliance for the required setback to the southern boundary, setback is now 2.2m. This has also increased solar access to the southern adjoining neighbour.</p> <p>Wall height: The proposed building solution does attempt to accommodate the steeply sloping site, the ground floor now steps an additional step, a total of 514mm. The floor to ceiling heights are not excessive 2.65m to the ground floor, and 2.57m to the first floor however due to the steeply sloping site, it does present a top of wall height which is partially compliant but rises as the site slopes away, even with the ground floor stepping.</p> <p>Ridge height: Significantly reduced as the proposed roof pitch has been reduced from 25 degrees to 15 degrees and 5 degrees.</p> <p>Overlooking / site fill: The proposed building solution does attempt to accommodate the steeply sloping site, the ground floor now steps an additional step in an effort to reduce overlooking, a total of 514mm stepping down. Further steps down to the outdoor entertaining area have been introduced so that the height of the proposed deck is in the region of .500-650mm above N.G.L. The issues are somewhat compounded by the natural site conditions, the site has been developed on a cliff, the neighbour to the west is 7m lower than the site of the proposed home. There is essentially no buildable solution on a cliff that would prevent looking towards the river to the west, with the existing neighbour being a full 7m lower than this site.</p> <p>The proposed use of the common ground easement is illustrated with a vehicle turning template, it is proposed that common access to</p>	<p>A detailed assessment with regards the development has been undertaken and is discussed below.</p> <p>The adjoining neighbour on the common boundary to the north indicates that he has no issue with the common parapet wall and has signed their agreement I no objection to the proposal.</p>

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	this vehicular movement area is maintained for the common use by all parties to permit forward egress of vehicles. All parties in ownership of the 3 lots agree to maintain the easement, this is to be written into a joint agreement.	
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Town Planning Advisory Panel

This application was not considered by the Town Planning Advisory Panel. The application is a battle-axe lot located at the rear of the parent lot. There are no streetscape or heritage impacts.

COMMENT

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	45%	49.8%	A
Outdoor Living	NA	30sqm	A
Car Parking	2	2	A
Site Works	Less than 500mm	1.1 metres	D
Overshadowing	35%	30%	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	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
3.7.15-20 Precinct Requirements	D

Site Fill

The subject lot has a fall of 1.8 metres from east to west. The proposed fill is a maximum of 1.1 at the laundry area (adjoining the two sections of parapet wall; minimal impact), with the remaining sections of fill being located to the rear garden being 0.65 metres. The front of the dwelling has a finished floor level of 13.70AHD and reduces to 13.272AHD at the rear of the dwelling (approximately steps down 0.5 metres). The applicant has attempted where practical to minimise the fill required on the lot. The applicant has amended the previous proposed plans to reduce the fill to the rear yard from 1.3 metres to 0.65 metres. As such the proposed dwelling is being filled to provide usable living areas, however the dwelling is stepped down with the fall in the natural ground level, therefore the dwelling will not present as being elevated.

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The proposed 1.1 and 0.65 metres of fill does not adhere to the 'Deemed to Comply' provisions of the R-Codes.

The Design Principles of the R-Codes with regard to Element 5.3.7 Site Works states:

- 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 lot boundary of the site and as viewed from the street.*

It is proposed to fill approximately 1.1 metres at the laundry area (will have no impact to neighbours) and 0.65 metres to the rear of the lot to assist with providing a usable rear garden. The proposed fill is considered to have no significant impact on the scale and bulk of the dwelling which is stepped to address the natural ground level.

It is considered the proposed dwelling and fill is consistent with similar dwellings in the locality. There is no impact to the streetscape. The reduced fill and building height from the original plans has reduced the overshadowing to adjoining lots to ensure compliance with the 'Deemed to Comply' provisions of the R-Codes. The fill does not have a significant negative impact on the character or amenity of the neighbours, as the scale and bulk of the building has been reduced. The overlooking will be discussed later in this report, however is considered acceptable.

The proposed development is considered to comply with the Design Principles of Element 5.3.7 Site Works and therefore can be supported.

Side Boundary Setbacks

The following are the areas that require Council to exercise its discretion with regards the Acceptable Development Criteria of the RDG:

- Building on the boundary; northern elevation
- Overall setback for the southern elevation

The northern elevation is built on the boundary for a length of 19.5 metres. The R-Codes requires:

in areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for two-thirds the length of the balance of the lot boundary behind the front setback, to one side boundary only

The wall is less than two-thirds the length of the balance of the lot boundary, however exceeds the maximum height of 3.5 metres and therefore requires discretion to be exercised.

Each individual section of wall of the southern boundary complies with the requirement of Figure Series 4 of the R-Codes which requires:

Where the side of the building includes two or more portions of a wall without a major opening (such as E) their setbacks shall be determined independently of each other provided they are separated from one another by a distance (D) of more than 4m (in the case of wall heights of 6m or less) and an additional 1m for every 3m increase in height. The setback of D shall be determined on the basis of the total length (C).

The area of (D) (overall length of wall) as noted in the requirement above does not comply with the overall setback requirement. The required overall setback is 3.0 metres. The proposed setback is 2.2 metres. The overall wall setback as described above requires a 0.8 metre setback variation to the 'Deemed to Comply' provisions of the R-Codes. The proposed development will require assessment as per the design provisions of the RDG.

The LPP RDG Element 3.7.7 provides performance criteria by which to assess proposed variations to setback requirements. This is summarised below.

P1.1 The primary street setback of new developments or additions to non-contributory buildings is to match the traditional setback of the immediate locality.

The proposed dwelling is on a battle-axe lot. There are no primary street issues.

P1.2 Additions to existing contributory buildings shall be setback so as to not adversely affect its visual presence.

The lot is currently vacant. There are no heritage requirements on the lot or adjoining lots.

P1.3 Developments are to have side setbacks complementary with the predominant streetscape.

The northern elevation double storey boundary wall has been agreed to by the adjoining neighbour. The adjoining lot is vacant. No planning application has been submitted to Council for the adjoining lot. It would be a practical solution for the northern neighbour when designing their development to simultaneously construct boundary walls. Therefore both lots can effectively utilise the area within the lots. The proposed boundary wall is considered acceptable, as there is no impact to the streetscape or to adjoining neighbours (as agreed).

The proposal is in an area zoned R30 and therefore reduced setbacks are a consequence of the density. The proposal has been significantly amended to take account of the local site constraints and neighbour's objections.

With regard to the proposed southern setback, the proposal has been modified, as discussed above, to address the neighbour's concerns regarding overshadowing, overlooking, scale and bulk. The first floor, ground floor entry, bedroom 5 and the ensuite have undergone a considerable redesign, with bedroom 5 and the ensuite both moved north away from the southern boundary in order to gain individual wall compliance for the required setback to the southern boundary and to reduce bulk and scale, however the overall wall setback as required by the R-Codes does require a setback variation. The proposed variation to the 'Deemed to Comply' provisions is 0.8 metres. As mentioned, the individual wall setbacks comply with the setback requirements. The proposed wall has been modified to ensure compliance with the overshadowing requirements of the R-Codes, as well as to further articulate the building to reduce the overall scale and bulk of the building. The proposal has also been reduced in height to minimise the potential impacts to the southern neighbours. The redesigned building minimises scale and bulk, brings the overshadowing into compliance and the revision of side windows eliminates all overlooking thereby protecting the neighbours amenity.

In conclusion the redesigned proposed dwelling has been designed to mitigate any adverse impact with regard to scale or bulk of the dwelling, as raised by the adjoining neighbours. The northern neighbour has approved the boundary wall and the proposal does make use of the lot area effectively. The proposed redesigned southern elevation has individual sections of the

elevation which comply with the required setback, however the overall extent of the wall does require a variation of 0.8 metres. The proposed dwelling is considered to comply with the 'Performance Criteria' requirements of the RDG. The amended proposal does not significantly negatively impact on the streetscape or adjoining neighbours and therefore it is considered that the reduced side setbacks can be supported by Council.

Overlooking

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 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its street 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 following areas are elevated above 0.5 metres from natural ground level and are located so as to cause potential overlooking into adjoining lots:

- Dining/Family
- Games/ Lounge
- Deck

The 'Design Provisions' of 5.4.1 allows for:

- 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.*
- 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 proposed two levels of the dwelling and the deck are all raised 0.5 metres above natural ground level and are located closer to the boundaries than is permitted by the 'Deemed to Comply' provisions. The predominant neighbours impacted are the northern, southern and western neighbour. The northern neighbour has signed off on the proposal and therefore is considered to accept any overlooking. The overlooking to the southern neighbour is to a rear access leg/ parking area. The impact to the western neighbour is considered minor, with the living areas primarily overlooking the roof of the western neighbour. The neighbour to the west (Riverside Road) is 7m lower than the subject lot. The applicant has stated:

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There is essentially no buildable solution on a cliff that would prevent looking towards the river to the west, with the existing neighbour being a full 7m lower than this site.

Achieving river views from the lot is a primary design feature of living within the Riverside Precinct. The dwelling has been designed to achieve river views. The proposal, whilst overlooking the western neighbour, isn't considered to cause significant negative impacts, as the lot level difference means any overlooking is over the roof of the adjoining neighbour. This area is not currently considered as an active habitable space, therefore it is not necessary to screen these areas.

The owner is attempting to maximise viewing vistas of the river and surrounding locality. It is considered the proposed design achieves maximum visual privacy to side and rear boundaries of adjoining lots through design measures and because of the significant lot level difference between the subject lot and surrounding lots. The proposal is therefore considered to comply with the Design Principles of Element 5.4.1 Visual privacy of the R-Codes and therefore can be supported.

Building Height

Building Height Requirement	Required	Proposed	Status
Building Height (wall) (Council Policy)	5.6m	7.4m	D
Building Height (roof) (Council Policy)	8.1m	9.0m	D

It is noted the applicant has reduced the height of the dwelling by reducing the fill, modifying the roof and stepping the dwelling. The subject lot has a fall of 1.8 metres from east to west. The front of the dwelling has a finished floor level of 13.70AHD and reduces to 13.272AHD at the rear of the dwelling, reducing approximately 0.5 metres to address the site gradient fall, however to facilitate the construction of a dwelling, the applicant has requested a wall and ridge height variation as noted above. The heights have been reduced and the setbacks have been increased to minimise scale and bulk. The overshadowing of the neighbours property is compliant with the 'Deemed to Comply' provisions of the R-Codes.

For sites where views are a consideration (this includes the subject lot), the RDG limits overall roofs to a maximum height of 8.1 metres from natural ground level. The proposed ridge height is 9.0 metres to top of roof. The proposed wall height is 7.4 metres. The Acceptable Development Provisions of the RDG for the building height in the Riverside Precinct states:

- A2.4 *In localities where views are an important part of the amenity of the area and neighbours existing views are to be affected, or the subject site is a "battle axe" lot, then the maximum building heights are as follows:*
- 8.1m to the top of a pitched roof
 - 6.5m 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 the established character of the area or other site specific circumstances;*
 - ii. *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; and,*
 - iii. *Subject to the "Acceptable Development" standards of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

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The development proposes sections (towards the rear of the subject lot) of the dwelling exceed the maximum building height requirements of the above provisions. The building exceeds the 5.6 metre wall height and 8.1 metres roof height requirements to the rear of the lot as the lot falls away.

The proposed dwelling does not comply with the Acceptable Development provisions of the RDG and therefore requires assessment under the Performance Criteria. The Performance Criteria allows for:

- P1 New developments, additions and alterations to be of a compatible form, bulk and scale to traditional development in the immediate locality.*
- P2 Form and bulk of new developments to be designed appropriately to the topography of the landscape.*

The natural slope of the site means the wall height is more significant as measured from the ground levels at the rear of the site. As discussed the subject lot slopes approximately 1.8 metres from the front of the lot to the rear (east to west). It is considered that a variation to the wall height provisions can be supported for the following reasons:

- The dwelling is stepped to address the slope of the lot.
- The proposed ceiling heights are 2.65 metres and 2.57 metres for the ground and first floor and are considered to be a minimal height and only slightly above the BCA requirements for ceiling heights.
- The overall height of the building at the front of the dwelling is compliant with the Acceptable Development Criteria of the RDG.
- The proposed overall ridge height at 9.0 metres (0.9 metre variation) is considered relatively minor from natural ground level.
- The applicant has made significant changes to the setbacks to the southern elevation and amended the roof height and pitch to ameliorate any potential bulk and scale issues.
- The overshadowing by the development to adjoining lot is compliant with the 'Deemed to Comply' provisions of the R-Codes.
- View corridors are not impacted.

In this instance, it is considered that it is appropriate to grant discretions to the amended building design, as the building steps in an attempt to address the fall of the lot. The amended design attempts to address the neighbour's concerns, with increased setbacks and reduced building heights. As discussed above, the proposed development can be supported for a number of reasons:

- The proposed development is considered to be consistent with the height of other dwellings in the locality.
- Overall the proposed dwelling is considered to be of a compatible form, bulk and scale to the adjoining dwellings in the locality.
- The proposal has been amended to ameliorate any negative impacts the development may have.
- There are no significant adverse impacts to adjoining neighbours including viewing corridors.

It is therefore considered the proposed height of the dwelling complies with the Performance Criteria of the RDG and can be supported.

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Easement

The subject lot utilises the front of the lot as a turning/ reversing area for access/ egress of the garage, however the adjoining lot at 65B requires utilisation of this land also for access/ egress, therefore an easement will need to be created over the lot for the benefit of the owner of 65B. Both owners have acknowledged this requirement and have agreed to the easement. A condition has been included in the Officer's recommendation to reflect the requirements of the easement.

CONCLUSION

The bulk, scale, height and setback of the proposed development (whilst requiring Council to grant discretions to the 'Acceptable Development' and 'Deemed to Comply' provisions) are considered acceptable. The applicant has amended the plans to minimise potential negative impacts. The development is surrounded by R30 density development and has been designed to be consistent with the surrounding design of development in the immediate area. The dwelling has been stepped to address the fall of the lot.

The proposed design of the dwelling is considered sympathetic with the diversified character of the locality. The proposed amended design is considered to have a minimal impact to surrounding neighbours. The development, while still requiring Council discretion, is considered an appropriate design for the locality. The proposal does not visually interfere with the streetscape. It is considered the proposal can be supported as proposed.

Based on the above, it is considered the proposal merits approval subject to appropriate conditions.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

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

- (a) variation to the side boundary setback requirements (northern elevation) – Building on the boundary. Required maximum wall height on the boundary 3.5 metres. Proposed maximum wall height on the boundary 7.4 metres;
- (b) variation to the overall boundary setback requirement (southern elevation) – required setback 3.0 metres. Proposed setback 2.2 metres;
- (c) variation to Element 5.3.7 Site Works of the Residential Design Codes and Element 3.7.4 of the Residential Design Guidelines Site Works;
- (d) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy; and
- (e) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements;

for construction of proposed two storey single dwelling at 65D (Lot 8) Preston Point Road, East Fremantle, in accordance with the plans date stamp received on 10 November 2015 subject to the following conditions:

1. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense (refer footnote (e) below).
2. Applicant/ owner to create an easement over the subject lot to the benefit of 65B Preston Point Road to facilitate access/ egress and turning circles/ manoeuvrability.
3. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.

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4. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (h) below)
5. 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.
6. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

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- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *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".*

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REPORT 12.6

GLYDE STREET NO. 28 (LOT 76) ANCILLARY ACCOMMODATION

RESPONSIBLE DIRECTOR	Jamie Douglas Manager of Planning Services
AUTHOR	Andrew Malone Senior Planning Officer
FILE NUMBER	GLY 28
APPLICATION NUMBER	119/15
ATTACHMENT	Location Plan Applicant Letter Applicant Photographs Plans
AUTHORITY / DISCRETION	Town Planning and Building Committee

PURPOSE

This report considers an application for an ancillary dwelling to the rear of the lot at 28 (Lot 76) Glyde Street, East Fremantle.

EXECUTIVE SUMMARY

The proposal raises the following issues which influence the determination of the application:

- Buildings on the boundary/ Parapet wall height: 2 Storey zero lot boundary wall proposed on the northern lot boundary; and
- Roof Pitch: 7.0° roof pitch, a variation to the Acceptable Development Criteria of the RDG.

The proposed ancillary accommodation (studio) in all other respects is considered to comply with the Residential Design Codes and RDG. The studio is recommended for approval subject to conditions.

BACKGROUND

Suburb/Location	Glyde Street 28 (Lot 76), East Fremantle
Applicant	W & J McEwen
Owner	W & J McEwen
Zoning	Residential R20
Site area	509m ²
Structure plan	N/A

Heritage

Management Category – MHI C+

Some heritage significance at a local level; places to be ideally retained and conserved; endeavour to conserve the significance of the place through the standard provisions of the

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Town of East Fremantle Planning Scheme and associated design guidelines; a Heritage Assessment / Impact Statement may be required as corollary to a development application, particularly in considering demolition of the place. Full documented record of places to be demolished shall be required. Further development needs to be within recognised design guidelines. Incentives should be considered where the condition or relative significance of the individual place is marginal but where a collective significance is served through retention and conservation.

Date Application Received

20 October 2015

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

Nil

Documentation

Relevant forms and letter date stamp received on 20 October 2015.

DETAILSImpact on Public Domain

Tree in verge: No impact.

Light pole: No impact.

Crossover: No Impact.

Footpath: No Impact.

Streetscape: No Impact.

Issues and options consideredStatutory Assessment

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Legislation / Strategic Community Plan / Policy Implications

Legislation Local Planning Scheme No. 3 – Residential R20 (LPS 3)

Strategic Community Plan

Key theme N/A

Objective N/A

Strategic initiative N/A

Policy N/A

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Risk management considerations

N/A

Financial / budget implications

N/A

Regional significance

N/A

Sustainability implications

N/A

ConsultationAdvertising

The proposed application was advertised to surrounding neighbours. The applicant also submitted an 'Adjoining Property Owner Comment Form' from relevant affected adjoining neighbours, most importantly from the northern neighbour (most affected neighbour).

Town Planning Advisory Panel

This application was not considered by the Town Planning Advisory Panel as the development is to the rear of the subject lot and is considered to have no significant impact to the streetscape.

COMMENT

The proposal is for ancillary accommodation (studio) to the northern boundary of the lot, comprising bedroom, living/ kitchenette and bathroom. The total area of the ancillary accommodation is 58m².

The ancillary accommodation is two storey studio located separate to the existing dwelling on the northern boundary of the lot. The studio will have a skillion form roof. The proposal as per Element 5.3.3 of the R-Codes does not require any further car parking spaces to be provided.

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	50%	70%	A
Outdoor Living	30sqm	Exceeds 30sqm	A
Car Parking	2	N/A	A
Site Works	Less than 500mm	N/A	A
Overshadowing	25%	Less than 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	A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D

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

Side Boundary Setbacks

The northern wall of the proposed two storey ancillary accommodation is 6.325 metres in length with adjoining 2.6 metre length of screen wall. The ancillary accommodation is 5.6 metres in height with adjoining 2.55 metre high screen wall. The ancillary accommodation and screen wall is located on the northern boundary. The proposal does not comply with the 'Deemed to Comply' requirements of the R-Codes and the Acceptable Development Criteria of the RDG. The proposed wall is over 3.0 metres in height and therefore exceeds the 'Deemed to Comply' provisions of the R-Codes and the Acceptable Development provisions of the RDG. The northern boundary wall is required to be 1.2 metres from the boundary.

The LPP RDG Element 3.7.7 provides performance criteria by which to assess proposed variations to the setback requirements. This is summarised below.

- P1.1 The primary street setback of new developments or additions to non-contributory buildings is to match the traditional setback of the immediate locality.

There are no planning implications with regard to the front or street setback for this proposal. The proposal is located wholly to the rear of the subject lot.

- P1.2 Additions to existing contributory buildings shall be setback so as to not adversely affect its visual presence.

The existing dwelling is listed on the Town's Municipal Heritage Inventory as a C+ category dwelling.

The proposed location of the ancillary accommodation is considered to have no impact to the heritage character of the dwelling. It is detached from the property and will not adversely affect the visual presence of the streetscape. Adjoining neighbours have signed a comment form stating they have no objection to the proposal being constructed on the boundary for a length of 6.325 metres and at a height of 5.6 metres.

- P1.3 Developments are to have side setbacks complementary with the predominant streetscape.

With regard to the proposed side setback to the north, the proposal is located on the northern boundary for 6.325 metres in length and 5.6 metres in height. A proposed screen boundary wall is also located on the northern boundary for a length of 2.6 metres and to a height of 2.55 metres.

The application was advertised to two adjoining neighbours. A further three neighbours has signed an 'Adjoining Property Owner Comment Form' stating no objection to the proposal. The immediate neighbour to the north has signed an 'Adjoining Property Owner Comment Form',

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therefore the most impacted neighbour has no objection to a two storey structure being constructed on the boundary.

It is considered the proposed northern boundary wall will not significantly impact on the amenity of the adjoining neighbour, as the boundary wall will not pose any adverse sunlight, ventilation or privacy impacts. Whilst the boundary wall will be two storey, the neighbour (northern) has agreed to the structure.

The proposed height of the wall at 5.6 metres is considered high for a boundary wall, however the overall distance of 6.325 metres for the length of it does not significantly impact on the scale or bulk to the existing dwelling or adjoining neighbours. The proposed character of the heritage dwelling is also maintained. The proposed ancillary accommodation has a simple design that is sympathetic to the existing heritage dwelling.

It is considered the proposed ancillary accommodation can be supported by Council, especially considering the applicant has provided Council with 'Adjoining Property Owner Comment Form' of no objection.

Roof Pitch

The proposed roof pitch is approximately 7°. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

- A4.2 A contemporary roof form or roof pitch that is less than 28° or greater than 36° shall be approved where the applicant demonstrates compatibility with the immediate locality.

The Performance Criteria states:

- P4 Roof forms of new buildings complement the traditional form of surrounding development in the immediate locality.

The roof material is consistent with the existing dwelling ('Colorbond'/ zinalume). The roof form is a contemporary skillion roof form that minimises the scale and bulk of the structure to specifically the northern adjoining neighbour, to surrounding neighbours and to the heritage dwelling. The roof form is considered to complement and be sympathetic with the existing roof form of the dwelling.

The design of the ancillary accommodation also ensures the addition cannot be viewed from the street.

The proposed roof is considered appropriate for the area and therefore can be supported by Council.

Conclusion

The proposed ancillary accommodation has been designed to significantly comply with the relevant legislation with the exception of the criteria for buildings on the boundary and the roof pitch. These variations are considered minor, with no significant impact to the streetscape, heritage dwelling and to adjoining neighbours (as agreed by neighbours on the 'Adjoining Property Owner Comment Form') and therefore the proposal is considered acceptable with regard to height, scale and bulk.

It is considered the proposal can be supported and recommended for approval subject to conditions.

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VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

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

- (a) variation to side setback lot boundary setback of the Residential Design Guideline and R-Codes – required setback 1.2 metres, proposed setback nil (2 storey on the northern boundary);
- (b) variation to 3.7.8 Roof Form and Pitch of the Residential Design Guidelines for an addition comprising of ancillary accommodation (studio) to an existing dwelling to the rear of the lot at 28 (Lot 76) Glyde Street, East Fremantle, in accordance with the plans date stamp received on 20 October 2015, subject to the following conditions:
 1. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense (refer footnote (e) below).
 2. Prior to the installation of externally mounted air-conditioning plant to the ancillary accommodation, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (Refer footnote (f) below)
 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 planning 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 stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 6. 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.
 7. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 8. This planning approval to remain valid for a period of 24 months from date of this approval.

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*

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- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *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".*

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REPORT NO 12.7**OAKOVER STREET NO. 52 (LOT 991) ADDITION OF A BEDROOM TO AN EXISTING DWELLING**

RESPONSIBLE DIRECTOR	Jamie Douglas Manager of Planning Services
AUTHOR	Andrew Malone Senior Planning Officer
FILE NUMBER	OAK52
APPLICATION NUMBER	123/15
ATTACHMENT	Location Plan Neighbour's Submission Applicant's Letter Plan
AUTHORITY / DISCRETION	Town Planning and Building Committee

PURPOSE

This report considers an application for an addition of a fifth bedroom to the northern elevation (secondary street) at 52 (Lot 991) Oakover Street, East Fremantle.

EXECUTIVE SUMMARY

The proposal raises the following issues which influence the determination of the application:

- Building Setback: Secondary street (northern elevation): proposed setback 1.08 metres; required setback 2 metres. Setback to eastern elevation (rear setback): Proposed 1.02 metres; required 1.5 metres.

The proposed bedroom in all other respects is considered to comply with the Residential Design Codes and Residential Design Guidelines. The addition is recommended for approval subject to conditions.

BACKGROUND

Suburb/Location	Oakover Street 52 (Lot 991), East Fremantle
Applicant	C Morrish
Owner	C Morrish
Zoning	Residential R12.5
Site area	502m ²
Structure plan	N/A

Date Application Received

23 October 2015

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

Nil

Documentation

Relevant forms and letter date stamp received on 23 October 2015.

DETAILSImpact on Public Domain

Tree in verge: No impact.

Light pole: No impact.

Crossover: No Impact.

Footpath: No Impact.

Streetscape: Secondary Street. Proposal is to be constructed into the secondary street setback. The proposed impact is considered to be minimal.

Issues and options consideredStatutory Assessment

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Legislation / Strategic Community Plan / Policy Implications**Legislation**

Local Planning Scheme No. 3 – Residential R12.5 (LPS 3)

Strategic Community Plan**Key theme** N/A**Objective** N/A**Strategic initiative** N/A**Policy** N/A**Risk management considerations**

N/A

Financial / budget implications

N/A

Regional significance

N/A

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Sustainability implications

N/A

ConsultationAdvertising

The proposed application was advertised to surrounding neighbours. One objection was received by the adjoining neighbour. The neighbour has stated:

We are NOT in favour of the extension for these various reasons. I am disappointed that the blocks are getting boxed in. I understand that Carolyn is seeking another bedroom but think she has other options.

This will be discussed in detail later in the report.

Town Planning Advisory Panel

The application was referred to the Panel by email, as the November TPAP meeting was not convened due to the minor nature of the applications received by Council. A panel member made the following comment:

Cannot agree that the fifth bedroom addition will 'contribute and be consistent with the streetscape' as the gable roof will be considerably forward of the setback of the adjoining dwelling in Fletcher Street. As the application stands, do not believe it can be supported.

The member's comment is acknowledged and addressed in the Comment section of this report.

COMMENT

The proposal is for an additional bedroom (fifth bedroom) to the northern boundary of the lot. The total area of the additional room is 16.2m². The proposed bedroom is located 1.08 metres from the northern boundary.

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	55%	A
Outdoor Living	30sqm	As existing	A
Car Parking	2	As existing	A
Site Works	Less than 500mm	As existing	A
Overshadowing	25%	Less than 25%	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	N/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

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3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15-20 Precinct Requirements	A

Boundary Setbacks

The northern wall to the bedroom is 4.5 metres in length along the northern boundary and 3.5 metres in length adjoining the eastern boundary. The wall height is 3.1 metres. The bedroom is setback 1.08 metres from the northern boundary (secondary street) and 1.02 metres from the eastern boundary.

The proposal does not comply with the 'Deemed to Comply' requirements of the R-Codes and the Acceptable Development Criteria of the RDG. The required setback for the bedroom is 2.0 metres from the northern boundary and 1.5 metres from the eastern boundary. The proposed bedroom exceeds the 'Deemed to Comply' provisions of the R-Codes and the Acceptable Development provisions of the RDG for setbacks.

The LPP RDG Element 3.7.7 provides performance criteria by which to assess proposed variations to the setback requirements. This is summarised below.

- P1.1 The primary street setback of new developments or additions to non-contributory buildings is to match the traditional setback of the immediate locality.

There are no planning implications with regard to the front or street setback for this proposal. The proposal is located wholly to the side/ rear of the subject lot.

With respect to the secondary street, the proposed side set to the dwelling / bedroom addition is required to be set back 2.0 metres from the boundary as per Table 1 of the R-Codes. The proposed set back from the side (secondary street) boundary is 1.08 metres. The existing dwelling is located 4.7 metres from the secondary street.

- P1.2 Additions to existing contributory buildings shall be setback so as to not adversely affect its visual presence.

The existing dwelling is not listed on the Town's Municipal Heritage Inventory or the Heritage List.

- P1.3 Developments are to have side setbacks complementary with the predominant streetscape.

With regard to the proposed side setback to the north, the proposal is located within the secondary street setback area of 2.0 metres. Of the total area of the extension (16.2m²) only 4.5m² is proposed to be located within the secondary street setback area. The bedroom is also located 1.02 metres from the eastern boundary.

The required setback for the bedroom is 2.0 metres from the northern boundary and 1.5 metres from the eastern boundary (0.92 metres variation to the northern boundary and 0.48 metre setback variation to the eastern boundary)

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The subject lot is located on a corner lot. The overall primary street impact is minor. The neighbour has objected to the proposal. The neighbours access leg and garage adjoins the proposal. The addition is single storey. It is proposed to be located behind an existing 2 metre high boundary wall. Approximately 1.1 metres of height for a length of 4.5 metres will be visible. A window is located in this wall. The wall adjoining the neighbour's property is a painted solid wall to match the existing dwelling. The existing boundary fence (eastern boundary) at 1.8 metres high will also significantly screen the bedroom addition from the neighbours.

It is considered the proposed northern and eastern boundary wall will not significantly impact on the amenity of the adjoining neighbour, as the bedroom adjoins access leg to the garage of the adjoining property. There will be no overlooking or overshadowing impacts.

The side setback to the eastern boundary is considered to have a setback that is consistent with other side setbacks in the area, however due to the corner nature of the lot, the impact to the secondary street (reduced secondary street set back) should be assessed. It is considered there is minimal impact to the primary streetscape. The dwelling is located a minimum of 8.3 metres from the primary street. The setback from the secondary street to the dwelling is in excess of 4.5 metres. The proposed addition being only 4.5 metres in length along the secondary street is not considered to add to the bulk of the building in relation to the secondary street. It is considered, as discussed above, the bedroom does not impact on the amenity of the adjoining neighbour. The dwelling is single storey with a 2 metre high wall on the secondary street, therefore the minor proposal has a minimal impact to the streetscape and character of the area. The proposed height of the wall does not significantly impact on the scale or bulk of the dwelling. The proposal will still maintain an open primary and secondary street.

The proposal does not negatively impact the streetscape or adjoining neighbours and therefore it is considered that the reduced side setback can be supported by Council.

Conclusion

The height and scale of the proposed bedroom, whilst requiring side setback variations to the 'Deemed to Comply' provisions of the R-Codes and the Acceptable Development provisions of the RDG, are considered acceptable. The setback to the eastern boundary is consistent with other such side setbacks in the locality. The proposed incursion of 4.5m² into the secondary street setback is considered minor and does not impact significantly on the secondary street. The proposed single storey bedroom is considered to be consistent and sympathetic with the adjoining properties and the streetscape in the locality, comprising a similar height, scale and bulk as the existing dwelling.

The application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the R-Codes. Whilst the application does seek some minor variations for setback to the secondary street (northern boundary) and rear boundary (eastern boundary) it is considered the proposal has been designed to minimise impact to the streetscape and adjoining neighbours.

Based on the above, it is considered the proposal merits approval subject to appropriate conditions.

VOTING REQUIREMENTS

Simple Majority

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RECOMMENDATION

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

- (a) variation to side and rear setback lot boundary setback of the Residential Design Guideline and R-Codes (northern and eastern boundary) – required setback 2 metres (secondary street and 1.5 metres rear boundary), proposed setback 1.08 metres secondary street and 1.02 metres rear setback

for an addition of a fifth bedroom to the northern elevation (secondary street) at 52 (Lot 991) Oakover Street, East Fremantle, in accordance with the plans date stamp received on 23 October 2015, subject to the following conditions:

1. Prior to the installation of externally mounted air-conditioning plant to the ancillary accommodation, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (Refer footnote (i) below)
2. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
5. 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.
6. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (e) *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".*

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REPORT NO 12.8

PRESTON POINT ROAD NO. 65B (LOT 2) NEW DWELLING

RESPONSIBLE DIRECTOR	Jamie Douglas Manager of Planning Services
AUTHOR	Andrew Malone Senior Planning Officer
FILE NUMBER	PPT 65B
APPLICATION NUMBER	97/15
ATTACHMENT	Location Plan Submission Neighbours Objections Plans
AUTHORITY / DISCRETION	Town Planning and Building Committee

PURPOSE

This report considers an application for planning approval for a two storey dwelling located on a vacant rear battle-axe lot at 65B (Lot 2) Preston Point Road, East Fremantle.

EXECUTIVE SUMMARY

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

- variation to the side boundary setback requirements (eastern elevation) – Building on the boundary. Required maximum wall height on the boundary 3.5 metres. Proposed maximum wall height on the boundary 5.2 metres; Overall length of wall exceeds the length requirements;
- variation to Element 5.4.1 of the Residential Design Codes Visual Privacy; and
- element 5.1.4 Open Space of the Deemed to Comply Provisions of the R-Codes;
- element 3.7.17 of the Residential Design Guidelines: Building Design Requirements: Wall height

The proposed dwelling is recommended for approval subject to conditions.

BACKGROUND

Suburb/Location	Preston Point Road 65B (Lot 2), East Fremantle
Applicant	Hooman Raei
Owner	CityPak Pty Ltd
Zoning	Residential R30
Site area	341m ²
Structure plan	N/A

Date Application Received

12 August 2015

1 December 2015

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

Nil

Documentation

Relevant forms and letter date stamp received on 12 August 2015.

Revised plans and forms date stamp received on 10 November 2015.

DETAILSImpact on Public Domain

Tree in verge: No impact.

Light pole: No impact.

Crossover: No impact.

Footpath: No impact.

Streetscape: No impact.

Issues and options consideredStatutory Assessment

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Legislation / Strategic Community Plan / Policy Implications**Legislation**

Local Planning Scheme No. 3 – Residential R30 (LPS 3)

Strategic Community Plan**Key theme** N/A**Objective** N/A**Strategic initiative** N/A**Policy** N/A**Risk management considerations**

N/A

Financial / budget implications

N/A

Regional significance

N/A

Sustainability implications

N/A

Consultation

Advertising

The application was advertised to surrounding neighbours for a two week period between 18 August 2015 and 1 September 2015. Two submissions were received by Council, both containing similar concerns. The submissions are summarised below. The applicant has made changes to the proposal, which are detailed below.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>As per the proposed plan, the new dwellings will affect sunlight to our properties. The proposed dwellings will be very close to our fence wall contravening building regulations and the buildings proposed in the current state has excess bulk. This has potential to significantly reduce property value of units #3 and #4 at 63, Preston Point Road.</p> <p>According to the proposed plan, the dwelling units B and D at 65, Preston Point Road have separation of just 1.2mtrs from our fence wall. For the proposed size and height of the building, the regulations specify a minimum distance of 1.5metres.</p> <p>The proposed dwellings in the current plan will be tall and bulky. This height and bulk will significantly affect sunlight into our living area including kitchen and dining as well as our backyard. We are concerned that in winter, our houses will be in the dark for an extended period of time each day.</p> <p>The proposed dwellings will be built after filling up the land to a height of 800mms. This will raise the final height of the proposed dwelling to over 6 metres plus the height of the roof.</p> <p>Stone cladding and storm water pipes of the dwellings will be very close to our fences again blocking sunlight and contravening building regulations.</p> <p>The proposed windows facing out properties need to be frosted or obscured for privacy reasons.</p>	<p>Amended plans submitted. Changes to the design include: The design is being driven by the small Lot area.</p> <p>Setbacks: The building has been moved north in order to gain compliance for the required setback to the southern boundary, setback is now 1.8m.</p> <p>Wall height: The proposed southern boundary wall has been redesigned in the area of roofing and box guttering, a fascia gutter on top of the wall is now proposed. As a result the proposed wall height of 3.2m - 2.9m is now greatly reduced to 2.9 - 2.6m</p> <p>Ridge Height: Significantly reduced as the proposed roof pitch has been reduced from 25 degrees to 18 degrees.</p> <p>Overlooking: The adjoining neighbour on the common boundary to the east indicates that she has no issue with the proposal and is willing to sign her agreement / no objection to the proposal. Should there be any perceived issue in the future, by either party, then it is proposed that the owner of 65B install visually impermeable screens to protect privacy of both parties and still allow good access to light and airflow.</p> <p>Open Space: There is a small percentage over run in the site coverage / open space calculations and a discretionary variation is sought in this area.</p> <p>Access to garage: The proposed use of the common ground easement is illustrated with a vehicle turning template, it is proposed that common access to this vehicular movement area is maintained for the common use by all parties to permit forward egress of vehicles.</p> <p>Easement: Full detail of the permanent access to the easement to be drawn up and signed by all parties.</p>	<p>A detailed assessment with regards the development has been undertaken and is discussed below.</p> <p>The adjoining neighbour on the common boundary to the east indicates that she has no issue with the common parapet wall and is willing to sign her agreement / no objection to the proposal.</p>

Town Planning Advisory Panel

This application was not considered by the Town Planning Advisory Panel. The application is a battle-axe lot located at the rear of the parent lot. There are no streetscape or heritage impacts.

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COMMENT

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	45%	43%	D
Outdoor Living	24sqm	30sqm	A
Car Parking	2	2	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	35%	13% / 16%	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	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	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	A
3.7.15-20 Precinct Requirements	D

Side Boundary Setbacks

The following are the areas that require Council to exercise its discretion with regards the Acceptable Development Criteria of the RDG:

- Building on the boundary; eastern elevation (two storey)

The eastern elevation is built on the boundary for a length of 8.7 metres on the ground floor and 9.2 metres on the first floor. The overall height of the wall is 5.2 metres from natural ground level. Boundary walls are only permitted on one boundary. Two sections of boundary walls are proposed. The R-Codes requires:

in areas coded R30 and higher, walls not higher than 3.5m with an average of 3m for two-thirds the length of the balance of the lot boundary behind the front setback, to one side boundary only

The southern section of boundary wall complies with the above R-Code requirements. The eastern wall is two storey (over height). The eastern boundary wall is also considered the second boundary wall. The eastern boundary wall is less than two-thirds the length of the balance of the lot boundary, however exceeds the maximum height of 3.5 metres and therefore requires discretion to be exercised.

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The LPP RDG Element 3.7.7 provides performance criteria by which to assess proposed variations to setback requirements. This is summarised below.

P1.1 The primary street setback of new developments or additions to non-contributory buildings is to match the traditional setback of the immediate locality.

The proposed dwelling is on a battle-axe lot. There are no primary street issues. The dwelling located to the front of the subject lot is approximately 1.1 metres higher (finished floor level) than the proposed dwelling. There will be no primary street issues.

P1.2 Additions to existing contributory buildings shall be setback so as to not adversely affect its visual presence.

The lot is currently vacant. There are no heritage requirements on the lot or adjoining lots.

P1.3 Developments are to have side setbacks complementary with the predominant streetscape.

The eastern elevation double storey boundary wall has been agreed in principle by the adjoining neighbour. The dwelling located to the front of the subject lot is approximately 1.1 metres higher (finished floor level) than the proposed dwelling. As such the extent of the wall seen by the adjoining neighbour is 3.7 metres in height. Utilisation of the second boundary wall (located behind a filled lot) makes effective use of space. The proposal is in an area zoned R30 and therefore reduced setbacks are a consequence of the density. Whilst the neighbour has raised no concerns, an assessment of the potential impacts to the neighbour will still be assessed:

- The proposal has been significantly amended to take account of the local site constraints and neighbour's objections. (increased setbacks to the southern neighbour to minimise scale and bulk and overshadowing).
- The adjoining eastern neighbour has no habitable areas facing the boundary wall.
- There is minimal scale and bulk issues. The dwelling located to the front of the subject lot is approximately 1.1 metres higher (finished floor level) than the proposed dwelling. The extent of the wall seen by the neighbour is 3.7 metres.
- The proposal has also been reduced in height to minimise the potential impacts to the southern and eastern neighbours. The redesigned building minimises scale and bulk, brings the overshadowing into compliance and the revision of side (western) windows eliminates all overlooking to the southern neighbour thereby protecting the neighbours amenity.

The proposed boundary wall is considered acceptable, as there is no impact to the streetscape or to adjoining neighbours (as agreed in principle). The proposed dwelling is considered to comply with the 'Performance Criteria' requirements of the RDG. The amended proposal does not significantly impact negatively on the streetscape or adjoining neighbours and therefore it is considered that the reduced side setbacks (zero lot boundary wall at a height of 3.7 metres as experienced by the eastern neighbour) can be supported by Council.

Overlooking

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 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its street setback line, to comply with the following:

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- 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 following areas are elevated above 0.5 metres from natural ground level and are located so as to cause potential overlooking into adjoining lots:

- Bedroom 4 / 5

The 'Design Provisions' of 5.4.1 allows for:

- 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.*
- 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 double storey boundary wall all on the eastern elevation has been agreed to in principle by the adjoining neighbour. Mr. Chisholm has stated:

Should there be any perceived issue in the future, by either party, then it is proposed that the owner of 65B install visually impermeable screens to protect privacy of both parties and still allow good access to light and airflow.

The proposed bedroom window 4 primarily overlooks the driveway, however it does have oblique views through the neighbours (eastern) property. A condition has been included to require the owner to submit plans signed by the eastern neighbour specifically agreeing to no screening for Bedroom 4 and Bedroom 5. In the event no such agreement can be reached screening will be required. Notwithstanding the above, the areas overlooked are not to habitable areas and will not impact on the neighbour. The proposed bedroom window 5, whilst looking into the neighbour's property overlooks passageways under the eaves round the dwelling. No habitable areas are overlooked. There will be no significant impact on the neighbour.

Amendments to the plans have been undertaken to ensure full privacy is achieved to the southern neighbours. It is considered the proposed design achieves maximum visual privacy to side and rear boundaries of adjoining lots through design measures, use of windows and because of the significant lot level difference between the subject lot and surrounding lots. The eastern neighbour has agreed to the overlooking. Notwithstanding the "in principle agreement", the areas overlooked are considered not to be habitable or sensitive areas. The proposal is

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therefore considered to comply with the Design Principles of Element 5.4.1 Visual Privacy of the R-Codes and therefore can be supported.

Open Space

The proposed open space for the lot is 43%. The subject lot is required to have 45% open space. The applicant is requesting a 2% variation (5.4m²) to the 'Deemed to Comply' provisions of the R-Codes.

The Design Principles of 5.1.4 Open Space of the R-Codes states:

- P4 Development incorporates suitable open space for its context to:*
- *reflect the existing and/or desired streetscape character or as outlined under the local planning framework;*
 - *provide access to natural sunlight for the dwelling;*
 - *reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;*
 - *provide an attractive setting for the buildings, landscape, vegetation and streetscape;*
 - *provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and*
 - *provide space for external fixtures and essential facilities.*

With regard to the above, the proposed development provides a 30m² alfresco and adjoining outdoor area with northern exposure and access from a large dining/ kitchen. On the upper floor is an approximate 70m² lounge and games room, providing a substantial amount of area for recreational purposes. All rooms have excellent access to light. The building is not considered overly bulky, with the massing to the southern elevation reduced to minimise any potential impact to the southern neighbours. The 2% variation is minor. The location of the dwelling in Preston Point Road affords the owners a significant number of parks and the river within close proximity.

It is considered the character of the dwelling and locality is being maintained. The alfresco area can be utilised as open space and it is considered this area provides for the residents to use space external to the dwelling for outdoor pursuits and entertaining.

The open space provided is considered acceptable and is considered appropriate for the lot and therefore can be supported by Council.

Building Height

Building Height Requirement	Required	Proposed	Status
Building Height (wall) (Council Policy)	5.6m	5.9m	D
Building Height (roof) (Council Policy)	8.1m	8.1m	A

For sites where views are a consideration (this includes the subject lot), the RDG limits overall roofs to a maximum height of 8.1 metres from natural ground level. The proposed ridge height is 8.1 metres to top of roof. The proposed wall height is 5.9 to the western elevation and 5.1 metres from the eastern elevation. The Acceptable Development Provisions of the RDG for the building height in the Riverside Precinct states:

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A2.4 *In localities where views are an important part of the amenity of the area and neighbours existing views are to be affected, or the subject site is a “battle axe” lot, then the maximum building heights are as follows:*

- 8.1m to the top of a pitched roof
- 6.5m 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 the established character of the area or other site specific circumstances;*
 - ii. *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; and,*
 - iii. *Subject to the “Acceptable Development” standards of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

The development proposes the front sections (towards the rear of the subject lot) of the dwelling exceed the maximum wall height requirements of the above provisions by 0.3 metres (total wall height 5.9 metres).

The proposed dwelling does not comply with the Acceptable Development provisions of the RDG and therefore requires assessment under the Performance Criteria. The Performance Criteria allows for:

- P1 *New developments, additions and alterations to be of a compatible form, bulk and scale to traditional development in the immediate locality.*
- P2 *Form and bulk of new developments to be designed appropriately to the topography of the landscape.*

The natural slope of the site means the wall height is more significant as measured from the ground levels at the rear of the site. The wall height varies between 5.1 metres and 5.9 metres across the lot because of the fall in the natural ground level. It is considered that a variation to the wall height provisions can be supported for the following reasons:

- The dwelling complies with the overall ridge height requirements of the RDG provisions.
- The proposed ceiling heights are considered standard heights and are not excessive.
- The overall height of the building adjoining the eastern neighbour is compliant with the Acceptable Development Criteria of the RDG.
- The proposed overall wall height at 5.9 metres (0.3 metre variation) is considered relatively minor from natural ground level.
- The applicant has made significant changes to the setbacks to the southern elevation and amended the roof height and pitch to ameliorate any potential bulk and scale issues.
- The overshadowing by the development to adjoining lot is compliant with the ‘Deemed to Comply’ provisions of the R-Codes.
- View corridors are not impacted.

In this instance, it is considered that it is appropriate to grant the 0.3 metre wall height discretion to the amended building design, as the building has been designed to address any bulk and scale issues. No viewing corridors are impacted. The overall height (ridge height) of the dwelling is compliant with the RDG requirements. The amended design attempts to address the neighbour’s concerns, with increased setbacks and reduced building heights.

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It is therefore considered the proposed height of the dwelling complies with the Performance Criteria of the RDG and can be supported.

Access / Egress Easement

The subject lot utilises the front of the adjoining lot at 65D as a turning/ reversing area for access/ egress to the garage. 65B requires utilisation of this land for access/ egress into their lot. Mr Chisholm has stated:

The proposed use of the common ground easement is illustrated with a vehicle turning template, it is proposed that common access to this vehicular movement area is maintained for the common use by all parties to permit forward egress of vehicles.

Full detail of the permanent access to the easement to be drawn up and signed by all parties.

An easement will need to be created over 65D Preston Point Road for the benefit of the owner of 65B (subject lot). Both owners have acknowledged this requirement and have agreed to the easement. A condition has been included in the Officer's recommendation to reflect the requirements of the easement.

CONCLUSION

The bulk, scale, height and setback of the proposed development (amended to minimise impact to adjoining neighbours) requires Council to grant discretions to the 'Acceptable Development' and 'Deemed to Comply' provisions. As discussed above the proposed variations are considered minor and are acceptable. The development is surrounded by R30 density development and has been designed to be similar in design, scale and bulk with the surrounding development in the immediate area.

The proposed design of the dwelling is considered sympathetic with the diversified character of the locality. The proposed amended design is considered to have a minimal impact to surrounding neighbours, especially the southern neighbours. The eastern neighbour has agreed in principle to the boundary wall and the overlooking. The development is considered an appropriate design for the locality. The proposal does not visually interfere with the streetscape.

Based on the above, it is considered the proposal merits approval subject to appropriate conditions.

VOTING REQUIREMENTS

Simple Majority

RECOMMENDATION

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

- (a) variation to the side boundary setback requirements (eastern elevation) – Building on the boundary. Required maximum wall height on the boundary 3.5 metres. Proposed maximum wall height on the boundary 5.2 metres;
- (b) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy;
- (c) element 5.1.4 Open Space of the Deemed to Comply Provisions of the R-Codes; and
- (d) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements (Building height);

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for construction of proposed two storey single dwelling at 65B (Lot 2) Preston Point Road, East Fremantle, in accordance with the plans date stamp received on 10 November 2015 subject to the following conditions:

1. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense (refer footnote (e) below).
2. Applicant/ owner to enter into an agreement with the owner of 65D Preston Point Road to create an easement over 65D Preston Point Road to the benefit of 65B Preston Point Road to facilitate access/ egress and turning circles/ manoeuvrability.
3. Screening to be included on Bedroom 4 and Bedroom 5 windows to a height of 1.6 metres to comply with the 'Deemed to Comply' provisions of the R-Codes. In the event that a mutually acceptable solution can be agreed upon (or where no screening is required by agreement) signed by both parties (eastern neighbour and subject lot owner), the screening may be removed to that elevation / window. Revised plans signed by both parties noting any variations to the propose screening are to be submitted to Council prior to a Building Permit being submitted to Council, to the satisfaction of the Acting Chief Executive Officer.
4. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
5. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (h) below)
6. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
7. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
8. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
9. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
11. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

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12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) 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.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) 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".*

REPORT NO 12.9

FRASER STREET, NO. 49 (LOT 136) – FRONT FENCE AND INCREASED WIDTH CROSSOVER, INCLUDING RETROSPECTIVE APPROVAL FOR PORTION OF BOUNDARY FENCE IN FRONT SETBACK

RESPONSIBLE DIRECTOR	Planning Services Jamie Douglas
AUTHOR	Christine Catchpole
FILE NUMBER	P/FRA49
APPLICATION NUMBER	P120/15
ATTACHMENTS	Location map Site photographs Plans
AUTHORITY / DISCRETION	Town Planning & Building Committee

PURPOSE

This report relates to a retrospective planning application for a portion of the front fence and a planning application for the remainder of the fence and increased width crossover.

EXECUTIVE SUMMARY

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

Front fence – side boundary (within 7.5m from street front boundary)

Required: height of solid section of wall not to exceed 1.2 metres (R-Codes & Residential Design Guidelines).

Provided: 1.0 metre – 2.2 metres above natural ground level (eastern boundary) and 600mm – 1.7 metres above natural ground level (western boundary).

The variation cannot be supported and retrospective approval and planning approval is recommended subject to the height of the fencing being reduced to comply with the R-Codes and Residential Design Guidelines for the front setback area.

Sight lines

Required: 1.5 metres x 1.5 metres setback of fence (eastern boundary) at the point where the driveway meets the front boundary/footpath (road reserve) and the western boundary where the fence meets the footpath.

Provided: Nil provided.

The sight line variations cannot be supported and the fences must comply with the sight line requirement of the R-Codes and the Residential Design Guidelines on both lot boundaries.

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Crossover width

Required: not to exceed 3 metres (Residential Design Guidelines).

Proposed: 6.0 metres (~7 metres including splays).

The variation can be supported subject to a condition specifying a reduced maximum width of 4.5 metres.

Crossover construction material

Required: black asphalt (Residential Design Guidelines).

Proposed: exposed aggregate concrete.

The variations in respect to crossover width and construction material can be supported subject to conditions.

BACKGROUND

Suburb/Location	No. 49 (Lot 136) Fraser Street, East Fremantle
Applicant	F Castino
Owner	F Castino
Zoning	Residential R12.5 Urban
Site area	931m ²
Structure plan	'Not applicable'
Date Application Received	21 October 2015

Relevant Council Policies

Residential Design Guidelines 2015 (as amended) (RDG)

Impact on Public Domain

Tree in verge: Mature tree centre of verge.

Light pole: No impact.

Crossover: Increased width and alternate material requested.

Footpath: Reinstatement required.

Streetscape: The front fence and crossover width has a significant impact on the streetscape and pedestrian/vehicle safety.

Property History

25 May 2010 – Council approval for a single storey dwelling with an undercroft area. Subsequent approvals for a swimming pool and air conditioning have been issued.

DETAILS

The applicant is proposing to construct a front boundary fence of rendered masonry which for the most part will not exceed 600mm in height. The letterbox and pier for the street number will be slightly higher.

The side boundary fencing in the 7.5 metre setback area on the eastern boundary ranges in height between 1.0 metre – 2.2 metres above natural ground level. The walls and fencing in this location are also rendered masonry and will form planter boxes for landscaping.

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The applicant's argument in support of the increased height fence on the eastern side boundary is as follows:

- The fence as partly constructed is close to the recommended height.
- The neighbour's sight line ability is enhanced because the driveway is sloped upwards.
- The neighbour's driveway is for access to the back yard of his property and used infrequently.
- The distance from the fence to the neighbour's regularly used driveway to his garage exceeds 3 metres and provides more than adequate sight lines.
- The fence was constructed in consultation and with approval of the neighbour. His letter in agreement with the fence height is attached.
- There are numerous examples of fences in the neighbourhood that do not comply with the truncation height guideline and these act as precedent.

The fence on the western side boundary will range in height from 600mm – 1.7 metres above natural ground level and will also be constructed so that vegetation can be installed alongside. The remainder of the front garden will be a mix of paving and soft landscaping with the driveway being 8.3 metres in width in the setback area.

Legislation / Strategic Community Plan / policy implications

Legislation	Town Planning Scheme No. 3 (TPS 3) Local Planning Strategy (LPS) Residential Design Codes of WA (R-Codes)
Strategic Community Plan	Strategic Community Plan 2015 - 2025
Key theme	Built and Natural Environment
Objective	Facilitating sustainable growth whilst maintaining urban and natural character.
Strategic initiative	N/A
Policy	Residential Design Guidelines (as amended) 2015 (RDG)
Risk management considerations	N/A
Financial / budget implications	N/A
Regional significance	N/A
Sustainability implications	N/A

ConsultationAdvertising

The application was not advertised as the affected adjoining owner to the east (No. 51) has indicated in writing his support for the increased height of the front fence in the setback area (attached letter dated 19 October 2015).

COMMENTSight lines

The plans do not indicate a sight line at the corner of the driveway/footpath on the eastern boundary. The fencing in this section exceeds the maximum 0.75 metres (within 1.5 metres of the front boundary). It is, therefore, necessary to require a reduction in the height of the already constructed fence at this point to a maximum of 0.75 metres for a distance of 1.5 metres along the side boundary fence and for a length of 1.5 metres along the front boundary. This is required to comply with the requirements of Clause 5.2.5 of the R-Codes and Clause 3.7.11.5 of the RDG.

The applicant's argument that the partly constructed fence should be approved at the height which exceeds the sight line provision (i.e. 1.0m) based on the slope of the driveway and that the driveway is infrequently used for rear access is not considered justified. Should redevelopment of the property at No. 51 Fraser Street occur the slope of the driveway and/or the access arrangements will most likely change and the sight line will be inadequate. For safety reasons the sight line must be adequate at the outset as site circumstances and levels can change. The photographs the applicant has provided in respect to other fences that exceed the sight line requirements are not considered to set a precedent as they may have been constructed without approval or constructed before the sight line requirement was specified in the R-Codes or the RDG.

Fencing in front setback area

The RDG express the preferred streetscape is one without fencing so as to maintain passive surveillance and open streetscapes and this applies throughout the Town. Ideally fences should be as 'open style' as possible to maximise opportunities for passive surveillance and to increase opportunities for interaction between dwellings and the street. It is also desirable for the front door to be clearly visible from the street. The objective behind this is for security so that a person approaching a dwelling, standing on a front verandah or in a driveway is in clear view from the street.

The front fence on the street front boundary achieves these objectives, however, if the side boundary fencing in the front setback area exceeds the permitted heights for solid fencing it detracts from the above objective by 'closing off' the front yard and diminishes from the open landscaped look of the street. In this case, in addition to not meeting the sight line requirements, the side fencing does not strictly meet the fencing in the front setback requirements in that it exceeds a height of 1.2 metres at its highest as it steps back from street level on both side boundaries. Therefore a condition of planning approval will be required to ensure that 'open style' fencing is maintained along both side boundaries in accordance with Council's RDG and the R-Codes.

Crossover width

The demand for double garages, large carports and multiple vehicles on-site has the potential to result in streetscapes becoming dominated by large crossovers and driveways at the expense of landscaping, street trees and kerbside parking. As a result the Town's RDGs

specifically address this issue under clause 3.7.14 where the RDG state the following as being the desired outcomes for the Precinct:

- new footpaths and crossovers to match existing streetscapes – preferred material black asphalt with any other material at Council's discretion;
- maintenance of existing footpaths and crossovers;
- maximum of one crossover per lot; and
- street trees to be conserved or replaced where a new crossover requires their removal.

In this circumstance it is not considered necessary for the crossover to be any greater than 4.5 metres including the splays. The applicant's request to increase the width to 6.0 metres (including the splays ~7 metres) is greater than what is considered required and would detract from the general streetscape amenity and safety, particularly as it would directly abut another crossover of approximately 6.5 metres in width. Given the driveway on site is 8.3 metres wide this is considered an adequate size to access the driveway/garage whilst minimising hard surfaces in the verge area. The reduced width will also impact less on street parking and minimise impact on the street tree (e.g. requests for pruning of branches). As the existing street tree is in proximity to the proposed crossover a condition stipulating that the existing street tree be retained in its current state and location and not damaged or pruned in the construction of the crossover is also considered necessary.

Crossover Construction Material

The use of 'exposed aggregate concrete' is considered a material of an acceptable standard for crossovers in this Precinct as it will complement the construction materials of the house and front garden landscaping. The Town has no objection to the use of this material in this circumstance, subject to the dimensions of the crossover meeting the conditions of this planning approval.

VOTING REQUIREMENTS

Simple majority.

RECOMMENDATION

That Council exercise its discretion in granting retrospective planning approval for a portion of the fence in the front setback area, subject to conditions and planning approval to vary:

- (i) Clause 3.7.14.3 – Footpaths and Crossovers of the Residential Design Guidelines to allow a crossover greater than 3.0 metres in width; and
- (ii) Clause 3.7.14.3 – Footpaths and Crossovers of the Residential Design Guidelines to allow a construction material other than black asphalt in the Richmond Precinct,

for a front fence and increased width crossover at No. 49 (Lot 136), Fraser Street, East Fremantle, in accordance with the plans date stamped received on 24 November 2015, subject to the following conditions.

1. A 1.5 metre by 1.5 metre truncation of the fence to be provided where the fence abuts the driveway on the eastern side boundary. If the truncation is not indicated on plans submitted with the building permit application to the satisfaction of the Chief Executive Officer the front and side boundary fence height is not to exceed 750mm metres at its highest point above existing ground level in the area of the required truncation.
2. The fence on the western side boundary is not to exceed a height of 750mm for the first 1.5 metres from the front boundary to maintain a sightline for the driveway on the lot to the west.
3. Any solid sections of wall on the side boundaries of the lot within the front setback area of 7.5 metres (as measured from the front lot boundary) are not to exceed a height of 1.2 metres from natural ground level.

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4. Any part of the fence greater than 1.2 metres in height above natural ground level is not to be less than 60% visually permeable across the length and area of the front fence (including the side boundary fencing) to the satisfaction of the Chief Executive Officer. At any point the overall height of the front fence, including fencing in the front setback area is not to exceed 1.8 metres from natural ground level on the lower side of the fence.
5. Any new crossovers which are constructed under this approval are to be a maximum width of 4.5 metres (including splays) and the footpath to continue uninterrupted across the width of the site in the same material as the existing footpath.
6. The existing street tree being retained in its current state and location and not damaged or pruned in the construction of the crossover.
7. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *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).*
- (c) *liaison with the Town's Operations Manager is required with respect to construction of the crossover and reinstatement of the footpath.*
- (d) *a copy of the approved plans as stamped by Council are attached and the application for a building approval certificate and a building permit application is to conform with the approved plans unless otherwise approved by Council.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*