



# MINUTES

## Town Planning & Building Committee

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Tuesday, 4 October 2016 at 6.32pm

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**MINUTES OF THE ORDINARY MEETING OF THE TOWN PLANNING & BUILDING COMMITTEE HELD IN  
THE COUNCIL CHAMBER ON TUESDAY 4 OCTOBER 2016.**

**1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS**

The Presiding Member opened the meeting at 6.32pm and welcomed members of the gallery.

**2. ACKNOWLEDGEMENT OF COUNTRY**

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

**3. RECORD OF ATTENDANCE**

**3.1 Attendance**

The following members were in attendance:

Cr C Collinson	Presiding Member
Cr M McPhail	
Cr L Nicholson	
Cr D Nardi	

The following staff were in attendance:

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

**3.2 Apologies**

Mayor O’Neill  
Cr A White

**3.3 Leave of Absence**

Nil.

**4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil.

**5. PUBLIC QUESTION TIME**

Nil.

**6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**6.1 Town Planning and Building Committee (6 September 2016)**

**6.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION**

Cr M McPhail moved, seconded Cr D Nardi

**That the minutes of the Town Planning and Building Committee meeting held on Tuesday 6 September 2016 be confirmed as a true and correct record of proceedings.**

**(CARRIED 4:0)**

**7. PRESENTATIONS / DEPUTATIONS / PETITIONS**

**7.1 Presentations**

Nil.

**7.2 Deputations**

Nil.

**7.3 Petitions**

Nil.

**8. DISCLOSURES OF INTEREST BY MEMBERS**

Nil.

**9. LATE ITEMS NOTED**

Nil.

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**10. REPORTS OF COMMITTEES**

**10.1 Community Design Advisory Committee**

**Prepared by:** Jamie Douglas Manager Planning Services

**Supervised by:** Gary Tuffin, Manager Planning Services

**Attachments:** 1. Minutes of Community Design Advisory Committee Meeting

**Authority/Discretion:** Town Planning & Building Committee

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**PURPOSE**

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

**EXECUTIVE SUMMARY**

The Committee, at its meeting on 19 September 2016, provided comment on planning applications listed for consideration at the October Town Planning Committee meeting and other applications to be considered in the future. Comments relating to applications contained within the October agenda have been replicated and addressed in the individual reports.

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

**10.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP011016**

**Cr Nicholson moved, seconded Cr Nardi**

**That the Minutes of the Community Design Advisory Committee meeting held on 19 September 2016 be received.**

**(CARRIED 4:0)**

Cr McPhail moved, seconded Cr Nicholson

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

(CARRIED 4:0)

## 11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

### 11.2 Staton Road, No. 31 (Lot 2) – Alterations and Additions to Existing Heritage Listed Dwelling

<b>Applicant</b>	HH Architects
<b>Owner</b>	G Bartels
<b>File ref</b>	P/STA31
<b>Prepared by</b>	Christine Catchpole, Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Location Plan 2. Photographs 3. Heritage Impact Statement date stamped received 23 August 2016 4. Plans date stamped received 23 August 2016

#### Purpose

This report considers a planning application for alterations and additions to an existing heritage listed grouped dwelling at No. 31 (Lot 2) Staton Road, East Fremantle.

#### Executive Summary

The alterations and additions (~100m<sup>2</sup>) will involve the removal of a previous addition, of no heritage significance, at the rear of the dwelling to accommodate a new kitchen, living, dining, laundry and outdoor living area. Internal reconfiguration of an existing bedroom to accommodate a bathroom and walk in robe, along with some other minor improvements to side fencing, a gate and a bin store are also proposed.

The rear additions are described by the applicant as 'semi-industrial' in style contrasting with the Federation Bungalow style of the dwelling, utilising a similar palette of materials although in a more contemporary manner.

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

- Lot boundary setback – 1.5 metres required; nil to northern and southern side boundaries proposed (Residential Design Codes).
- Open space – 55% required; 48% proposed (Residential Design Codes).
- Roof form and pitch – 28° - 36° pitched roof required; ~10° skillion roof proposed (Residential Design Guidelines).

It is considered the variations can be supported subject to conditions, therefore, the application is recommended for conditional approval.

#### Background

21 March 2000 - Minister for Planning upholds an Appeal against the WAPC decision to refuse the subdivision application for three survey strata lots.

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20 March 2001 – Council granted planning approval for renovations comprising a new front verandah, kitchen, double garage and bathroom with parapet walls.

13 August 2001 – Building Licence issued for the renovation work approved in March 2001.

### **Consultation**

#### Advertising

The amended plans were advertised to surrounding land owners from 28 August to 15 September 2016. No adjoining land owner submissions were received.

#### Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting on 19 September 2016. The Panel made the following comments:

- The Committee would like to acknowledge the comprehensive nature of the application and the use of the Burra Charter principles within the design of the development.
- The proposal is supported by the Committee.

### **Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

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

*TPS No. 3 – Heritage List – Category B*

### **Policy Implications**

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

*Municipal Heritage Inventory - Category B*

*Fremantle Port Buffer Zone Area 3*

### **Financial Implications**

Nil.

### **Strategic Implications**

Nil.

### **Site Inspection**

September 2016

### **Triple Bottom Line Assessment**

#### Economic implications

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

#### Social implications

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

#### Environmental implications

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

### **Comment**

TPS 3 Zoning: Residential R12.5

Site area: 379m<sup>2</sup> (strata lot 2)

### Statutory 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.

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

### Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	7.5m	As existing	A
Lot Boundary Setback – north	1.5m	Nil	D
Lot Boundary Setback - south	1.5m	Nil	D
Open Space	55%	48%	D
Site Excavation/Fill	Max 0.5m	<500mm	A
Car Parking	2	2	A
Overshadowing	25%	<25%	A
Drainage	On-site	On-site	A

### Local Planning Policy Assessment

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

Building Height Requirement	Required	Proposed	Status
Building Height (wall) (R-Codes)	6.0m	3.61m	A
Building Height (roof) (R-Codes)	9.0m	4.26m	A

The three strata lots at this location were created under the equivalent of a R20 standard but are now subject to the development standards of R12.5. The strata lot to the rear of No. 29 and 31 Staton Road has been developed with a two storey dwelling which is not visible from the street. The lot the subject of the application is the northern half of a pair of 'Federation Bungalow' style houses which over past decades have undergone extensive renovation and change to preserve the heritage values of the property and improve the streetscape appearance.



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As the property is listed in the Heritage List of the Planning Scheme a Heritage Impact Statement (HIS) has been submitted by H & H Architects (the applicant). The HIS in full is available in Attachment 4. A summary of the HIS by the architect is provided below:

*“The new development is sympathetic to the heritage values and significance of 31 Staton Road, East Fremantle. The alterations and additions will be located to the rear of the lot by virtue of their small scale and setback. They will not be readily visible from the street and will not impact on the aesthetic values of the existing residence. The existing residence’s Federation Style Bungalow elevations will be retained, thus retaining the sites contribution to Richmond’s high concentration of predominantly Federation and Inter-War period houses and associated buildings, which contributes to the local community’s sense of place.*

*The proposed works are generally in accordance with Burra Charter principles in terms of minimizing changes to the significant fabric, making new work readily identifiable as such, and allowing for compatible use through sensitive adaptation of the place.*

*The new works will be undertaken with direction by appropriately qualified professionals and will be designed to have minimal impact on the surrounding heritage fabric.”*

There are a few variations to the R-Codes and the Residential Design Guidelines in respect to this application due to the heritage considerations and lot size. As a result the applicant is seeking Council discretion with regard to these variations.

#### Lot boundary setbacks

The lot boundary setbacks do not comply as a nil setback to each boundary is proposed. The nil setback to the southern boundary is a continuation of the existing party wall and is considered appropriate as it will be in keeping with the existing architecture and building line and will be abutted by an adjoining parapet wall on the neighbouring development (currently under construction). The new addition to 31 Staton Road will be in alignment with the proposed development at 29 Staton Road to ensure overshadowing is minimised. It is also noted the adjoining property owner has made no comment on the proposal.

The nil setback to the northern boundary is also considered appropriate as the wall is only marginally wider than the extent of the verandah roof and will follow the common property boundary along the vehicle accessway. Also clause 5.3.1 C3.1v of the R-Codes allows for a building setback to be reduced by up to half the width of an adjoining battle-axe lot access leg (in this case a reduction up to 1.6m). Whilst strictly speaking the reduced setback provision cannot be applied as the setback is from a common property driveway and not a battleaxe leg the intent of the provision is to ensure an adequate setback from neighbouring properties is still achieved as in effect the setback will be 3.2 metres from the closest neighbouring lot.

The nil setback to both lot boundaries is therefore supported.

#### Open space

The proposal does not meet the minimum open space requirements as specified in the R-Codes; approximately 48% is provided where as 55% is required under the R12.5 standards.

The ‘Design Principles’ of the R-Codes state that:

*“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 or as outlined in the local planning framework;*
- *Provide an attractive setting for the buildings, landscape , vegetation and streetscape;*
- *Provide opportunities for the residents to use space external to the dwelling for outdoor pursuits and access within and around the site; and*
- *Provide space for external fixtures and essential facilities.”*

Due to the position and design of the existing dwelling and a lot size of 379m<sup>2</sup> there are constraints in regard to providing the open space required if the dwelling is extended. Also, the large existing covered verandah which wraps around the dwelling and forms a distinct part of its character and provision of outdoor living space cannot be included in the calculation of open space as per the R-Code definition. Although compliance with the R-Codes is not possible, the proposal is considered to meet the R-Code ‘Design Principles’ for open space by retaining the existing heritage elements, by increasing access to natural light by providing north facing openings for living spaces, increasing access to a private outdoor living area and garden at the rear and not increasing building bulk on the site that would adversely affect neighbouring properties. The shortfall in this instance is therefore supported.

#### Roof pitch

The non-compliance with the roof form and pitch (i.e. ~10° skillion roof rather than a pitched roof of a minimum 26°) is considered desirable in this case because it assists in reducing the overall height and bulk of the extension from the streetscape perspective and the surrounding residences and also clearly distinguishes the new addition from the original building which has a traditional hipped roof.

#### Heritage

The dwelling is classified category B under the Heritage List of the Planning Scheme. The heritage portion of the dwelling is to remain intact and the original outdoor toilet is being enclosed within the extensions for the purpose of a wine cellar. There will be a small projection of a parapet wall which will abut the vehicle accessway which will be visible above the roof line of the existing residence. This is not viewed as a detrimental aspect of the additions, but serves to provide good differentiation between the old and the new sections of the dwelling. Being able to view a small part of the addition from the street is considered acceptable and overall the proposed alterations and additions are not considered to have a detrimental impact on the heritage value or elements of the site. Conditions of planning approval, however, are recommended in relation to retention of the original outdoor toilet (as indicated on the plans) and the brick chimney.

#### **Conclusion**

The variations in respect to this application are sought primarily because the applicant wishes to retain the existing heritage house and improve the function and design of the residence.

The applicant has tried to minimise the impact on the heritage dwelling and the variations from the R-Codes are considered to have minimal impact on residential amenity for adjoining lots. It is, however, recommended a number of heritage and standard planning conditions be imposed to ensure heritage matters are adequately considered.

**11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP021016**

Cr Nardi moved, seconded Cr Nicholson

That Council exercise discretion in granting planning approval to vary:

- (i) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a setback of less than 1.5 metres from the southern and northern lot boundaries of the strata lot;
- (ii) Clause 5.4.1 – Open Space of the Residential Design Codes of WA to permit less than 55% open space on-site; and
- (iii) Clause 3.7.8.3 of the Residential Design Guidelines 2016 to allow a roof form and pitch of less than 28°,

for alterations and additions to an existing grouped dwelling at No. 31 (Lot 2) Staton Road, East Fremantle, in accordance with the plans date stamped received on 23 August 2016, subject to the following conditions:

1. All parapet walls up to the boundary and facing the adjoining strata property or the common property accessway are to be fair faced brickwork, cement rendered or of another suitable finish to the adjacent property face and vehicle accessway by way of agreement between property owners and at the applicant's expense.
2. The original outdoor toilet to be retained as indicated on plans date stamped received 23 August 2016.
3. The original brick chimney to be retained and unaltered.
4. If requested by Council within the first two years following installation, the metal sheet 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. 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 Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
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. The proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
9. All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

11. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
12. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

**(CARRIED 4:0)**

**Note:**

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 June 2015 this application deemed determined, on behalf of Council, under delegated authority.

### 11.3 Windsor Road No. 22 (Lot 28) – Outbuilding (Games Room)

<b>Landowner/Applicant</b>	S & A Willis
<b>File ref</b>	P/WIN22; P079/16
<b>Prepared by</b>	Christine Catchpole, Town Planner
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Location Plan 2. Photo 3. Plans dated 1 August 2016

#### **Purpose**

This report considers a development application for an outbuilding (games room) to the rear of the lot at No. 22 (Lot 28) Windsor Road, East Fremantle.

#### **Executive Summary**

The 38m<sup>2</sup> games room (4.4m x 8.5m) will be constructed in the south eastern corner of the lot and comprise a seating area, bathroom and kitchenette. The outbuilding is for recreational use only and not for ancillary accommodation purposes. It will replace an outbuilding of similar dimensions in the same location.

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

- Lot boundary setback - Outbuilding – 1.0 metre required; nil to rear and side boundary proposed (Residential Design Codes).
- Outbuildings (wall height) – 2.4 metres permitted; 2.44 metres proposed (Residential Design Codes).
- Roof form and pitch – 28° - 36° pitched roof required; ~2° flat roof proposed (Residential Design Guidelines).

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

#### **Background**

Zoning:	R12.5 – Richmond Precinct
Site area:	1,128m <sup>2</sup>
Date application received:	1 August 2016
Documentation:	Development Application form, plans and <i>Adjoining Property Owner Comment</i> form.

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

1988 – Approval for a swimming pool.

1989 - Building Licence issued for an extension to the outbuilding.

1997 – Approval for an extension to the family room

#### **Consultation**

##### Advertising

The proposed application was advertised to surrounding landowners for a two week period from 5 to 22 August 2016. One submission was received.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>1. Privacy and noise impact by not setting the proposed room 1m off the boundary.</p> <p>2. The doors and windows of the proposed build have visual access to a bathroom, back living area and garden.</p> <p>3. The room will be used for ancillary accommodation.</p> <p>4. Possible noise impact by air-conditioning / ventilation systems close to the rear bedroom, living area and garden.</p> <p>5. Adverse visual impacts of TV antennae etc. on the roof and the dominant effect on the enjoyment of our garden.</p> <p>6. An extension of the rear brick wall would similarly have a dominant effect on the garden.</p> <p>These adverse impacts can be limited by:</p> <p>1. Room being set back 1m from the boundary fence.</p> <p>2. Screening devices such as a lattice extension on the top of the boundary fence to reduce visual and noise impact.</p> <p>3. Air-conditioning / ventilation systems being placed away from neighbouring properties.</p> <p>4. Room not be used for ancillary accommodation.</p> <p>5. TV antennae etc. being placed away from neighbours.</p>	<p>1. The wall is proposed to be maintained in the existing position to minimise any change for the neighbours. The wall is an existing structure forming part of the boundary fence between the property and the eastern boundary. As such, and on advice from the Town's Planning Department, it is understood that it is acceptable to retain the current setback. The reason for rebuilding the entire structure is because it has fallen into disrepair and the walls are cracked and at risk of collapsing. Willing to change the plans to include 'Besser block' walls in order to reduce any noise effects. Positioning the structure 1m back from the boundary would also require new fencing along the eastern boundary line at a combined expense.</p> <p>2. Extending the wall 1 metre is believed to be a fair request and will not affect the rear corner of the neighbour's garden, where a large garden shed is currently located.</p> <p>3. Assuming that by 'dominant effect', the neighbour means extra shade created in the late afternoon by the structure. The proposed height of the games room eastern wall will actually be lower than existing (measured at 2.7m currently with plans of the new wall being 2.44m). As such, any 'dominant effect' of the new wall will actually be reduced. Additionally, the neighbour stated they would welcome extension lattice (average height 600mm) on top of the existing fence to increase privacy on the eastern boundary. The current fencing height is 1.9m. Installation of lattice along the eastern boundary at a combined cost is something which can be considered, however, this is likely to be higher and have more of a 'dominant effect' on the neighbour's garden than the games room wall (2.5m versus 2.4m).</p> <p>4. There are no east facing doors or windows on the plans submitted; they are north facing.</p> <p>5. The aim is to use the room as a games/entertaining area.</p> <p>6. If an exterior air conditioning unit is installed it will be on the west wall facing the house.</p> <p>7. If any antennae or aerial is to be installed it will be on the west side of the games room.</p>	<p>Refer to 'Comment' section of the report where the matters raised are addressed.</p>

Town Planning Advisory Panel

This application was not considered by the Town Planning Advisory Panel as the application is for an outbuilding at the rear of the site.

**Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

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

*TPS No. 3 - Heritage List - Category – B*

**Policy Implications**

*Town of East Fremantle Residential Design Guidelines 2016*

*Municipal Heritage Inventory – Category B*

**Financial Implications**

Nil

**Strategic Implications**

Nil

**Site Inspection**

September 2016

**Triple Bottom Line Assessment**

Economic implications

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

Social implications

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

Environmental implications

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

**Comment**

Statutory 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.

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	7.5m	Existing	A
<b>Lot Boundary Setbacks</b>	<b>1.0m</b>	<b>Nil</b>	<b>D</b>
Open Space	55%	>55%	A
Outdoor Living	N/A	As existing	A
Car Parking	2	Existing	A
Site Works	Less than 500mm	<500mm (100mm concrete slab)	A

Overshadowing	25%	<25%	A
Drainage	On-site	On-site	A

### Local Planning Policy Assessment

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

Building Height Requirement (Outbuildings)	Required	Proposed	Status
Building Height (wall) (R-Codes)	2.4m	2.44m	D
Building Height (roof) (R-Codes)	4.2m	2.85m	A

### Outbuilding

Lot boundary setbacks:

- The lot boundary setback requirement of 1.0 metre under the R-Codes has not been met for the rear and side boundary. The proposed nil setback (as per the existing setback of a shed of similar dimensions) to the eastern boundary has raised concerns for the adjoining neighbour in regard to the impact of the structure, the proposed and potential use of the building, visual privacy and general amenity.

With regard to the eastern boundary a number of factors can be taken into account in the assessment of the proposal. An outbuilding has already been constructed in this location on the subject site (i.e. a garden shed of similar dimensions) and although it is proposed to rebuild the structure, the replacement wall along this boundary will be only 1.0 metre longer than the existing wall. This is not considered to result in any greater impact than the existing outbuilding because the proposed wall will be of a slightly lesser height and the extension of the wall will sit behind an existing shed on the neighbour's lot in almost the same location. This shed is positioned between the dwelling and the proposed outbuilding and although it does not block the view of the proposed outbuilding it will result in further separation between the proposed building and the useable outdoor area of the lot to the rear. The change in the use of the outbuilding is another matter which is discussed below.

The nil setback to the southern boundary is conditionally supported by the adjoining owner provided the wall height does not exceed 28 courses of brickwork above ground level on the adjoining owner's site. The plans indicate 28 courses to the top of the wall (ceiling height), with a further 4 courses to the top of the roof (skillion roof). Notwithstanding the adjoining owner's conditional support for a maximum height of 28 courses the proposed height of the structure is considered acceptable and only marginally non-compliant with the provisions of the R-Codes. The wall height exceeds the maximum allowed by 4cm and does not exceed the overall permitted height of an outbuilding which



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is 4.2 metres. The additional height is not considered to have any additional impact on amenity than the current structure.

Use:

- The use of the outbuilding for a games room associated with a residential dwelling is compliant with the residential zoning of the land and any potential noise nuisance and noise levels (generated by activity, the pool equipment or the installation of air conditioning units) would be subject to the *Environmental Protection (Noise) Regulations, 1997*. The potential for the outbuilding to be used for ancillary accommodation will be addressed through a condition of planning approval which will specify the building is not to be used for ancillary accommodation or short stay accommodation without the submission of a further development approval application for Council's consideration. It is also noted the applicant has stated in writing that the building will not be used for ancillary accommodation purposes.

Visual privacy

The 'Deemed to Comply' provisions of the R-Codes are satisfied. The ground level of the proposed outbuilding will not be raised greater than 500mm above the existing ground level (100mm concrete slab proposed). Setting the building 1.0 metre off the boundary will make little, if any difference, to visual privacy between the two dwellings because the openings face inward toward the garden and the pool, that is, northwards. It is most likely the height of the dividing fence that results in privacy issues. The property to the rear is at a lower level and therefore this property can be overlooked. If the dividing /boundary fence is not considered to be of an adequate height then this is a matter for the two adjoining landowners to discuss and resolve under the provisions of the *Dividing Fences Act*. This may result in adding additional height to the fence which is acceptable to both neighbours or installing further landscaping along the rear boundary to provide screening.

Wall height

The non-compliance with the wall height (i.e. over height by 4cm) is supportable as the overall height of the outbuilding is marginally over height and well below that of the ridge height permitted as outlined above and will be lower than the existing structure.

Roof pitch and roof form

The roof pitch and form does not comply with the Residential Design Guidelines, however, it is supportable as the structure is at the rear of the property, has no impact on the heritage dwelling and a lower flatter roof form is preferable to minimise additional building bulk on the lot.

Heritage

The dwelling is classified as Category 'B' in the Town Planning Scheme Heritage List. It is considered the proposal does not have any impact on the heritage value of the property and the variations from the R-Codes and the Residential Design Guidelines have no bearing on the heritage elements of the dwelling.

Sewer pipe

It is noted a sewer pipe enters the lot in the vicinity of the south east corner. Approval from the Water Corporation will be required in regard to construction of the outbuilding in this location which is indicated as over the sewer pipe. A condition has been imposed which states that the proposed works for the outbuilding are not to be commenced until approval from the Water Corporation has been obtained. It is noted the applicant will be required to address the requirements of the Water Corporation in respect to any potential future access to the pipe and in this regard the Water Corporation Protection of Services Manual requires that building foundations must be designed and engineered in a specific way for ease of access to the service. Any rectification works to buildings or footings, post repair works or damage, is at the cost of the owner.

Roof top aeriels and antennae

This matter was raised in the submission. Any roof top structures and equipment are classified as 'Incidental Development' under the Residential Design Guidelines and provisions apply to the installation of these structures. If the structures are not in compliance with the Town's Guidelines further development approval must be obtained. The applicant will be advised as such.

**Conclusion**

Given the above assessment it is considered the application can be supported subject to conditions in respect to use of the outbuilding, finish of the walls facing adjoining properties and other standard planning conditions.

- Mrs Pamela Harrison (neighbour at 15 Gill Street) addressed the meeting and requested that the games room be setback from the rear boundary. The current structure is in disrepair, therefore it can be removed and setback 1.0 metre from the boundary. Would like to see some screening on the rear fence to provide some privacy and prevent overlooking.

**11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP031016**

**Cr M McPhail moved, seconded Cr Nardi**

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

- Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit an eastern, and southern lot boundary setback of less than 1.0 metre;**
- Clause 5.4.3 – Outbuildings of the Residential Design Codes of WA to permit a wall height greater than 2.4 metres; and**
- Clause 3.7.8.3 of the Residential Design Guidelines 2016 (as amended) to allow a non-pitched roof form of less than 28°,**

**for a proposed outbuilding (games room) at the rear of the existing dwelling at No. 22 (Lot 28) Windsor Road, East Fremantle, in accordance with the plans date stamp received on 1 August 2016, subject to the following conditions:**

- 1. The outbuilding (games room) is not to be used for ancillary accommodation or short stay accommodation without the submission of a further development approval application for Council's consideration.**
- 2. All outbuilding walls up to the boundary and facing the adjoining properties are to be fair faced brickwork, cement rendered or of another suitable finish to the adjacent property faces by way of agreement between the property owners and at the applicant's expense.**
- 3. The proposed works are not to be commenced until approval from the Water Corporation has been obtained and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 4. If requested by Council within the first two years following installation, the Colourbond roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
- 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. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed outbuilding is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
8. All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
11. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
12. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (i) with regard to condition 1 the proposed use of the outbuilding (games room) for ancillary accommodation or short stay accommodation requires the submission of a fresh development approval application for Council's consideration.*
- (ii) in regard to the condition relating to the finish of the neighbour's side of the outbuilding wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (iii) the applicant is advised that any roof top structures not in compliance with the provisions of the R-Codes or the Residential Design Guidelines 2016 require the submission of a development approval application for Council's consideration.*
- (iv) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (v) 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.*
- (vi) 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.*
- (vii) 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).*
- (viii) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

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

***(CARRIED 4:0)***

Note:

As 4 Committee members voted in favour of the Reporting Officer’s recommendation, pursuant to Council’s decision regarding delegated decision making made on 16 June 2015 this application deemed determined, on behalf of Council, under delegated authority.

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### 11.1 Munro Street No. 5 (Lot 5060) – Demolition and Construction of Two Storey Dwelling

<b>Applicant</b>	C & S Letizia
<b>File ref</b>	P072/16 P/MUN5
<b>Prepared by</b>	Andrew Malone, Executive Manager of Regulatory Services
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Meeting date</b>	4 October 2016
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Location plan</li><li>2. Photo</li><li>3. Letter of justification (<i>Atlas Planning &amp; Appeals</i>)</li><li>4. Schedule of materials</li><li>5. Plans</li></ol>

#### **Purpose**

This report considers an application for demolition of an existing dwelling and proposed construction of a new two storey dwelling and swimming pool located at 5 (Lot 5060) Munro Street, East Fremantle.

#### **Executive Summary**

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

- Front setback variation;
- Rear setback variation;
- Side setback variation and building on the boundary;
- Building height;
- Visual privacy ; and
- Site fill.

It is considered the proposed demolition and above variations can be supported, therefore the application is recommended for conditional approval.

#### **Background**

Zoning:	Residential R12.5
Site area:	736m <sup>2</sup>
Date application received:	15 July 2016
Documentation:	Proposed schedule of materials dated 15 July 2016 Amended plans and documentation submitted 8 September 2016.

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

Nil

#### **Consultation**

##### Advertising

The proposed application was advertised to surrounding landowners for a 2-week period between 18 July 2016 and 2 August 2016, including a sign on site for that same period. One submission was received.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>4 Woodhouse Road Will impact future amenity of our property.</p> <ul style="list-style-type: none"> <li>– Only 55% of open space is proposed which is dissimilar to the five adjoining properties.</li> <li>– Plans do not propose to replace common s/w boundary retaining wall with potential asbestos that could be a safety concern since new development is near boundary.</li> <li>– R-Codes discrepancy with s/w rear boundary setback of 1.5m for a 4.4m wall, then a further 2nd storey wall height of 2.66m. Unappealing proximity to the boundary.</li> <li>– Shade of 4m at s/w wall will impact the growing capacity of my garden, possibly further impact, difficult to determine.</li> <li>– Sewer servicing is 500mm along the s/w wall. Construction should be avoided in this area.</li> <li>– Three windows have views into my property.</li> <li>– R-Codes discrepancy to the s/e boundary setback from 20mm to 1.2m, with high walls to the first floor then the roof line, including a parapet wall that may impede our perspective. Proposed lack of views between the properties on Munro Street are a concern, this development as other on Munro should follow the prescribed R-Codes standards. This application is only 6m, which is also less.</li> <li>– Roof colour not indicated, potential glare.</li> <li>– Also home and fence colour not indicated, potential visual impact.</li> </ul>	<p>Applicant response (full submission attached):</p> <p><u>Front setback</u></p> <p>The revised plans have increased the front setback of the First Floor from 6m to 6.2m which has been achieved by taking 200mm off Bedroom 1 and the adjoining Balcony. The Ground Floor setback remains at 5.226m to the Gym / Guest. In that regard, the existing dwelling on the subject land has a primary street setback of approximately 6m to the verandah and approximately 7.5m for both the Ground and First Floor. Furthermore, in reviewing aerial imagery of the locality (refer to Aerial/Cadastre at Attachment 2), the setbacks to Munro Street appear to vary from anywhere between 5-8m. Specifically, the orientation of No. 1 Munro Street (corner of Woodhouse Road) is such that the proposed setback would have an adverse impact on the consistency of the existing streetscape, particularly on the southern side (refer to Photo 2 at Attachment 1).</p> <p><u>Rear setback</u></p> <p>The revised plans have increased the rear setback of the First Floor from 2.91m to 4.60m which has been achieved by redesigning Bath 2 and the adjoining Hidden Gaming Centre, as well as setting Bed 2 and Bed 3 back a further 300mm. As a result of these changes, the overshadowing to No. 4 Woodhouse Road (to the rear) has been decreased from 6% to 4.8% and the overshadowing to No. 3 Munro Street (south-east) has remained at 14%, both of which remain compliant with the deemed to comply requirements of the R-Codes. We submit that the impacts of building bulk on the adjoining properties (in particular No. 4 Woodhouse Road, to the rear) is reduced by the First Floor setback that is greater than the Ground Floor; the revisions to the rear setback of the First Floor further achieve this. Furthermore, by further setting back to First Floor, the level of overshadowing onto the adjoining property is reduced to 4.8% (compliant with the R-Codes requirement for a maximum of 20%) and also lessens any impact on the neighbouring property's existing views towards the river from their balcony. In this regard, we submit that this neighbour has for many years had a dwelling which, by virtue of its design and the topography of the land, has had an over-bearing impact on the subject land</p>	<p>Revised plans have been submitted to Council.</p> <p>Amendments include heights, setbacks, overlooking and justification has also been provided by the applicant.</p> <p>A full assessment of the proposal is included in the Comment section of this report.</p>

	<p>(refer to Photo 7 of Attachment 1). We submit that it should not be perceived that any variations to the rear setback will have an unreasonable impact to the rear neighbour. Accordingly, the Applicant submits that the rear setback is capable of approval under the relevant Design Principle of the R-Codes.</p> <p><u>Side (north-west) setback</u></p> <p>The proposed Alfresco is setback 1.067m from the north-western boundary, as opposed to 1.5m in accordance with Table 2a of the R-Codes. Notwithstanding the above, the Applicant submits that the setback satisfies the relevant Design Principle (P3.2) of Element 5.1.3 of the R-Codes as it is an 'open' structure with only the supporting pillars and roof that encroach on the deemed to comply setback and therefore it is considered that any building bulk or perceived building bulk will be limited. The openness of the structure and its location on the north-western boundary also means that there will be no adverse impacts by way of access sunlight and ventilation for both the subject land and adjoining property. Furthermore, the rendered brick boundary fence is 1.8m in height and therefore limits any potential overlooking into the neighbouring property.</p> <p><u>Parapet wall</u></p> <p>The proposal incorporates a parapet wall on the eastern boundary that has a revised wall height of 3.530m (was 3.680m) and a length of 11.590m. Whilst it is acknowledged that the boundary wall exceeds both the height (3m) and length (9m) as prescribed in Acceptable Development Provision A3 of Element 3.7.7.3 of LPP2.1.1, we are of the view that the boundary wall will not have any adverse impacts on the adjoining properties or the streetscape.</p> <p><u>Visual privacy</u></p> <p>The window of the proposed Library on the First Floor is setback 2.747m from the north-western boundary and therefore does not satisfy the deemed to comply setback of 4.5m as per Element 5.4.1 of the R-Codes. Notwithstanding this, the setback complies with the relevant Design Principles as there is minimal direct overlooking of active habitable spaces and outdoor living areas of the adjacent dwelling. Specifically, any person standing at the north-western Library window would only be overlooking the neighbouring carport and front setback</p>	
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	<p>area of the adjoining property (refer to Photos 4-6 of Attachment 1).</p> <p>The proposed Decking adjoining the north-western boundary is, at its highest point, approximately 1.2m above Natural Ground Level ('NGL') and whilst it is not setback 7.5m in accordance with deemed to comply provision C1.1i. of the R-Codes, it is provided with a 1.6m high screen Above Floor Level ('AFL') to restrict overlooking into the adjoining property and therefore satisfies deemed to comply provision C1.1ii. and C1.2. The top section (approximately 400mm) of the fence/screening is now proposed to be lightweight visually impermeable screening so as to reduce the bulk or perceived bulk when viewed from the neighbouring property.</p> <p><u>Building height, form, scale and bulk</u></p> <p>The building height for the entire dwelling on the revised plans has been reduced by 150mm so that the maximum height (at the northernmost point) is now 7.5m. However, have regard to the slope of the NGL it noted that the overall height of the two storey portion of the dwelling in fact ranges from 5.9m to 7.5m. Whilst the maximum height of the proposal exceeds the Acceptable Development Provision (A1.4) of Element 3.7.17.4.1.3 of LPP2.1.1 which is 6.5m for a concealed roof, the overall height remains less than what is permissible for a pitched roof. Furthermore, the bulk or perceived bulk of the proposal is reduced by the various building materials, decorative feature panelling, balcony, and the fact that the majority of the First Floor is setback further than the Ground Floor.</p> <p>As it exists, the Munro Street streetscape currently exists with a mixture of single and two storey dwellings. The properties within the streetscape that have been redeveloped are double storey, some with a mixture of pitched and concealed roof forms. The proposed dwelling is considered to be consistent with these redevelopments and will not have an adverse impact on the immediate locality.</p> <p>In revising the plans to address the Town's initial concerns, the Applicant has made a concerted effort to ensure that the proposed development does not hinder the adjoining properties' access to views, particularly once they themselves redevelop. This has been achieved by increasing the front and rear setbacks, as well as reducing the overall height of the building.</p>	
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Community Design Advisory Committee

This application was considered by the Community Design Advisory Committee at its meeting on 18 July 2016. The Panels comments were recorded as follows:

PANEL COMMENTS	APPLICANT RESPONSE
<ul style="list-style-type: none"> <li>– Panel note the contemporary design of the dwelling is in keeping with the area.</li> <li>– Panel has concerns with regard to the proposed rear setback and its impact resulting from setback, scale and bulk to the amenity of the rear neighbours.</li> <li>– Panel note the crossover is to comply with Council's Crossover Policy requirements with regard to crossover width.</li> </ul>	<ul style="list-style-type: none"> <li>– As detailed in the above response to the neighbour.</li> </ul>

**Statutory Environment**

*Planning and Development Act 2005  
Residential Design Codes of WA  
Town of East Fremantle Town Planning Scheme No. 3*

**Policy Implications**

*Town of East Fremantle Residential Design Guidelines 2016  
Heritage List & Municipal Heritage Inventory listed Category  
Fremantle Port Buffer Zone Area – n/a*

**Financial Implications**

Nil

**Strategic Implications**

Nil

**Site Inspection**

Site inspection undertaken: Yes

**Triple Bottom Line Assessment**

Economic implications

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

Social implications

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

Environmental implications

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

**Comment**

Statutory 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.

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
<b>Street Front Setback</b>	<b>7.5m</b>	<b>5.2m</b>	<b>D</b>
Open Space	55%	55%	A
Outdoor Living	30sqm	54.9sqm	A
Car Parking	2	4	A
<b>Site Works</b>	<b>Less than 500mm</b>	<b>1.2m</b>	<b>D</b>
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
<b>3.7.4 Site Works</b>	<b>D</b>
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	A
<b>3.7.7 Building Setbacks and Orientation</b>	<b>D</b>
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	A
3.7.18.3 Garages, Carports and Outbuildings	A
<b>3.7.15-20 Precinct Requirements</b>	<b>D</b>

Front Setback

The proposed development incorporates a front setback variation to the Acceptable Development Provisions of Element 3.7.7 of the RDG (front boundary) setback requirements. The proposed set back from the front boundary is required to be 7.5 metres (assessed as per R12.5).

The proposed front setback incursion includes the garage (0.5 metres), porch, gym/ guest room and the pool pump at ground floor and bedroom 1, balcony and library at the first floor. The incursion at its greatest is 5.2 metres from the front boundary (2.3 metres less than the required 7.5 metres front setback). The proposed development is, however, well-articulated with significant vegetation. Whilst the development is forward of the required setback Acceptable Development provisions, the provisions also require new developments to have a consistent street setback. The setback of Munro Street is varied, however no building or dwelling encroaches further than approximately 1.0 metre into the front setback (exception of 1 Munro, located on a corner lot).

Notwithstanding, the proposed setback, Council's verge located to the front of the property is approximately 7.5 metres in width, widening the distance from the road to the proposed dwelling. This overall distance is considered to minimise any potential variation to the Acceptable Development Criteria. The applicant has stated:

*'The proposed development was initially designed at a time when Amendment No. 11 was being considered which would have changed the R-Code density for the Richmond and Richmond Hill Precincts from R12.5 to R17.5. Under a density coding of R17.5, the primary street setback pursuant to the R-Codes is 6m and the primary building bulk of the development would be compliant, whereas for an R12.5 density coding, Table 1 of the R-Codes stipulates a primary street setback of 7.5m.'*

This proposed scheme amendment is still with the Department of Planning for consideration. No determination has been made yet, however it is noted that Scheme Amendment 10 was refused due to the Town Planning Strategy not being endorsed.

The designer has submitted amended plans with the front and rear setbacks amended and with the overall height of the building reduced. As assessed under the provisions of R17.5, the proposed setbacks would be considered to comply with the Acceptable Development Criteria. The designer has attempted to provide an articulated front façade, thereby softening any perceived bulk and scale issues to the streetscape.

The porch and pond area are 'open', as is the upper floor balcony. These features in the design of the dwelling increase the visual impression of the front setback. This openness articulates views of the dwelling from the street. The variety of material and textures also creates a visual impression of minimising scale and bulk from the streetscape and adds interest and appeal to the facade. The proposed incursion into the front façade does attempt to respond to the prevailing built form of the area, with the garage located 7.0 metres from the front boundary, minimising the impact the garage has to the street.

The applicant has amended the original plans to increase the front setback requirements after considerable discussions with Council. Overall, whilst it is not desirable to permit development that may set a precedence, in this instance, the design and articulation 'break up' the façade and the verge width does increase the perceived depth of the setback.

#### Rear Setback

The applicant has amended the proposed development to increase the rear setback from 2.91m to 4.60m, increasing to 5.5 metres for bedroom 3 (upper floor). The setback to the ground floor is to be maintained at 1.5 metres from the rear boundary. The required setback is 6.0 metres. As noted previously the applicant has designed the dwelling to comply with the development provisions for a R17.5 dwelling, therefore the setback provisions are required as per Table 2 of the R-Codes and not a standard setback of 6.0 metres as required for R12.5.

The proposed amended setback reduces the overshadowing to the rear neighbour (as detailed above) and improves viewing corridors. The rear of the dwelling is articulated, with the upper floor stepping back further from the rear boundary, thereby reducing any scale or bulk impacts. Additionally the upper floor is setback 4.5 metres from the north western boundary, therefore minimising any bulk impacts to the rear neighbour. Additionally the rear neighbour is located higher than the subject lot. The proposed rear setback in this instance can be supported.

#### Side Boundary Setbacks

The development proposes a parapet wall to the south eastern boundary. The proposal incorporates a parapet wall on the south eastern boundary that has a revised wall height of 3.530 metres (was 3.680m) and a length of 11.590 metres. The applicant has amended the plans after discussions with Council. Under the development 'Deemed to Comply' provisions of the RDG, parapet walls are not to be higher than 3.0m, for a total of 9.0 metres in length, to one side boundary only.

Furthermore, there is a setback variation to the Acceptable Development Criteria of the R-Codes. The proposed Alfresco is setback 1.067m from the north-western boundary. The required Acceptable Development Criteria is 1.5m in accordance with Table 2a of the R-Codes.

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Notwithstanding the above, 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 primary street setback has been addressed above. Due to the articulated design of the dwelling and the approximate 7.5 metre verge to the front of the lot, the proposed setback can in this instance be supported. The design 'breaks up' the façade minimising any scale and bulk issues.

Any negative impact with regard to the reduced front boundary setback for the dwelling (discussed above) has been mitigated through the design of the dwelling, open pond and porch area on the ground floor and the balcony on the first floor, and the articulation of the building.

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

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

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

The garage on the south eastern elevation has a revised wall height of 3.530 metres and a length of 11.590 metres and is setback 7.0 metres from the front boundary. The wall is located behind an existing side entry gate of the northern dwelling and is located to have minimal street impact. The garage is located behind the forward most point of the building line (1.8 metres: gym/ guest room setback 5.2 metres from the front boundary) (Element 3.7.18 of the Residential Design Guidelines) and therefore is considered to articulate the proposed dwelling and acts as a visual separator to the proposed development. The upper floor cantilevers over the garage and further articulates the dwelling. The additional height and length of the parapet wall does not significantly impact on the streetscape or the adjoining neighbour. There is no shadowing issue.

The alfresco area to the rear of the lot is setback 1.0 metre from the boundary. The required setback is 1.5 metres based on the overall height and length of the alfresco area, however the alfresco is 0.2 metres over height and 1.6 metres over length for it to be considered for a 1.0 metre setback. It is considered given the design of the alfresco area, the proposed variation to the Acceptable Development Criteria of the RDG is minor and will not have an impact to the northern neighbour. The setback satisfies the relevant Design Principle (P3.2) of Element 5.1.3 of the R-Codes as it is an 'open' structure with only the supporting pillars and roof that encroach on the deemed to comply setback and therefore it is considered that any building bulk or perceived building bulk will be limited. There are no overlooking or overshadowing issues.

The proposed dwelling has been designed to mitigate any adverse impact with regard to scale or bulk of the dwelling to the front, rear and side setbacks. The proposed variations to the Acceptable Development Criteria of the RDG will not significantly impact on the streetscape. The amended design reduces the impact to the neighbours. In conclusion, and as noted above the proposed amendments to the plans and proposed design is complementary to the existing character of the area. Whilst the gym/ guest room is forward of the prevailing building line setback, the design of the dwelling and large Council verge mitigate any potential streetscape impacts. Therefore it is considered that the reduced front, rear and side setbacks can be supported by Council.

Building Height

Building Height Requirement	Required	Proposed	Status
Building Height (concealed roof) (Council Policy)	6.5m	7.5m	D

It is noted the applicant has reduced the height of the dwelling to 7.5 metres, designed to be a concealed/ flat roof. For sites where views are a consideration (this includes the subject lot), the RDG limits overall roofs (concealed roofs) to a maximum height of 6.5 metres from natural ground level. The Acceptable Development Provisions of the RDG for the building height in the Richmond Hill Precinct states:

*'A1.4 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 sections of the dwelling exceed the maximum building height requirements of the above provisions because of the sloped nature of the lot and the articulated design of the dwelling. The dwelling to the rear of the lot significantly complies with the 6.5 metre maximum height provisions, the roof exceeding the height requirements at the front of the dwelling.

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.*

The natural slope of the site means the maximum roof height is more significant as measured from the ground levels at the front of the site. As discussed the subject lot slopes approximately 1.0 metre from the rear of the lot to the front. 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, resulting in the rear of the dwelling complying with the overall height requirements.
- The proposed ceiling heights range from 2.7 metres to 3.5 metres.
- The proposed overall concealed roof height at 7.5 metres (1.0 metre variation) is considered relatively minor from natural ground level.
- The applicant has made minor changes to the setback and height to the dwelling to ameliorate any potential bulk and scale issues.
- The overshadowing by the development to the adjoining lot is compliant with the 'Deemed to Comply' provisions of the R-Codes.
- View corridors are not significantly impacted.

- 
- Notwithstanding the height of the concealed roof, it is noted a pitched roof can be constructed to 8.1 metres, thereby impacting on the scale and bulk of the building and furthermore on the viewing corridors of the neighbours.

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 and has been designed to be articulated therefore mitigating any scale and bulk issues. It is therefore considered the proposed height of the dwelling complies with the Performance Criteria of the RDG and can be supported.

#### Privacy Requirements

The pool deck and library exceed the 'Deemed to Comply' Provisions of the R-Codes. The proposal incorporates a variation to the privacy setback requirements of the R-Codes with overlooking towards the northern neighbour.

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.

Both the pool deck and library overlook the northern neighbours property.

The 'Design Provisions' of 5.4.1 of the R-Codes 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 applicant has noted the pool deck will be screened to 1.6 metres above the finished floor level and the library overlooks the garage of the neighbour's lot. The deck is screened to the northern elevation. It is noted the viewing cone from the library does not have views into habitable areas. The library is an area that will not be utilised regularly thereby further protecting the amenity of the neighbour. The viewing cones primarily fall over the street and front setback area of the northern lot, with the rear viewing cone 6.1 metres from the boundary. No areas deemed to be directly habitable are overlooked. The 'Design Provisions' as noted above, are considered to be adequately addressed, through the provision of oblique viewing angles and screening. The proposed overlooking does not impact on the

privacy of the neighbour. There are no adverse amenity issues. It is considered the proposed overlooking can be supported.

#### Site Fill

The subject lot has a fall of 1.0 metre from the rear of the lot to the front. The proposed dwelling is stepped to address the gradient of the land. It is proposed to fill around the swimming pool to minimise the amount of excavation required adjoining the neighbour's property.

The proposal incorporates 1.2m of fill above NGL at the Pool/Deck area to address the gradient of the lot. The proposed fill is not consistent with the deemed to comply provisions of Element 5.3.7 of the R-Codes or the Acceptable Development Provisions of Element 3.7.4.3 of LPP2.1.1. The proposed section of fill is located to the front and side (north eastern boundary). The overlooking has been addressed previously. The applicant has attempted where practical to minimise the fill required on the lot, though stepping the dwelling. As such the proposed swimming pool area is being filled to provide usable areas without the requirement for extensive swimming pool excavation. The balance of the proposal respects the NGL at the boundary and furthermore, is not considered to negatively impact on the streetscape.

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 considered the proposed dwelling and fill is consistent with similar dwellings in the locality. The proposed fill is considered minor. There is no impact to the streetscape. The reduced 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 of the streetscape or amenity of the neighbours, as the scale and bulk of the building has been reduced. The overlooking as discussed earlier 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.

#### **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 to neighbours and the streetscape. The dwelling has been stepped to address the fall of the lot. The large verge to the front of the lot also mitigates any potential bulk and scale issues.

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, however it is noted the neighbour has objected to the proposal (applicant justification provided). The development, while still requiring Council discretion, is considered an appropriate design for the locality.

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

- Mr Joe Algeri (planning consultant) addressed the meeting and requested that the following note be minuted:
  - Prior to lodgement of a building permit two variations of plans of the craft and laundry room walls (rear facing wall on the south elevation) to be shown to the adjoining neighbour – one plan showing a flushed wall and another showing a tapered wall with exposed gutter.
  - Retaining wall to be further discussed with adjoining neighbour prior to lodgement for a building permit.
- Mr Tony Natale (neighbour) addressed the meeting and raised three points that he had concerns about. Firstly asbestos and the stability of the limestone walls at the rear of his property, bulkiness of the dwelling at the rear of his property and viewing corridors through the property. He has no objections to the amended plans pending the above minuted comments.
- Mr Joe Algeri (planning consultant) and Mr Mel Letizia (owner) addressed the meeting and thanked Andrew Malone for his assistance and requested that Council support the officer's recommendation.

#### **11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP041016**

**Cr M McPhail moved, seconded Cr Nardi**

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

- (a) variation to the front, rear and side boundary setback requirements and building on the boundary requirements of the Residential Design Guidelines;**
- (b) 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;**
- (c) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy; and**
- (d) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements (building height)**

**for the demolition of the existing residence and the construction of a two storey residence, including swimming pool at No. 5 (Lot 5060) Munro Street, East Fremantle, in accordance with the plans date stamped received 8 September 2016, subject to the following conditions:**

- (1) All parapet walls are 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.**
- (2) Screening to a height of 1.6 metres above the finished floor level of the deck (adjoining the swimming pool) to be provided to be compliant with the 'Deemed to Comply' provisions of the R-Codes.**
- (3) Maximum height of the dwelling (top of parapet wall) is not to exceed 7.5 metres from the natural ground levels.**
- (4) If requested by Council within the first two years following installation, the Colourbond roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
- (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 Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**



- (7) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (8) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (9) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (10) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (11) Any new crossovers which are constructed under this approval are to be a maximum width of 5.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Residential Design Guidelines.
- (12) In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
- (13) The proposed works are not to be commenced until approval from the Water Corporation has been obtained and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (14) Pool installer and/or property owner to whom this Permit is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the Building Permit has been granted.
- (15) Pool filter and pump equipment shall comply with noise abatement regulations.
- (16) Prior to the commencement of any works on site, the applicant to notify affected adjoining landowners of intended commencement date.
- (17) Pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
- (18) Maximum height of the fill surrounding the swimming pool/ deck is not to exceed 1.2 metres from the natural ground level.
- (19) This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

- (iii) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.**
- (iv) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).**
- (vi) matters relating to dividing fences are subject to the Dividing Fences Act 1961.**
- (vii) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise".**

(CARRIED 4:0)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 June 2015 this application deemed determined, on behalf of Council, under delegated authority.

**12. REPORTS OF OFFICERS (COUNCIL DECISION)**

Nil.

**13. CONFIDENTIAL BUSINESS**

Nil.

**14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING – ELECTED MEMBERS, OFFICERS**

Nil.

**15. CLOSURE OF MEETING**

There being no further business, the Presiding Member declared the meeting closed at 7:28pm.

*I hereby certify that the Minutes of the ordinary meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **4 October 2016**, Minute Book reference **1. to 15** were confirmed at the meeting of the Committee on*

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*Presiding Member*