



MINUTES

Planning Committee

Tuesday, 5 December 2023 at 6:30 PM

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MINUTES

1 DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

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

2 ACKNOWLEDGEMENT OF COUNTRY

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

3 ANNOUNCEMENT TO GALLERY

“Members of the gallery are advised that no Council decision from tonight’s meeting will be communicated or implemented until 12 noon on the first clear working day after this meeting, unless Council, by resolution carried at this meeting, requested the CEO to take immediate action to implement the decision.”

4 RECORD OF ATTENDANCE

4.1 ATTENDANCE

Cr C Collinson Presiding member

Mayor J O’Neill

Cr A White

Cr J Harrington

A Malone Executive Manager Regulatory Services

K Culkin Minutes Secretary

There were 5 members of the public in the gallery.

4.2 APOLOGIES

Cr K Donovan

4.3 APPROVED LEAVE

Nil

5 MEMORANDUM OF OUTSTANDING BUSINESS

Nil

6 DISCLOSURES OF INTEREST

6.1 FINANCIAL

Nil

6.2 PROXIMITY

Nil

6.3 IMPARTIALITY

Nil

7 7. PUBLIC QUESTION TIME

7.1 RESPONSES TO PREVIOUS QUESTIONS FROM MEMBERS OF THE PUBLIC TAKEN ON NOTICE

Nil

7.2 PUBLIC QUESTION TIME

Nil

8 PRESENTATIONS/DEPUTATIONS

8.1 PRESENTATIONS

Nil

8.2 DEPUTATIONS

Nil

9 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

9.1 TOWN PLANNING COMMITTEE (7 NOVEMBER 2023)

9.1 OFFICER RECOMMENDATION

Moved Mayor O'Neill, seconded Cr Harrington

That the minutes of the Town Planning Committee meeting held on 7 November 2023 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

10 ANNOUNCEMENTS BY THE PRESIDING MEMBER

Nil

11 REPORTS OF COMMITTEES

Nil

12 REPORTS OF OFFICERS (COMMITTEE DELEGATION)

12.1 9 VIEW TERRACE - ALTERATIONS AND ADDITIONS

Owner	Christopher & Michelle Pearson
Applicant	John Chisholm
Report Reference Number	TPR-1678
Planning Reference Code	P070/23
Prepared by	James Bannerman
Supervised by	Andrew Malone
Meeting date	Tuesday, 5 December 2023
Voting requirements	Simple majority
Documents tabled	Nil

Attachments

1. Location and advertising plan
2. Photos
3. Plans submitted 2 November 2023
4. Place record
5. Community engagement checklist

PURPOSE

The purpose of this report is for Council to consider a development application for alterations and additions to a single house at 9 (Lot 243) View Terrace, East Fremantle.

EXECUTIVE SUMMARY

This development application proposes alterations and additions to an existing heritage dwelling (Category B) located at 9 (Lot 243) View Terrace, East Fremantle. It is proposed to retain much of the original heritage property but demolish the existing rear section of the dwelling that is comprised of a sleepout, laundry and toilet. A new kitchen, dining and living area, as well as a fourth bedroom/tv room, new laundry, 2 bathrooms, and master bedroom will be added to the rear of the house. A new alfresco is to be constructed at the rear overlooking a pool. A double storey studio with west facing balcony is to be built along the eastern boundary, and at the rear of the rest of the single storey dwelling. The following 2 variations are requested to the Residential Design Codes.

- Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Eastern Wall – Laundry, Ensuite, Studio – Ground Floor – 1.5m required, 1.42m provided and
- Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Western Wall – Verandah, Study, Kitchen, Dining, Alfresco – Ground Floor – 4m required, 1.7m provided.

It is recommended that Council support the proposed development subject to the conditions included in the final recommendation.

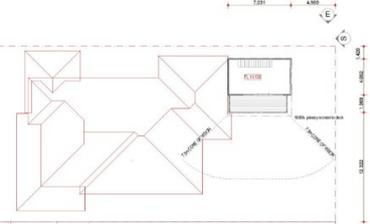
BACKGROUND

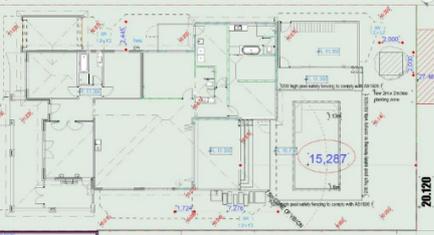
Zoning	Residential R17.5
Site Area	890m ²
Heritage	Category B
Fremantle Port Buffer	N/A
Previous Decision of Town and/or History of Issue Onsite	N/A

CONSULTATION

Advertising

Advertised to surrounding properties and online from 2 to 18 October 2023. One submission (with additional information added later) was received and is included in the schedule below.

Submissions	Applicant Response	Town Response
<p>Submission 1 We strongly object to the planned alterations at 9 View Terrace as described below.</p> <ol style="list-style-type: none"> The current rear out building next to our swimming pool boundary wall is single storey and has no side window or balcony. - see photos. The proposed replacement 'studio' is 2 storey and has a large front balcony facing the river and a side window both of which will overlook our rear family lounge area completely - this is the busiest and most private part of our home. From the balcony and window anyone day or night can peer into our family room and should this proposal go ahead we would be forced to keep our curtains closed to maintain privacy. There is total lack of privacy for us from people looking through their side studio window or off their proposed balcony. This would severely affect our ability to enjoy our own pool and decking area in the summer months, entertain ourselves and walk around in our own lounge and family areas at any time without being "viewed" from the studio balcony or side window. The existing structure has a peaked roof the top of which is at a level with the peak of the rest of the roof of 9 View Terrace main residence, (see diagrams on plans submitted) but the proposed studio has a 2nd floor balcony which is at the level of the current roof level of the main house such that the whole balcony 2nd floor is now elevated above the top of our retaining wall and can be 100 % seen by use and us by viewers from the balcony at all times. This means that any activity on the balcony can be observed by us and people on the balcony can observe us in our private family lounge and pool area should they wish to. The attempted privacy screening shown on the plans (side view of studio) on the balcony corner is a complete waste of time as this only prevents overlooking if a person stands or sits directly behind it - it does not prevent anyone on the actual balcony standing against or leaning over the balcony rail from looking into our home. Lights from the proposed balcony at night will flood our pool area when in use decreasing our privacy again. There will be a huge increase in noise from persons entertaining on the balcony 	<ol style="list-style-type: none"> There may be some misreading of the design with regards to the southern elevation of the studio and balcony. As can be seen from the plan, the balcony is compliant within the Residential Design Codes with respect to cones of vision, and major openings (i.e. the proposed highlight window is NOT a major opening.) it is less than 1 square meter in area and also a highlight window with a sill of 1.6m. The R-Codes prescribe 1.6m high window sills based on the 50th percentile / average male eye level to prevent overlooking. A human would need to be the height of an average NBA player at 1.98m tall and an eye level of 1.76m in order to view into any adjoining property. This is clearly not the case. As can be seen from the site plan below, the proposal is compliant under the R-Codes for cones of vision. It is impossible for the occupants of 9 view terrace to 'peer' into the southern property from the highlight window, or the compliant 1.6m high privacy screen on the balcony.  <ol style="list-style-type: none"> The conditions of topography i.e. the natural formation of the hillside cannot be ameliorated, and the existing property to the south of 9 view terrace is considerably lower than 9 View terrace. It is only natural that a lower property can look up to a higher property. It's not possible to alter those natural conditions of the topography. I would reiterate, the proposal is 100% compliant under the R-Codes. The 1.6m high screening to the south side of the balcony is 100% compliant under the R-Codes, and as such, it not a waste of time, but a requirement for compliance. The balcony will most likely have 3 / 10-watt LED recessed light fittings, with an angle of 100 degrees, i.e. 50 degrees off vertical. These light fittings have a very rapid rate of light fall off and are simply 	<ol style="list-style-type: none"> The proposed double storey studio is permitted in accordance with the Residential Design Codes. The balcony faces westwards and achieves the minimum required visual privacy setback in accordance with the method prescribed to measure this element of the R Codes. The second storey window is not considered a major opening as it is above 1.6m from the finished floor level of the upper storey of the studio. The proposed studio is not more than 6.5m above ground level and as such is permitted in accordance with the Residential Design Guidelines. It is noted that the studio complies with the privacy provisions of the Residential Design Codes. The required privacy screening treatments are shown on the plans and the window facing southwards is above 1.6m of the finished floor level of the upper storey of the studio and does not present a privacy issue in accordance with the Residential Design Codes. As stated above the privacy screening from the balcony achieves the requirements of the Residential Design Codes. Note that there is no absolute right to privacy in urban areas. Lighting is not assessed as part of the development, however, it is not unreasonable to expect that there will be lighting in the outdoor area of the proposed development. This is not different to the lighting around any other residential development. All development produces some noise and it is no different to any other residential development. Noise is not directly assessed as part of the proposed development. The noise produced by this development cannot be fully known until the development is completed and the residents begin using the outdoor areas. It is unreasonable to deny owners the right to develop a site given that the proposed development is similar to many other developments in residential areas and the outdoor areas will be similar to the submitters in the sense that there will be a large pool and an outdoor area around the pool for use by the occupiers of the property.

<p>which will again invade our privacy and ruin the peace and quiet of our pool area.</p> <p>6. Any proposed swimming pool in their rear garden must be of a sufficient distance away from our retaining wall such that when a hole is dug our retaining wall does not collapse or the hole for their pool cause issues with our own swimming pool which is at a lower level and runs the length of the retaining wall some 18 meters. Whilst we don't object to 9 View Terrace putting in a pool, we do make this point now for the record.</p> <p>7. Whilst the proposed new 2 storey outbuilding is named a 'studio' we believe it functions as an entertainment loft area or granny flat / bedroom with a view down to the new proposed swimming pool. for entertaining and is only 'studio' in name .Whilst we have no objection to a pool there is no need for a balcony as access and proximity to the new in ground pool can be obtained from their surrounding deck and terrace area proposed as exists with our own pool set up. The studio should remain as a 1 storey building as exists now.</p> <p>8. We do not object to the other home alterations but very much object to the building of a 2 storey studio at main residence ROOF HEIGHT. close to our boundary wall. The studio is simply too high and the 2nd top floor should be removed altogether with the side window. .The proposed 2 storey studio 100 % removes our privacy in our rear garden, family lounge and pool areas at all times day and night.</p> <p>9. During our own house build in 2016 we followed council rules regarding privacy, overlooking onto neighbours' common areas and cones of vision. The cones of vision shown on the plans are from inside the upper level of the studio and NOT from the balcony itself from which onlookers can view into or private family and lounge areas and our kitchen. We expect our neighbours to be held to similar rules by council as regards our privacy and the described overlooking issues which we consider very serious indeed.</p> <p>10. The studio is simply too high and will dominate the skyline above our boundary wall as viewed from our home at the rear. It needs reducing to a single storey as currently exists and the balcony removing such that at no point is there any overlooking from the 'studio' structure into our family lounge area.</p> <p>In summary we object to the building of a 2-storey structure 'studio' close to our boundary wall which enables overlooking and removes</p>	<p>not capable of 'flooding' light. Flooding of light would require light fittings in the realm of 100 to 150 watts.</p> <p>5. As the balcony is not a principal entertaining area, 'a huge increase from persons entertaining on the balcony' is unlikely. The proposals main entertaining area is the new Alfresco area, 15.3 metres away from the common boundary.</p>  <p>6. The proposed swimming pool is 6.6m away from the common boundary and very unlikely to have any negative affect on the common boundary. It will also be subject to a site inspection by the swimming pool company and a structural engineer and the neighbours' concerns are noted.</p> <p>7. This proposal has been reduced in scale considerably from the first designs, as a result of a combination of interest rate increases and building costs. The early designs included accommodation for visiting grandparents, but the design has been scaled down by approximately 35%. The small studio is a 28 square metre footprint, modest in scale. It should be noted that Chris and Michelle wish to plant a tree in between the two properties, to help screen the studio from view. In my 38 years of working with the Town of East Fremantle, I do not believe that neighbours are entitled to dictate whether a home should be single storey or two storey. I would reiterate again, the proposal is 100% compliant under the R-Codes.</p> <p>8. The complainant's acknowledgement that they do not object to the other home alterations is encouraging, however they would have absolutely no grounds to object to the design at all. The roof height is fully compliant at approximately 6.5m above local ground level and considerably less than the permitted 9m. I would reiterate again, this proposal is 100% compliant under the R-Codes.</p> <p>9. This design also observes and adheres to the Residential Design Codes and the Town of East Fremantle Residential Design Guidelines.</p> <p>10. Please see responses above.</p> <p>In summary,</p>	<p>6. The proposed pool is approximately 6m from the southern boundary which is considerably more than the submitter's setback of their pool. Any proposed pool must meet the minimum requirements of the National construction Code and also achieve structural engineering requirements to prevent any future structural issues on their prop</p> <p>7. The owner of the property at 9 View Terrace has the right to develop a double storey dwelling as does any other property owner in the surrounding area. Owners of a property can choose to use each room as they see fit provided it is a legal use. There is no restriction on the ability of a "studio" to be used for entertaining purposes.</p> <p>8. The proposed double storey studio is lower than the 6.5m acceptable development height in accordance with Residential Design Guidelines. The studio is located a minimum of 4.5m from the southern boundary which is well in excess of the minimum required for the setback of a wall without major openings (as the window on the upper storey of the studio is considered). The height of the development does not have to consider the height of the existing roof (given that the proposed works are behind the existing dwelling and below the maximum permissible height), but rather is measured from the ground level of the location of the proposed development.</p> <p>9. The proposed development adheres to the requirements of the Residential Design Codes regarding visual privacy and overlooking.</p> <p>10. Whenever a lot is developed that is lower than the neighbouring lot there is always the potential for an impact on the lower property. This development has attempted to minimise the impacts on the neighbouring property by locating the studio a minimum of 4.5m from the southern boundary which is more than is required for lot boundary (wall) setbacks and the visual privacy requirements in accordance with Residential Design Codes have been achieved. The applicant and owner agreed to lower the development an additional 0.35m from ground level compared to the original plans submitted to attempt to mitigate any impacts on the neighbouring properties.</p> <p>It is noted that the submitter is free to submit a development application and building permit application for visual privacy screening on their side of the boundary to</p>
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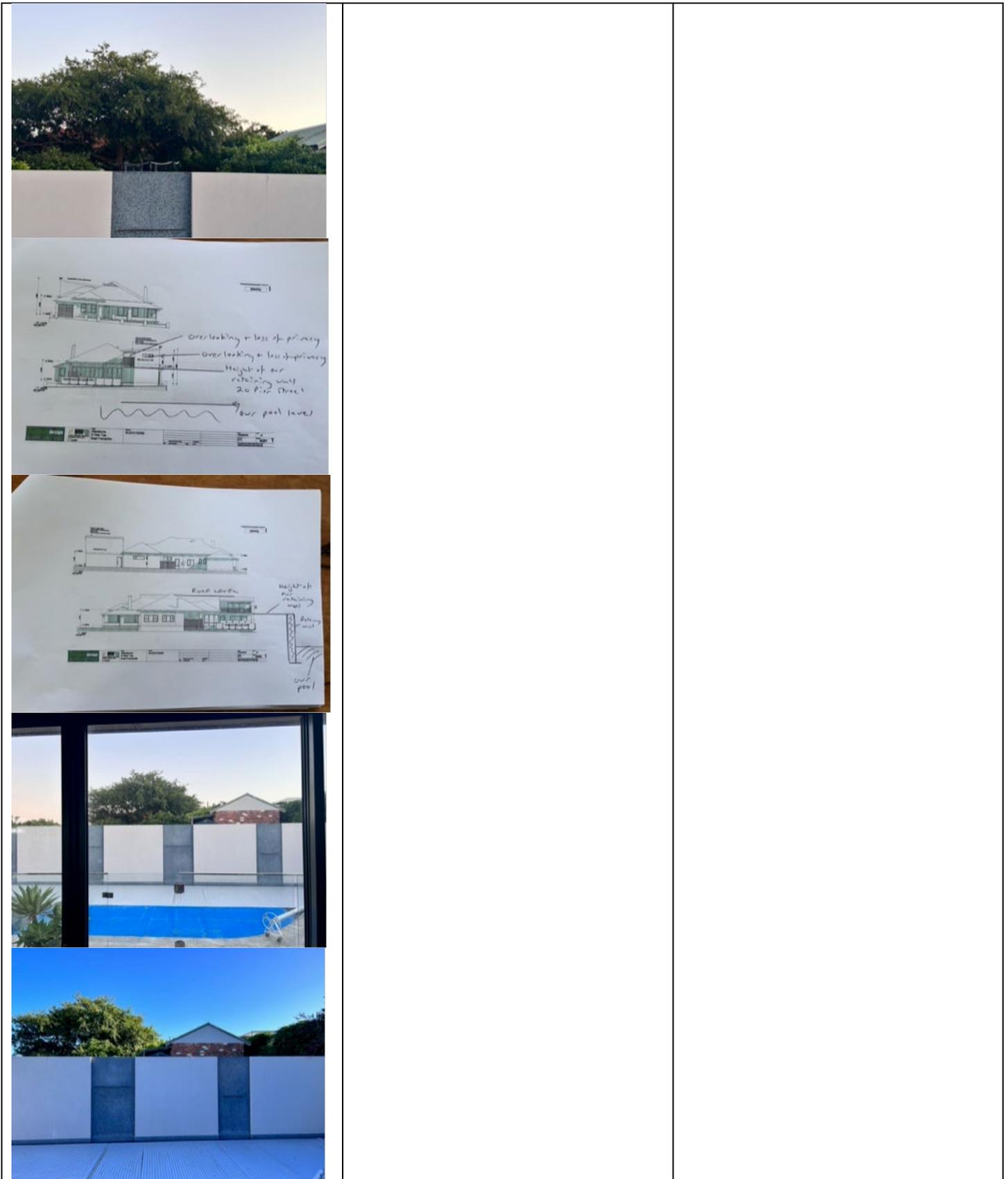
privacy in our family area, lounge, pool, deck, kitchen, terrace and alfresco areas and we wish this structure to remain 1 storey as currently exists with no balcony or side window.



There is no adverse effect to direct natural light to the adjoining property. There is no adverse effect to ventilation to the adjoining property. There is no glazing overlooking the adjoining property or glazing that does not comply with the R-Codes. There is no adverse impact on the amenity of the existing adjoining property. The overshadowing is fully compliant at 3.1 %, considerably less than the 25% permitted under the R-Codes.

improve privacy between dwellings. The proposed double storey studio achieves the requirements of the Residential Design Codes in terms of achieving the visual privacy requirements of the Residential Design Codes.

Additional amended plans were presented by the applicant. The height of the visual privacy screening on the balcony facing southwards has been increased for the full height of the southern edge of the balcony and louvre screening over the south facing window has been added to restrict views towards the southern neighbouring property, but still allow views of the sky. Note that these changes were not necessary as the design in relation to the southern property met the deemed to comply requirements regarding visual privacy. The changes add to the visual privacy towards the south attempting to alleviate and address the neighbours' concerns.





Additional information provided by submitter.

We undertook an independent planning assessment of the proposed alterations to 9 View Terrace and yes indeed they conform to the current R codes - but these in our opinion do not go far enough to protect our privacy. As my wife and I expressed at our meeting with you the open window and balcony and the sheer height of the structure above our boundary wall will have a colossal impact on the privacy our main living area where we spend 90% of our waking hours at home and the kids do their schoolwork etc on table looking out to our pool.

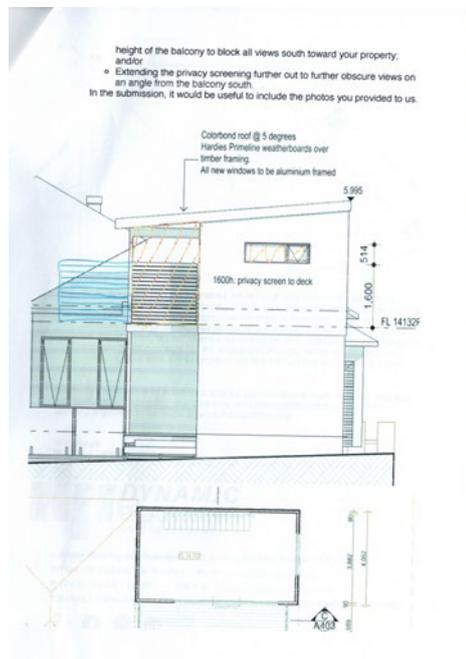
I enclose some photos shot which show the affect that the studio structure will have on our privacy through overlooking.

We are not objecting completely to the alterations proposed, just seeking some additions and alterations to maintain our privacy and prevent people looking straight into our lounge at any time they wish to. Please could you add this email and photos to our objections.

We would be happy if the following 3 things were to be changed on the plans.

1. The side window looking directly into our property removed (preferably) or at very least have frosted or opaque glass to prevent overlooking into our lounge. (The owners are looking for views to the West not directly into our home)
2. The privacy fencing on the balcony taken to full roof height of the structure (not left at 1.6 meters which is the minimum requirement as someone (myself at 1.8 meters) could easily look over the current privacy fence on the plans and see directly into our home at all times day and night.

3. If possible, the privacy fencing be extended outwards to prevent viewing from further along the balcony into our home - like I say the owners are after the river view west not looking at us eating our lunch, relaxing on our alfresco area or swimming in our pool. Please add this email and photos to our objections already submitted.



Internal Consultation

Not referred to Operations for comment. Minimal impact on public realm and conditions will be included in final recommendation to mitigate impacts of development.

External Consultation

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005
Residential Design Codes (Volume 1)
Local Planning Scheme No. 3 (LPS 3)

POLICY IMPLICATIONS

Local Planning Policy 3.1.1 – Residential Design Guidelines
Local Planning Policy 3.1.8 – Wood Encouragement - General

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The Town of East Fremantle Strategic Community Plan 2020-2030 states as follows:

Built Environment

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

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

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

3.1.2 Plan for a mix of inclusive diversified housing options.

3.1.3 Plan for improved streetscapes.

3.2 Maintaining and enhancing the Town's character.

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

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

3.3.1 Continue to improve asset management within resource capabilities.

3.3.2 Plan and advocate for improved access and connectivity.

RISK IMPLICATIONS

A risk assessment was undertaken and the risk to the Town in determining this application was deemed to be negligible.

SITE INSPECTION

A site inspection was undertaken.

COMMENT

Statutory Assessment

This development application was assessed against the Town's Local Planning Scheme No. 3, the Residential Design Codes, and the Residential Design Guidelines.

A summary of the assessment is included in the following tables.

Legend	
A	Acceptable
D	Discretionary
N/A	Not applicable

Local Planning Scheme No. 3/Residential Design Guidelines/Residential Design Codes

Design Element	Required	Proposed	Status
Street front setback			N/A
Garage setback			N/A
Minor incursions			N/A

Lot Boundary Setbacks			
Eastern wall – laundry, ensuite, studio – ground floor	1.5m	1.42m	D
Eastern wall – studio – upper storey	1.2m	1.42m	A
Southern wall – studio – ground floor	1m	>1m	A
Southern wall – studio – upper storey	1.1m	4.96m	A
Western wall – verandah, study, kitchen, dining, alfresco – ground floor	4m	1.7m	D
Western wall – studio – ground floor	3m	10.291m	A
Car Parking	2 car bays	2 car bays	A
Open Space	50%	70%	A
Site Works			N/A
Visual Privacy			
Studio – upper storey	7.5m	<7.5m	Screening added - condition
Dining	6m	<6m	Existing window
Alfresco	7.5m	<7.5m	Screening added - condition
Overshadowing	Maximum 25%	3.1%	A
Garage width			N/A - existing
Roof form and pitch	Roof form to be demonstrated	Roof form demonstrated	A
Materials and colours	Materials and colour schedule to be provided	Materials and colour schedule provided	A
Landscaping			
Deep planting zone	2m x 2m	2 deep planting zones shown on plans	A
Tree to be planted	At least 1 tree	2 trees shown on the plans	A
Front fence & gate			N/A
Sightlines			N/A
Footpaths and crossovers	Condition		
Drainage	Condition		
Wood Encouragement Policy	Studio timber framed – timber in existing heritage dwelling retained		

This development application proposes alterations and additions to an existing heritage dwelling (Category B) located at 9 (Lot 243) View Terrace, East Fremantle. It is proposed to demolish the existing rear section of the dwelling that comprised a sleepout, laundry and toilet and add a new kitchen, dining and living area, as well as a fourth bedroom/tv room, new laundry, 2 bathrooms, and master bedroom. A new alfresco is to be constructed at the rear overlooking a pool. A double storey studio with west facing balcony is to be built along the eastern boundary and at rear of the rest of the single storey dwelling. The proposed development does not impact on the heritage qualities of the existing dwelling with the verandah and original rooms of the dwelling being retained.

The rear additions, including the studio (as amended), have been designed to minimise the impact on neighbouring properties by ensuring that they comply with the visual privacy requirements of the Residential Design Codes. It is noted that the double storey studio has a shallow pitch skillion roof that is not much higher than the existing roof of the single storey dwelling and is no higher than 6.5m, well below the height of many dwellings in the area and within the maximum acceptable development heights of dwellings with river or ocean views in accordance with the Town's Residential Design Guidelines. The proposed pool is at ground level and is no less than 6m from the southern boundary and 3m from the western boundary. The impacts on neighbours from the proposed development are minimal. Following discussions with the applicant the studio was lowered by 0.35m to reduce the impact of the structure and also ensure that there were no visual privacy issues from the ground floor deck/terrace of the studio or the eastern door from the ground floor of the studio.

Additional amendments were made to the proposal to add full height visual privacy screening to the balcony of the studio and install louvre screening to the south facing window to restrict viewing towards the southern neighbouring property. This has been proposed in the interests of maintaining harmony between neighbouring property owners. It

is noted that the design of the studio meets the deemed to comply requirements of the Residential Design Codes with regards to the southern neighbouring property without these additional changes. Nonetheless, the administration welcomes changes by the applicants and owners that produce a design that minimises perceived amenity impacts on neighbouring properties despite the proposed design complying with the deemed to comply requirements of the Residential Design Codes.

There are 2 variations to the Residential Design Codes in relation to lot boundary setbacks in 2 locations as described below.

Lot Boundary Setback - Eastern Wall – Laundry, Ensuite, Studio – Ground Floor

The eastern wall of the dwelling including the laundry, ensuite and studio on the ground floor is 14.425m long and less than 3.5m high with a door from the studio ground floor. In accordance with the Residential Design Codes deemed to comply clause 5.1.3 C3.1 it is required to be a minimum of 1.5m from the boundary. In this case it is 1.42m from the boundary. This marginal reduction can be supported in accordance with design principles 5.1.3 P3.1 for the following reasons;

- There is minimal impact of bulk on the adjoining property,
- Adequate sunlight and ventilation is provided to the building and open spaces on the site and the adjoining properties, and
- Minimal overlooking and the resultant loss of privacy.
- The neighbouring property to the west that is approved for development will be significantly bigger and bulkier and has no outdoor living areas proposed for the eastern side facing this development. There is still sufficient space for light and air to circulate and there is no loss of privacy from the additional sections of the dwelling that are proposed.

The reduction in lot boundary setback is negligible. There is still sufficient space for light and air to circulate and there is no loss of privacy from the additional sections of the dwelling that are proposed. The outdoor areas are located away from the boundary and the neighbouring property.

Lot Boundary Setback - Western Wall – Verandah, Study, Kitchen, Dining, Alfresco – Ground Floor

The western wall of the dwelling including the verandah, study, kitchen, dining and alfresco on the ground floor is 19.8m long and 4.2m high. In accordance with the Residential Design Codes deemed to comply clause 5.1.3 C3.1 it is required to be a minimum of 4m from the boundary. In this case it is 1.7m from the boundary. This reduction can be supported in accordance with design principles 5.1.3 P3.1 for the following reasons;

- The larger setback is as a result of major openings,
- There is minimal impact of bulk on the adjoining property,
- Adequate sunlight and ventilation is provided to the building and open spaces on the site and the adjoining properties, and
- Minimal overlooking and the resultant loss of privacy.

The neighbouring property to the west that is approved for development will be significantly bigger and bulkier and has no outdoor living areas proposed for the eastern side facing this development. There is still sufficient space for light and air to circulate and privacy is maintained in accordance with the Residential Design Code requirements from the additional sections of the dwelling that are proposed. Given that much of this wall is existing means that only a small section is new.

Advertising and Modifications

There was one submission from neighbouring property owners following advertising. The submitters made an initial submission, and then provided additional information, as well as meeting with a town planner to discuss the proposal.

The submitter raised a number of points including visual privacy, noise, views of the studio from the submitters' property, and the pool being too close to the boundary.

As stated in the submissions schedule, the proposed design is fully compliant with the deemed to comply requirements of the Residential Design Codes with regards to the rear setbacks and the visual privacy requirements for the double storey studio located at the rear of the proposed alterations and additions. The submitters requested significant modification of the proposed design despite compliance with the Residential Design Codes requirements. Nonetheless, the applicant and owners agreed to reduce the studio height such that it is now lower than the maximum 6.5m height permitted under the Residential Design Guidelines. The owners also agreed to add a full height visual privacy screen to the southern edge of the balcony and a louvre screen over the rear window of the studio to restrict viewing towards the submitters' property. The applicant and owner have gone beyond what is required of them to achieve compliance with the double storey studio in terms of minimising impact on the submitters' property.

It is noted that the submitter's property site levels are significantly lower than the property where the alterations and additions are proposed so any development on the neighbouring site on View Terrace will be prominent although it is in compliance with the Residential Design Codes requirements. Visual privacy requirements do not take into account variations between neighbouring property ground levels.

There is a setback of 6m for the swimming pool at 9 View Terrace which is significantly more than the submitters' swimming pool setback. Any structural matters in relation to the pool are dealt with through the building permit application process.

Assessment of proposal utilises the information that is supplied by the applicant and owner. The use of the studio is ultimately a matter for the owners within the limits of the local planning framework. Owners of a property may choose to use the rooms within a dwelling as per their requirements. Noise is a separate matter and dealt with under environmental protection regulations. Planning cannot assess development at residential properties based on future social activities at a residence.

The proposed development has dealt with the issues highlighted by the submitters and within the requirements of the local planning framework.

CONCLUSION

The proposed development at 9 (Lot 243) View Terrace East Fremantle is a relatively subtle development in that the existing single storey heritage property is being retained and the proposed alterations and additions to the rear are hidden from the street. The single storey section and double storey studio further to the rear is well below the maximum height of 6.5m permissible under the Residential Design Guidelines. The required visual privacy setbacks are met in accordance with the Residential Design Codes requirements. There are only 2 minor variations relating to lot boundary setbacks on the western and the eastern boundaries as explained above. The design has endeavoured to minimise the variations to produce a house that is almost fully compliant with urban planning requirements. It is recommended that the proposed development (as amended) application be supported by Council in accordance with the attached conditions in the final recommendation.

- Mr Benjamin Garwood (neighbour) spoke against the officer recommendation.
- Mr John Chisholm (architect/designer for the owner) supported the officer's recommendation.

OFFICER RECOMMENDATION / COMMITTEE RESOLUTION

OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP011223

Moved Mayor O'Neill, seconded Cr Harrington

That development approval is granted, and Council exercises its discretion regarding the following;

- (i) **Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Eastern Wall – Laundry, Ensuite, Studio – Ground Floor – 1.5m required, 1.42m provided and**

- (ii) **Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Western Wall – Verandah, Study, Kitchen, Dining, Alfresco – Ground Floor – 4m required, 1.7m provided,**
for alterations and additions at No. 9 (Lot 243) View Terrace, East Fremantle, in accordance with the plans submitted 2 November 2023, subject to the following conditions:
- (1) Visual privacy screening is to be installed as indicated on the plans submitted 2 November 2023 that is in accordance with the Residential Design Codes deemed to comply clause 5.4.1 C1.2 75% obscure, a minimum of 1.6m from finished floor level, durable, fixed in place, permanent, and restrict viewing in the direction of overlooking.
 - (2) Existing trees located within the verge are a Town asset and as such must be retained and not pruned, shaped, or modified, except where otherwise approved for removal or modification by the Town.
 - (3) During construction the verge trees are to be protected with cages around the trunks to ensure that they are not damaged by surrounding works, vehicles, or materials.
 - (4) An application is to be submitted to the Operations Department of the Town for the removal of any verge trees. Verge trees are not be removed without written approval from the Town.
 - (5) Prior to lodging an application for a building permit, the applicant must submit and have approved by the Town, and thereafter implement to the satisfaction of the Town, a construction management plan addressing the following matters:
 - (a) How materials and equipment will be delivered and removed from the site.
 - (b) How materials and equipment will be stored on site.
 - (c) Parking arrangements for contractors.
 - (d) Construction waste disposal strategy and location of waste disposal bins.
 - (e) Details of cranes, large trucks or similar equipment which may block public thoroughfares during construction.
 - (f) How risks of wind and/or waterborne erosion and sedimentation will be minimised during and after the works.
 - (g) Other matters that are likely to impact on the surrounding properties.
 - (6) The footpath is to always remain accessible to pedestrians.
 - (7) The works are to be constructed in conformity with the drawings and written information accompanying the application for development approval other than where varied in compliance with the conditions of this development approval or with the Town’s further approval.
 - (8) The proposed works are not to be commenced until the Town has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this development approval unless otherwise amended by the Town.
 - (9) With regards 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 development approval, without those changes being specifically marked for the Town’s attention.
 - (10) 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 Town prior to the issue of a Building Permit.
 - (11) If requested by the Town 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.
 - (12) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town.
 - (13) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified, or relocated then such works must be approved by the Town and if approved, the total cost to be borne by the applicant. The Town must act reasonably and not refuse any reasonable proposal for the removal,

- modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
- (14) This development approval is to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

- (a) This decision does not include acknowledgement or approval of any unauthorised development which may be on site.***
- (b) A copy of the approved plans as stamped by Town is attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by the Town.***
- (c) It is recommended that the applicant provides a structural engineer's dilapidation report, at the applicant/owner 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 the Town 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) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.***
- (f) Any damage to other Town assets including, but not limited to the kerb, drainage, footpaths, roads, and signage will have to be repaired by the applicant/owners/contractors at their cost.***

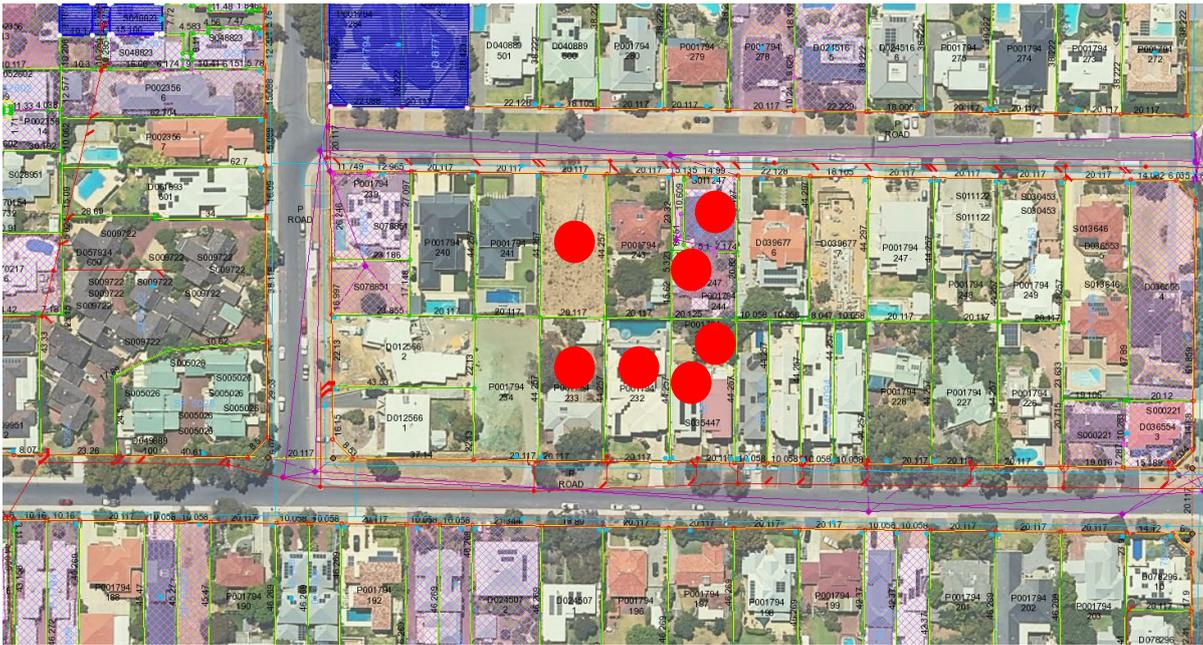
(CARRIED UNANIMOUSLY)

Note: As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 May 2023, this application is deemed determined, on behalf of Council, under delegated authority.

REPORT ATTACHMENTS

Attachments start on the next page

9 View Terrace – Location and Advertising Plan



Attachment -2
9 View Terrace – Photos

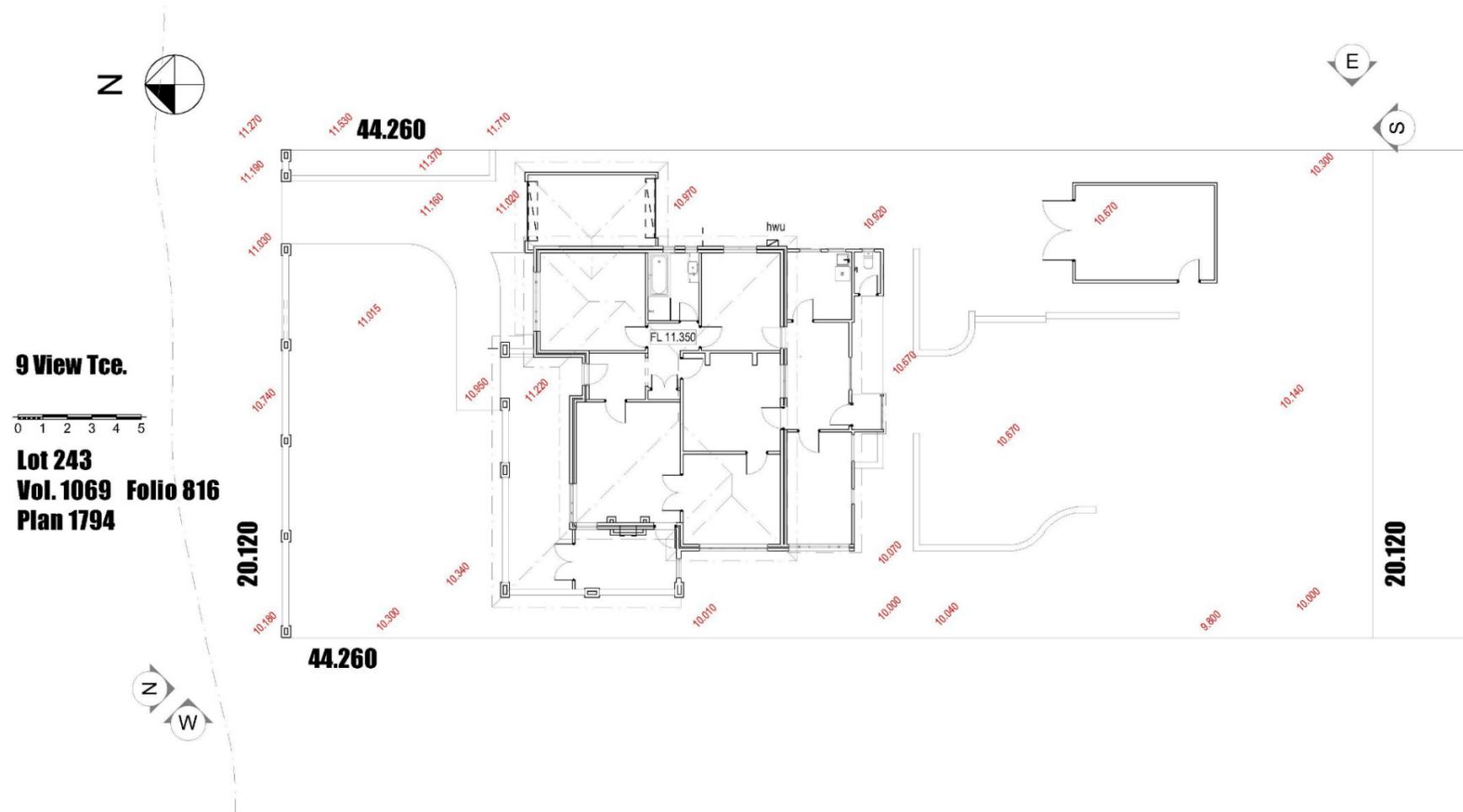


Attachment -2



planning

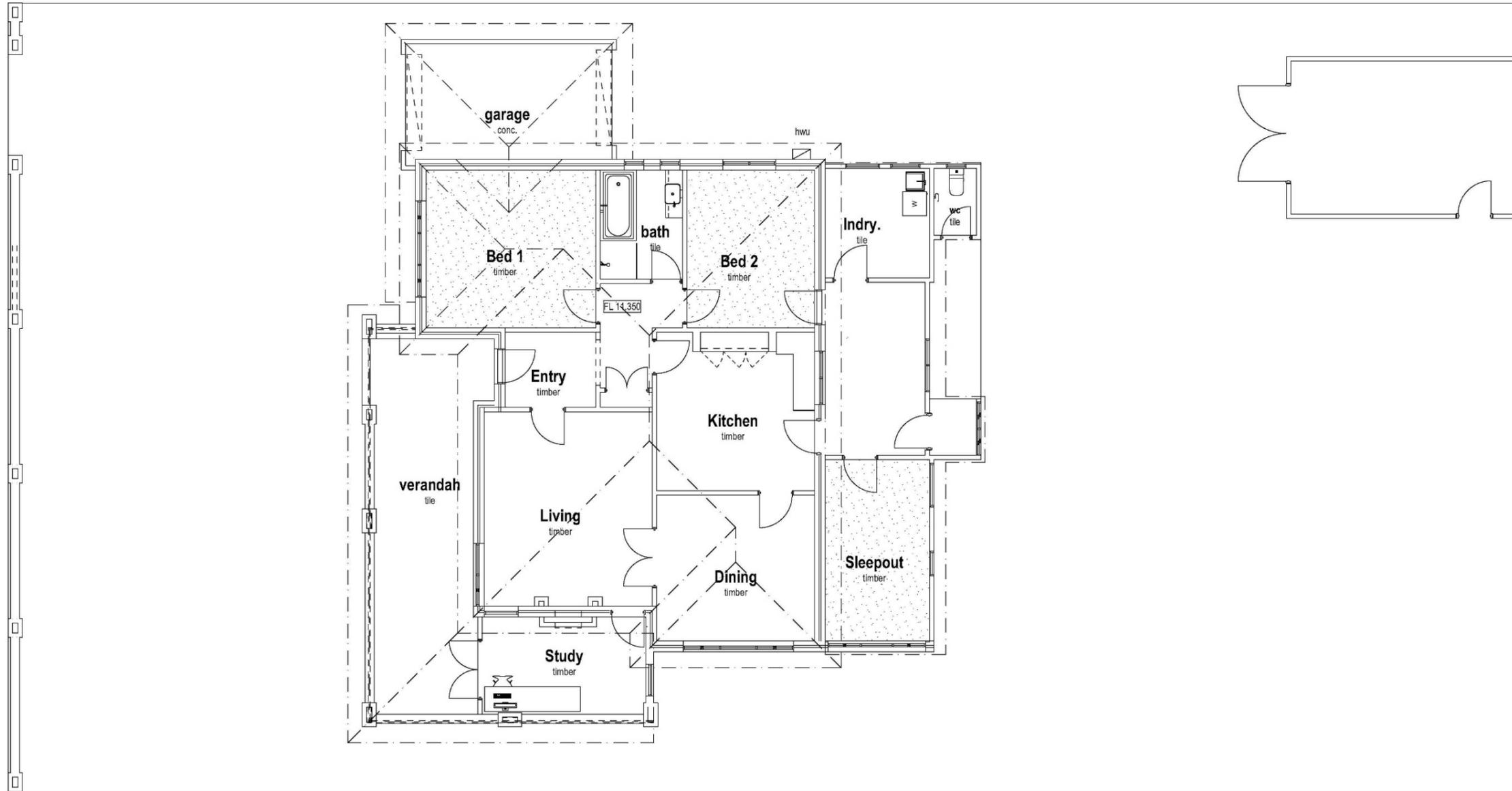
2/11/2023



<p>environmental heritage contemporary 0408 833 399 jc@jonchisholm.com jonchisholm.com</p>	<p>NATIONAL ASSOCIATION OF BUILDING DESIGNERS OF WESTERN AUSTRALIA INC. BDAWA BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC. Copyright</p>	Project:	Alterations 9 View Tce. East Fremantle		Drawing:	Existing Site Plan		Date:	2/11/2023		Drwn:	JC		
		REV.	AMENDMENT	DATE		Job No.:	2117		Dwg No.:	EX100		Rev	3	
		3	issued for planning	17/10/2023		The builder must verify all dimensions on site before commencing any work or shop dwgs.								
		2	issued for planning	29/9/2023										
1	issued for planning	19/9/2023												

planning

2/11/2023



Existing Floor Plan
1:100

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Project:
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East Fremantle**

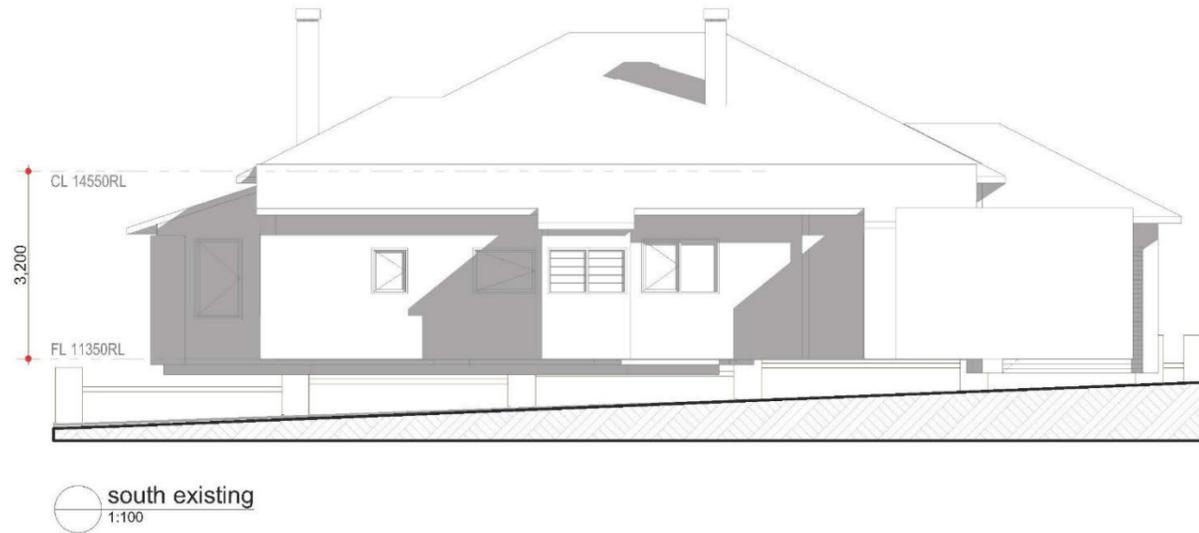
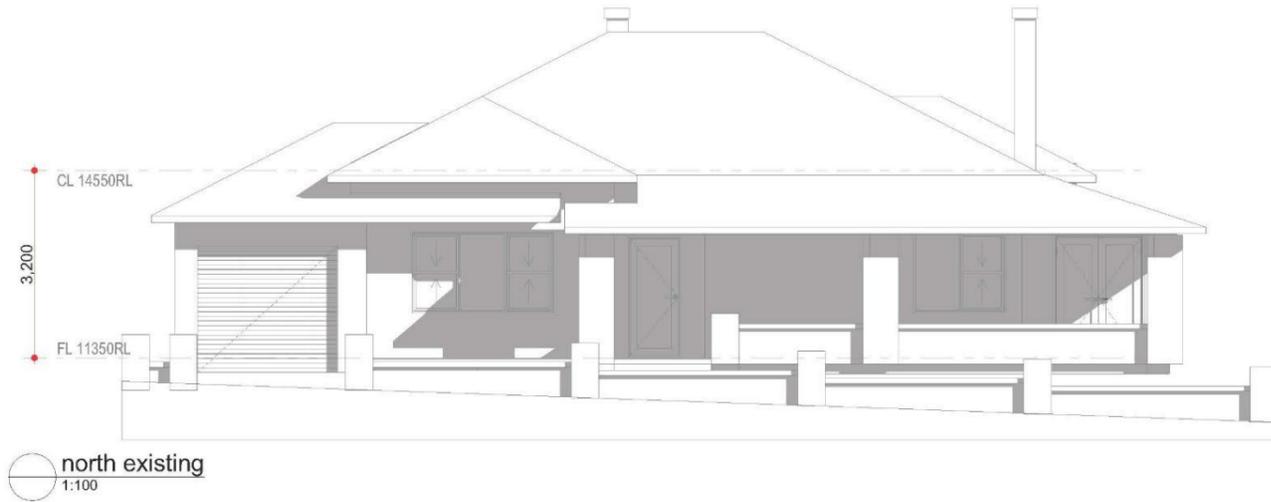
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Existing Floor Plan

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2	issued for planning	29/9/2023
1	issued for planning	19/9/2023

Date:	2/11/2023	Drwn:	JC
Job No:	2117	Dwg No.:	EX201
		Rev	3
The builder must verify all dimensions on site before commencing any work or shop dwgs.			

planning

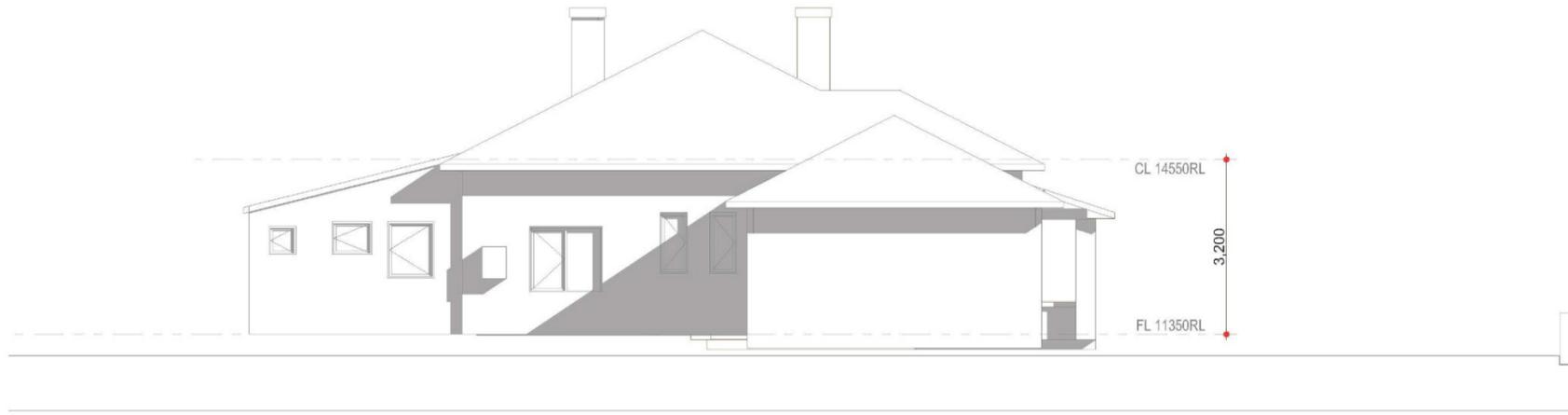
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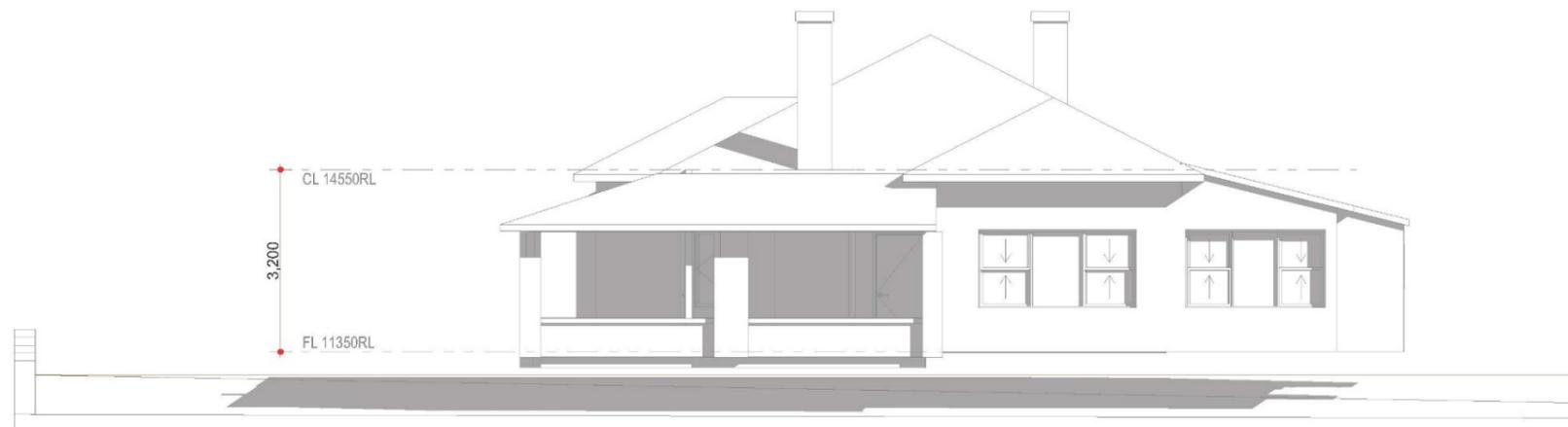
 <p>john Chisholm design</p> <p>environmental heritage contemporary 0408 833 399 jc@jonchisholm.com jonchisholm.com</p>	 <p>NATIONAL ASSOCIATION OF BUILDING DESIGNERS BDAWA BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC. © Copyright</p>	<p>Project: Alterations 9 View Tce. East Fremantle</p>	<p>Drawing: Existing Elevations</p>	<table border="1"> <thead> <tr> <th>REV.</th> <th>AMENDMENT</th> <th>DATE</th> </tr> </thead> <tbody> <tr> <td>3</td> <td>issued for planning</td> <td>17/10/2023</td> </tr> <tr> <td>2</td> <td>issued for planning</td> <td>29/9/2023</td> </tr> <tr> <td>1</td> <td>issued for planning</td> <td>19/9/2023</td> </tr> </tbody> </table>	REV.	AMENDMENT	DATE	3	issued for planning	17/10/2023	2	issued for planning	29/9/2023	1	issued for planning	19/9/2023	<p>Date: 2/11/2023</p>	<p>Drwn: JC</p>
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planning

2/11/2023



east existing
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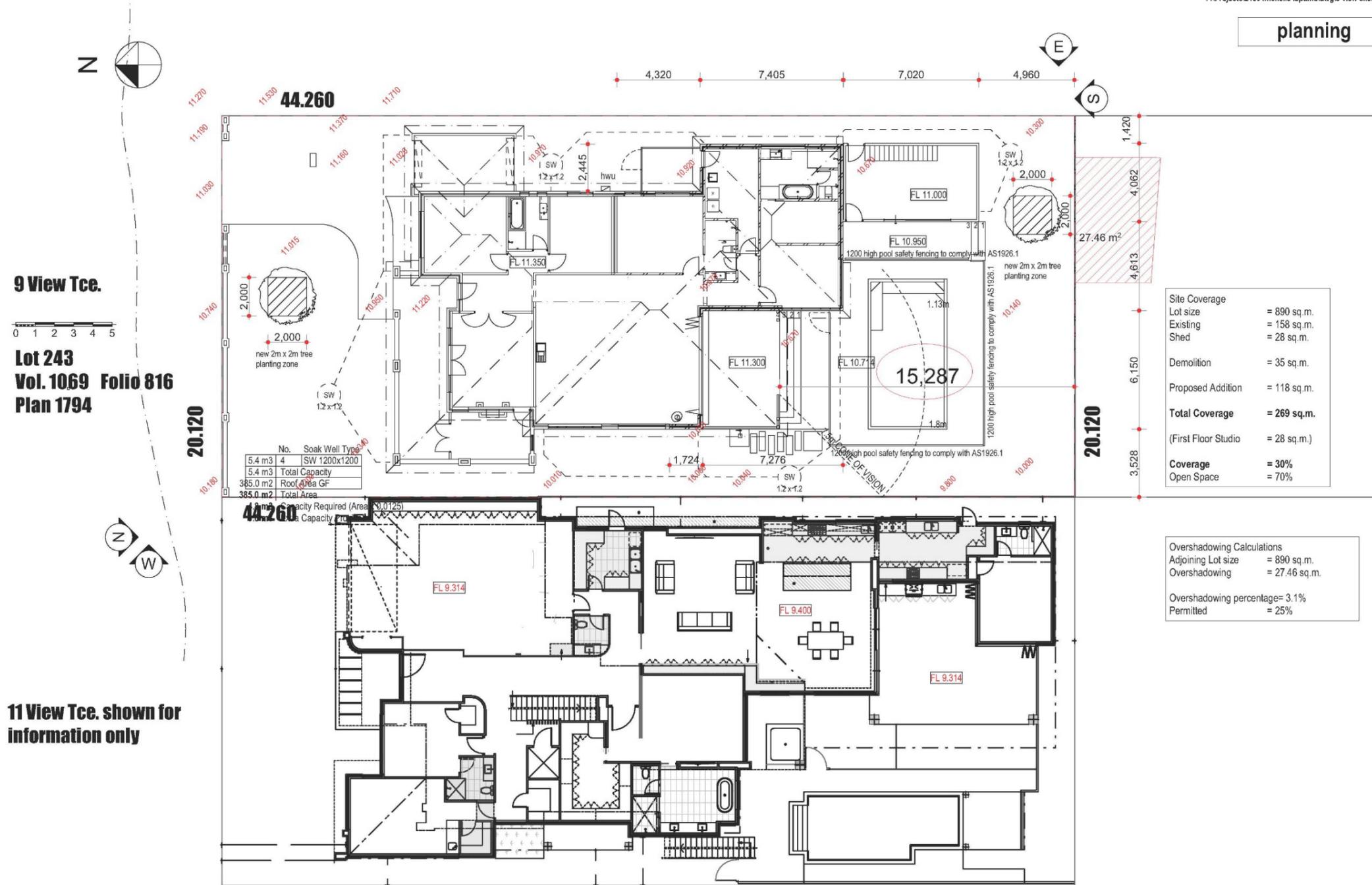


west existing
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2/11/2023



9 View Tce.

Lot 243
Vol. 1069 Folio 816
Plan 1794

11 View Tce. shown for
information only

Site Coverage	= 890 sq. m.
Lot size	= 158 sq. m.
Existing Shed	= 28 sq. m.
Demolition	= 35 sq. m.
Proposed Addition	= 118 sq. m.
Total Coverage	= 269 sq. m.
(First Floor Studio)	= 28 sq. m.)
Coverage	= 30%
Open Space	= 70%

Overshadowing Calculations	
Adjoining Lot size	= 890 sq. m.
Overshadowing	= 27.46 sq. m.
Overshadowing percentage	= 3.1%
Permitted	= 25%

No.	Soak Well Type	Capacity
5.4 m ³	4 SW 1200x1200	
5.4 m ³	Total Capacity	
385.0 m ²	Roof Area GF	
385.0 m ²	Total Area	

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Project:
**Alterations
9 View Tce.
East Fremantle**

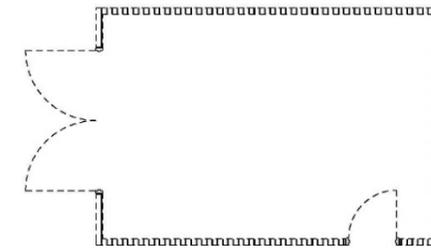
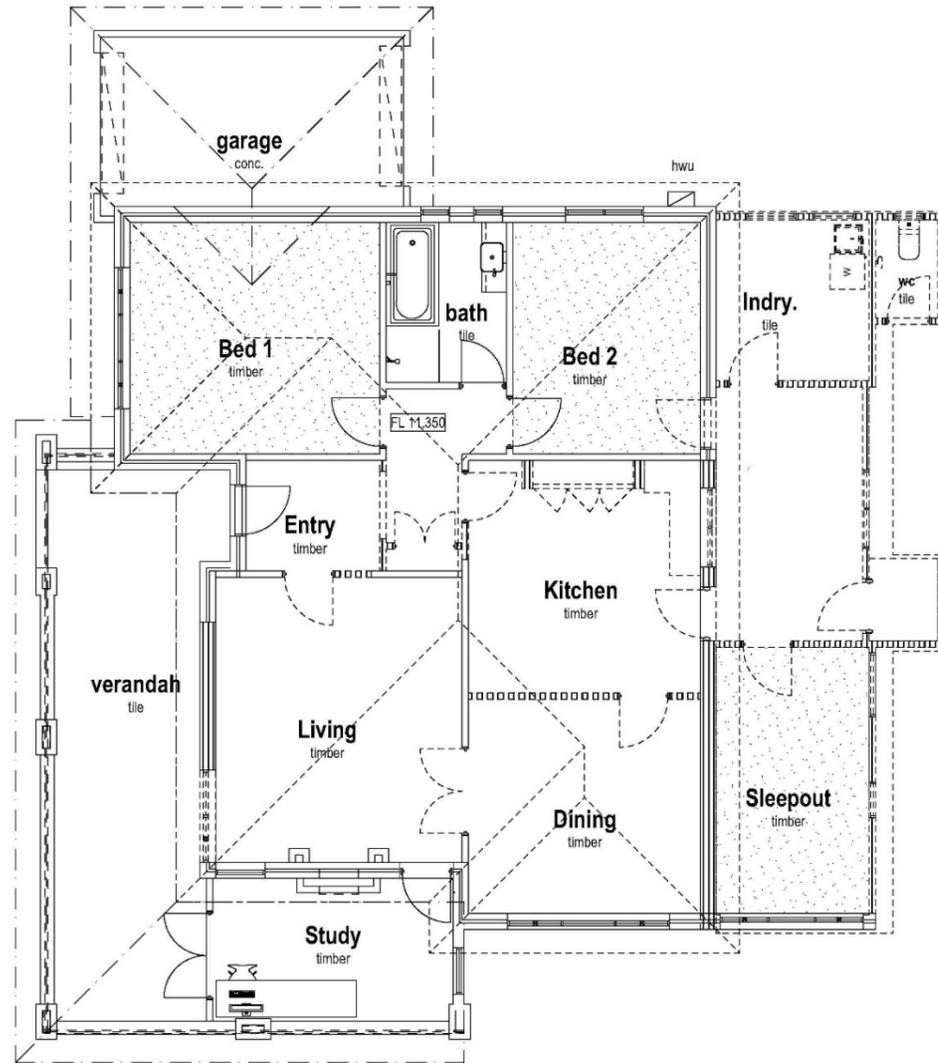
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Site Plan

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1	issued for planning	19/9/2023
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The builder must verify all dimensions on site before commencing any work or shop dwgs.			

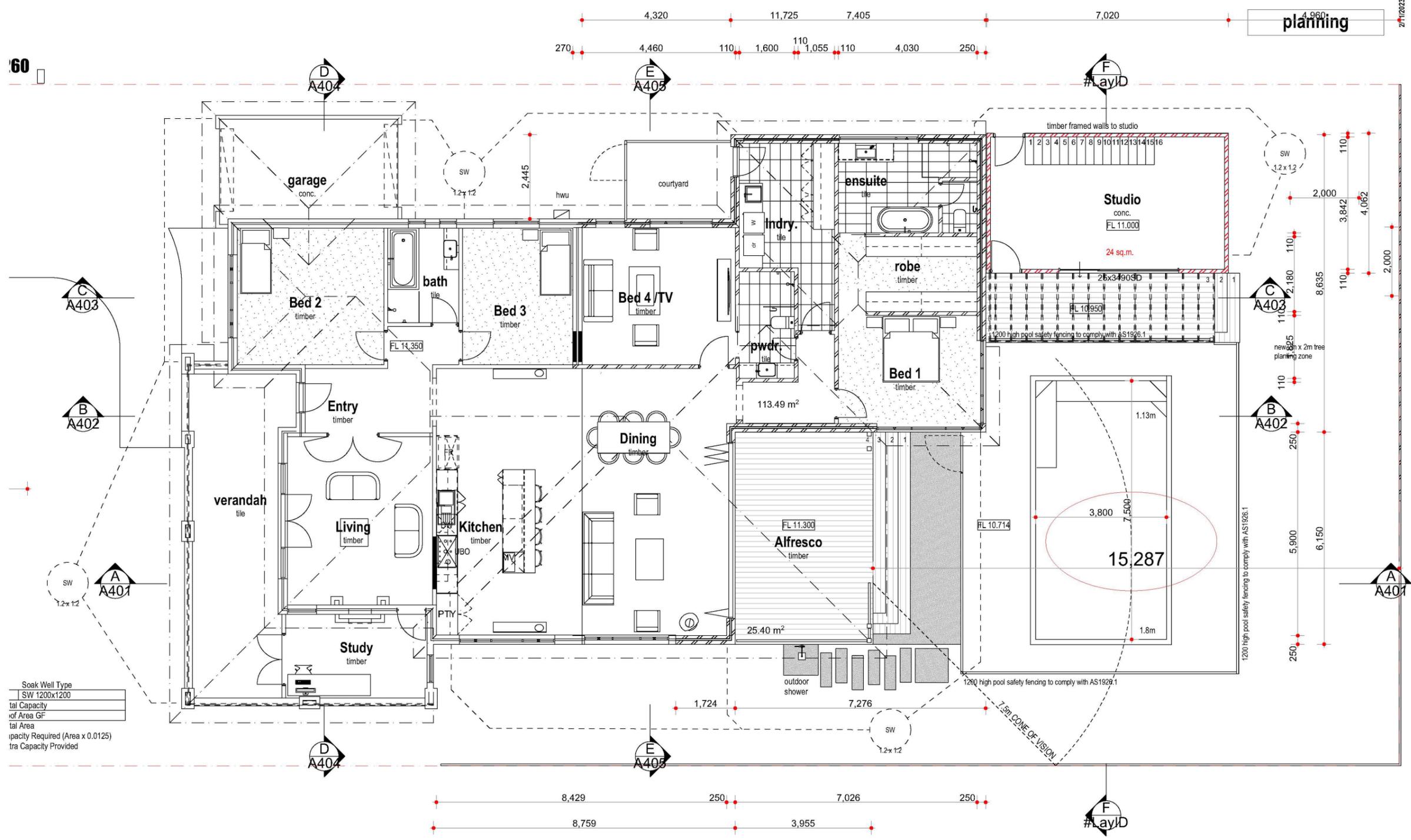
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Demolition Plan
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		2	issued for planning	29/9/2023	1	issued for planning	19/9/2023	Rev			3		
		The builder must verify all dimensions on site before commencing any work or shop dwgs.											



Soak Well Type
SW 1200x1200
Total Capacity
of Area GF
Total Area
Capacity Required (Area x 0.0125)
Total Capacity Provided

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Project:
**Alterations
9 View Tce.
East Fremantle**

Drawing:
Floor Plan

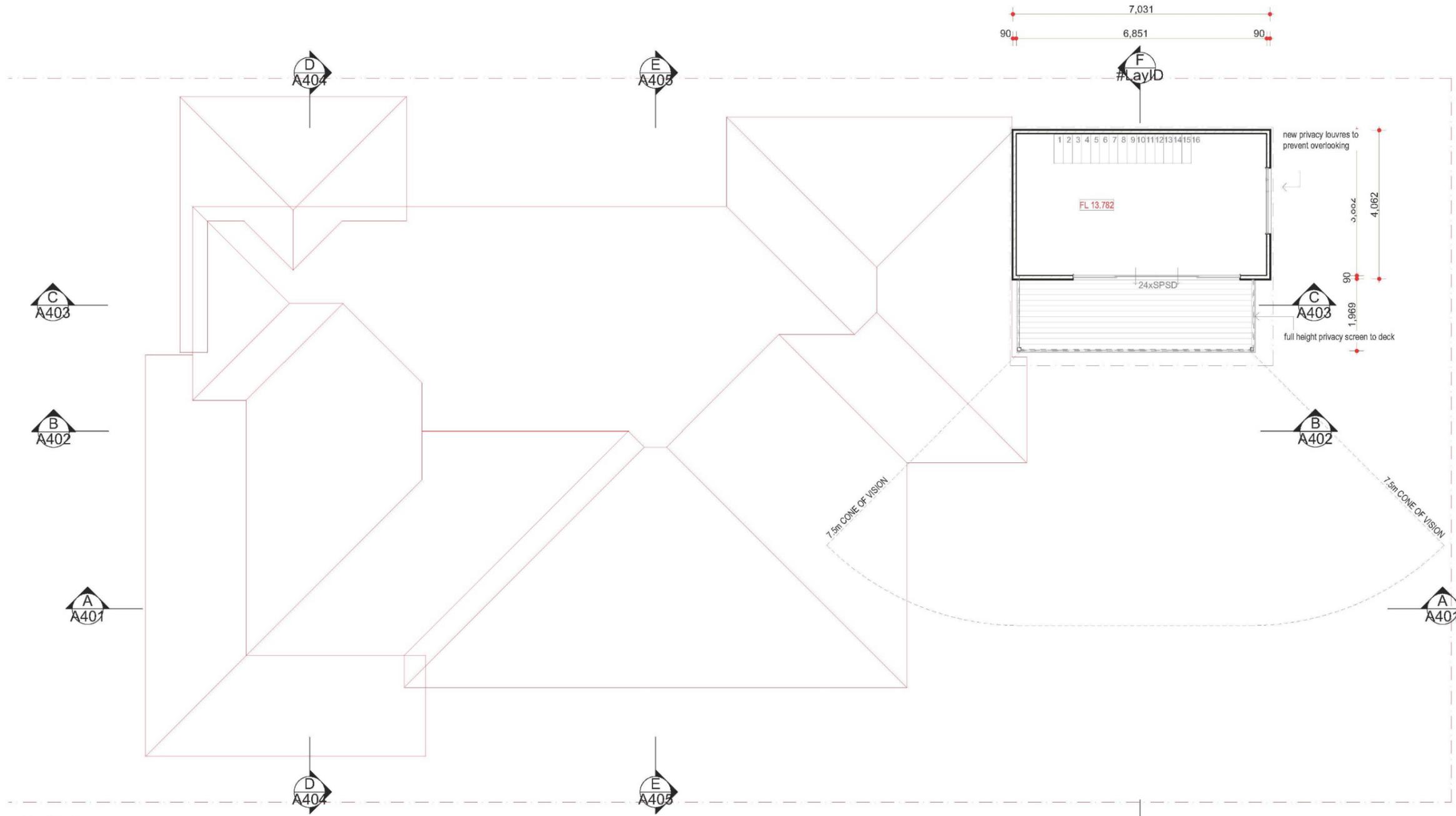
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Date:	2/11/2023	Drwn:	JC
Job No:	2117	Dwg No.:	A202
		Rev	3

The builder must verify all dimensions on site before commencing any work or shop dwgs.

planning

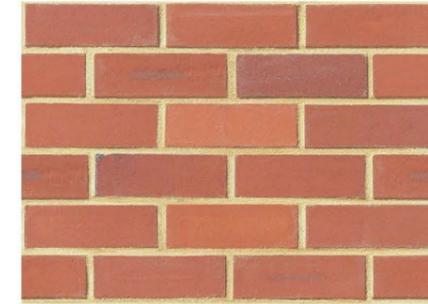
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Studio
1:100

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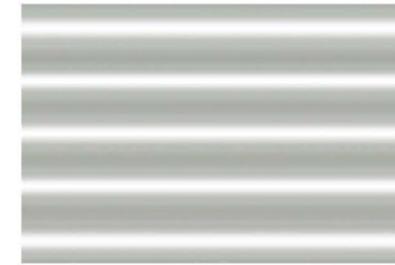
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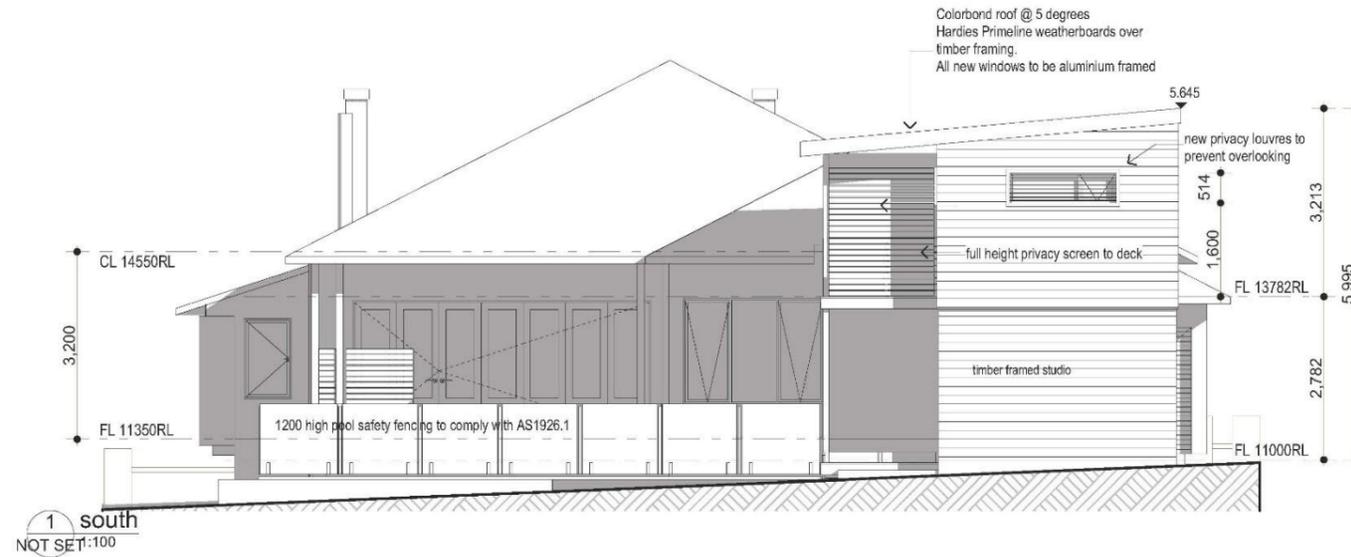
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2/11/2023

Midland Brick Heritage Red



Colorbond Shale Grey Roofing to Studio
(additions to main home to be tiled roof to match existing)



New Weatherboards to be Dulux 'Tranquil Retreat'
New Trim & joinery to be Dulux 'Natural White', including privacy screens

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Project:
**Alterations
9 View Tce.
East Fremantle**

Drawing:
ELEVATIONS

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1	issued for planning		19/9/2023

Date:	2/11/2023	Drwn:	JC
Job No:	2117	Dwg No.:	A301
		Rev	3

The builder must verify all dimensions on site before commencing any work or shop dwgs.

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2/11/2023



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2/11/2023



Proposed first floor studio addition
is masked by existing tree

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		2	issued for planning	29/9/2023	The builder must verify all dimensions on site before commencing any work or shop dwgs.					
		1	issued for planning	19/9/2023						
REV.	AMENDMENT	DATE								

PLACE RECORD FORM

PRECINCT	Richmond Hill
ADDRESS	9 View Terrace
PROPERTY NAME	N/A
LOT NO	Lot 243
PLACE TYPE	Residence
CONSTRUCTION DATE	C 1935
ARCHITECTURAL STYLE	Inter-War Bungalow
USE/S	Original Use: Residence/ Current Use: Residential
STATE REGISTER	N/A
OTHER LISTINGS	N/A
MANAGEMENT CATEGORY	Category B
PHYSICAL DESCRIPTION	<p>No 9 View Terrace is a single storey house constructed in limestone, brick and rendered brick with a hipped tiled roof. It is a fine expression of the Inter-War Bungalow style. The front elevation is asymmetrically planned with a thrust bay and a full width return broken back roofed verandah. The verandah is supported on piers with scribed tops. A masonry balustrade spans between the piers. The verandah roof extends across the thrust bay to a garage addition to the east. The thrust bay features a set of windows. There is a central door flanked by a corner suite. The place sits on limestone foundations. The lower walls are face brick and the upper walls rendered. The roofscape features tall rendered chimneys.</p>

The place retains its form and most of its details. There are additions to the rear and a garage to the east side.

The place plays an important role in the pattern of development of a middle-class suburb.

HISTORICAL NOTES

The Richmond Hill Precinct was originally Location 333-336 Swan District which was acquired by John Clayton in 1861-64. As subdivisions occurred throughout East Fremantle new land names were taken from original names and adapted. The Richmond Hill Precinct was once a part of the Richmond Precinct. The Richmond name originated from the town of Richmond in England. Walter Easton, the owner of the Richmond Precinct, had lived in Richmond prior to arriving in Western Australia.

In 1891 the precinct was sold to David Symon and David William Harwood. Symon was an ironmonger, shipping merchant, a senior partner in a firm of merchants and a member of the Legislative Assembly for South Fremantle. Harwood was a prominent businessman, the founder of Harwood Brewery and was known as an avid horse racer. Subdivided lots to the precinct began to sell between 1897 and 1898 following the completion of land surveys. Due to the requirement for the provision of costly services such as water and electricity to the subdivided lots, Symon and Harwood decided to sell the estate in its entirety.

The 'Brighton Estate' is identified on a 1903 property map as the area between Preston Point Road and David Street (now Petra Street) including View Terrace and Pier Street. A water tank was located on a site between Pier Street and View Terrace (Lot 43) which was largely chosen for its elevated position. The tank, however, was later replaced in 1977 by a multi-storey water tower which is still present today. Development in the estate progressed very slowly and by 1945 there were only 10 residences in Pier Street.

A small adjoining portion of land from View Terrace to Fraser Street and west of Petra Street was developed in 1919. The development was around the site of the old Bicton Racecourse and was named the 'Riverside Bicton Estate'. Subdivision of the remaining land in East Fremantle was complete by the 1930s. By this time the land had been significantly developed. During this period developments commenced in Petra Street and a group of Inter-War California Bungalows were built between View Terrace and Preston Point Road. This development period presents a collection of buildings which were constructed within a similar time frame while demonstrating a variety of styles. Developments were of timber and masonry construction with face brick finishes, weatherboard and asbestos cladding. A shortage of building materials following the Depression and WWII led to a more simplified building style and the emergence of the Post-War austerity houses in Richmond Hill.

A later era of development in Richmond Hill occurred around Locke Crescent between the 1950's and 1960's.

Many new developments have occurred in the Richmond Hill Precinct in the last 30 years.

OWNERS

Unknown

HISTORIC THEME

Demographic Settlements - Residential Subdivision

CONSTRUCTION MATERIALS

Walls – Limestone, brick and rendered brick

Roof – Tiles

PHYSICAL SETTING

The residence is situated on a gently sloping site with a lawned garden down to a low brick wall on the lot boundary.

STATEMENT OF SIGNIFICANCE

No 9 View Terrace is a single storey house constructed in limestone, brick and rendered brick with a tiled roof. It has historic and aesthetic value for its contribution to Richmond Hill's residential building stock. The place contributes to the local community's sense of place.

The place has considerable aesthetic value as an Inter-War Bungalow. The place retains a moderate degree of authenticity and a high degree of integrity.

The garage and additions to the rear have no significance.

AESTHETIC SIGNIFICANCE

No 9 View Terrace has considerable aesthetic value as an Inter-War Bungalow. It retains some of the characteristic features of a dwelling of the type and period.

HISTORIC SIGNIFICANCE

No 9 View Terrace has some historic value. It was part of the suburban residential development associated with the expansion of East Fremantle and the subdivision of Walter Easton's Estate from 1901.

SCIENTIFIC SIGNIFICANCE

N/A

SOCIAL SIGNIFICANCE

No 9 View Terrace has some social value and contributes to the community's sense of place.

RARITY

No 9 View Terrace does not have qualities associated with the corresponding category.

CONDITION

No 9 View Terrace is in good condition.

INTEGRITY

No 9 View Terrace retains a high degree of integrity.

AUTHENTICITY

No 9 View Terrace retains a moderate degree of authenticity.

MAIN SOURCES



Community Engagement Checklist

Development Application P070/23 – 9 View Terrace

Objective of Engagement	Neighbour Consultation			
Lead Officer:	Regulatory Services			
Stakeholders				
Stakeholders to be Considered <i>Please highlight those to be targeted during engagement</i>	Aged	<input type="checkbox"/>	Ratepayers (all / targeted)	<input type="checkbox"/>
	Businesses	<input type="checkbox"/>	Residents (all / targeted)	<input checked="" type="checkbox"/>
	Children (School / Playground)	<input type="checkbox"/>	Service Providers	<input type="checkbox"/>
	Community Groups	<input type="checkbox"/>	Unemployed	<input type="checkbox"/>
	Disabled People	<input type="checkbox"/>	Visitors	<input type="checkbox"/>
	Environmental	<input type="checkbox"/>	Volunteers	<input type="checkbox"/>
	Families	<input type="checkbox"/>	Workers	<input type="checkbox"/>
	Govt. Bodies	<input type="checkbox"/>	Youth	<input type="checkbox"/>
	Indigenous	<input type="checkbox"/>		<input type="checkbox"/>
Staff to be notified:	Neighbouring LGs	<input type="checkbox"/>		<input type="checkbox"/>
	Office of the CEO	<input type="checkbox"/>	Councillors	<input type="checkbox"/>
	Corporate Services	<input type="checkbox"/>	Consultants	<input type="checkbox"/>
	Development Services	<input type="checkbox"/>		<input type="checkbox"/>
Operational (Parks/Works)	<input type="checkbox"/>		<input type="checkbox"/>	
Community Engagement Plan				
Methods	Responsible	Date Due	Reference / Notes	
1.1 E News	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.2 Email Notification	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.3 Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.4 Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.5 Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.6 Fact Sheet	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.7 Media Rel/Interview	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.1 Information Stalls	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.2 Public Meeting/Forum	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.3 Survey/Questionnaire	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.1 Focus Groups	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.2 Referendum/Ballot	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.3 Workshop	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.1 Council Committee	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.2 Working Group	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
*Statutory Consultation	<input checked="" type="checkbox"/> Relevant Officer	18/10/2023	<input checked="" type="checkbox"/> Advertised to 7 surrounding properties	
#Heritage Consultation	<input type="checkbox"/> Regulatory Services	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
^Mail Out (note: timelines)	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Evaluation				
Summary of...		Date Due	Completed / Attached	
Feedback / Results/ Outcomes / Recommendations		5/12/2023	To be presented to TPC	
Outcomes Shared				
Methods	Responsible	Date Due	Reference / Notes	
E-Newsletter	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Email Notification	<input checked="" type="checkbox"/> Relevant Officer	8/12/2023	<input checked="" type="checkbox"/> Email applicant/owner	
Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Media Release	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>			
	<input type="checkbox"/>			
Notes				

12.2 44 KING STREET - SHORT TERM RENTAL ACCOMMODATION

Owner	Davine Management Pty Ltd
Applicant	Nathan Harding
Report Reference Number	TPR-1712
Planning Reference Code	P082/23
Prepared by	James Bannerman
Supervised by	Andrew Malone
Meeting date	Tuesday, 5 December 2023
Voting requirements	Simple majority
Documents tabled	Nil

Attachments

1. Location and advertising plan
2. Photos
3. Plans 15 November 2023
4. Community engagement checklist

PURPOSE

The purpose of this report is for Council to consider the development application for a proposed change of use for short term rental accommodation at 44 (Lot 445) King Street, East Fremantle.

EXECUTIVE SUMMARY

This development application proposes short term rental accommodation at 44 (Lot 445) King Street, East Fremantle. It is currently zoned residential with a density code of R20 and is a Category B heritage dwelling.

The proposed use for short term rental accommodation is an “unlisted use” within a residential zone, however, local government may “determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted” (clause 4.4.2a of Local Planning Scheme No.3).

It is recommended that Council support the proposed change of use to short term rental accommodation subject to the conditions included in the final recommendation.

BACKGROUND

Zoning	Residential R20
Site Area	509m ²
Heritage	Category B
Fremantle Port Buffer	Area 2 (no response required as no physical development – change of use only)
Previous Decision of Town and/or History of Issue Onsite	N/A

CONSULTATION**Advertising**

The proposed development was advertised to surrounding properties and online from 9 to 24 November 2023. Two submissions were received and are included below.

Submissions	Applicant Response	Town Response
<p><u>Submission 1</u> I have some concerns I wish to address. Very little information regarding this proposal is available. As I share a boundary with this property, I would like to know a lot more about the project.</p>	<p>Applicant prepared a comprehensive management plan which is kept on record at the Town.</p>	<p>The details of the development application are provided elsewhere in this report. The proposal is for short term rental accommodation for when the owners/residents of the dwelling are not living at the property. The accommodation will be unhosted. Conditions will be recommended that control negative amenity impacts. The management plan was emailed to the submitter by the Town in response to submission.</p>
<p><u>Submission 2</u> I have some concerns I wish to address. As long-Term residents of King Street we have some concerns regarding the change of use to "short term accommodation". We are concerned that short term tenants may not respect the normally quiet and peaceful amenity of King Street. We are concerned about possible excessive noise and how this would be managed. We are also concerned regarding living next to "in and out" strangers. We feel uneasy about potentially having to deal with constantly changing tenants and their visitors should noisy or unruly activity occur. We hope that there would be careful screening of guests and that the number of guests be restricted to four people. If online platforms such as Air BnB or similar are used to let the property, we are concerned that screening will be essentially non-existent. We would hope that parties etc. would be banned from occurring during any short-term letting arrangement.</p>	<p>I believe that a lot of these concerns have been addressed within our Short-Stay Management Plan and Guest Code of conduct that all guests must accept before they will be approved. I will try to list the different parts of this plan that directly address the concerns that this person raises as I believe that we had factored all of these concerns into other management plan for this property.</p> <p>The following an excerpt from the "Code of Conduct for Guests and Visitors" in the Short-stay Management Plans: Guest Code of Conduct: 1.0 General Principles Short Term Accommodation is a unique experience, and the guiding principles of this Code of Conduct are:</p> <ul style="list-style-type: none"> • Treat this is as your own home. • Respect your neighbours. • Leave it in the appropriate condition as it was upon occupation. <p>2.0 General Requirements</p> <ul style="list-style-type: none"> • Guests and visitors must comply with this Code of Conduct and instructions from the Manager during their stay. • Guests must notify the Manager of any disputes or complaints from neighbours as soon as practicable. <p>3.0 Noise and Residential Amenity</p> <ul style="list-style-type: none"> • Guests and visitors must not create noise which is offensive or has the potential to create a nuisance to occupiers of neighbouring properties especially between 10pm and 8am Monday to Saturday and 10pm -9am on Sunday and Public Holidays, during arrival, during departure, and at any time throughout the occupancy. • Offensive noise is prohibited and may result in termination of permission to occupy the property, eviction, loss of rental paid and extra charges for security deposit or bond under the terms and conditions. • Guests and visitors must not engage in any anti-social behaviour and must minimise their impact upon the residential amenity of the neighbours and the local community. <p>4.0 Visitors</p> <ul style="list-style-type: none"> • No visitors or guests other than those who are booked to stay at the property can stay in the property without first obtaining the Manager's approval. 	<p>The dwelling will be used for short term accommodation when the residents are not living in the dwelling. A management plan has been submitted which outlines behaviour expected from guests. Noise will be monitored and if it is considered excessive then warnings may be issued by the property management against the accommodation guests. Termination of the guest accommodation may be considered by the property management. Conditions will be recommended that control negative amenity impacts. A condition has been included that limits the number of guests to 4 people.</p>

	<ul style="list-style-type: none"> • If the Manager’s approval is obtained for visitors, guests are responsible for ensuring that visitors comply with this Code of Conduct. <p>5.0 Gathering or Functions</p> <ul style="list-style-type: none"> • This property is not a “party house” and any such activities are strictly prohibited. • The property is not to be used for events, gatherings, parties, functions, or similar activities. • The property is monitored by an onsite sensor for noise, temperature, and number of guests. Any breach of protocol is sent to the manager as an alert. All breaches will result in instant eviction without refunds to the guests (also listed in ‘house rules’ and signed rental agreement. <p>The reason that this property is being listed is to ensure that the premises remains occupied and doesn't become a target to be either robbed, vandalised, or broken into and have squatters live in it, in between my parents being in residence. As they are spending large amounts of time throughout the year in Perth from NSW visiting my brothers and my young families who also live on this same street. In the past they have stayed at either my brother's or my home but as our families have grown it is becoming increasingly difficult for us to accommodate them in our homes so they seized this opportunity to purchase this property with the ultimate goal to move into the premise on a permanent basis in a few years' time once the last of my sister's children leave school and then my parents will not be as deeply involved in their lives, as he will most likely also move away to undertake university studies like their elder siblings.</p> <p>There will also be a three (3) night minimum stay to minimise turn over and impact on the neighbours. Once approved neighbours will be provided with the following in regard to the management of the property:</p> <ul style="list-style-type: none"> • A copy of the Code of Conduct • A copy of the complaints management procedure • The contact details of the property Manager allow the neighbours to engage with the manager in event of any antisocial behaviour, particularly after hours, without having to address the guests directly. <p>Within the short-stay management plan it also outlines the house rules for the guests and any visitors (that the guest are responsible for to ensure that they also comply with the House Code of Conduct). This management plan also outlines the complaints process (and responses) from the property management in dealing with any complaints as well as encouraging to contact the police if they have concerns that any illegal activity.</p> <p>Within the management plan it states that "Complaints can be divided into categories, the process for each is detailed below:</p> <p><u>Level 1 Complaint (minor noise disturbance and /or complaint)</u></p> <p>In the event of a Level 1 complaint the following procedure is to be adopted:</p> <ol style="list-style-type: none"> 1. The neighbour is encouraged to contact the Manager. 	
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	<p>2. The Manager will contact the guests to advise the nature of the complaint and remind the guests of their obligations under the Code of Conduct and/or explain the nature of the concern raised;</p> <p>3. If the issue is not resolved and a further complaint is received within 12 hours, the Manager or an appointed security firm is to attend the site;</p> <p>4. In the event of a further complaint being received and the complaint is validated, the guests will be evicted in accordance with the Code of Conduct.</p> <p><u>Level 2 Complaint (major noise disturbance or party)</u></p> <p>Guests are encouraged to enjoy their time on the property but as outlined in the Code of Conduct, parties are not permitted, and noise should be minimised after 10pm and before 7am.</p> <p>If a Level 2 complaint is received, the following procedure is to be adopted:</p> <ol style="list-style-type: none"> 1. The Manager or security firm will attend the premises within thirty minutes of the complaint to verify if this is a major noise disturbance or party; 2. If the complaint and the issue is deemed to be a level 1 complaint then the procedure for Level 1 shall be followed. 3. If the complaint is verified as a Level 2 complaint, the guests will be evicted in accordance with the Code of Conduct." <p>The short-stay manager is an experienced accredited "Superhost" that requires them to maintain an extremely high level of satisfaction from not only the guest but the also the owners of the properties that they manage. Bookings are only confirmed after receiving photo identification from all guests, a bond is paid and a limit of four guests for each booking, with a preference to either couples or families as the use of the property defined in the management plan as:</p> <p>7.0 Use of Premises</p> <p>The property will be rented as a House consisting of two (2) bedroom, one (1) bathroom, one (1) kitchen, and one (1) living area. The master bedroom and ensuite will be locked for the owners exclusive use, when they are in residence at the property to spend time with both of their sons' families that are also located on King Street.</p> <p>As stated above screening and management of guests to ensure that they treat my parents' home with the respect that they do. As stated in the attached application, all guests are required to:</p> <ul style="list-style-type: none"> • Provide photo evidence of driver's license or passport (this is checked by management staff before arrival). • Sign a contractual agreement. This sets out house rules, and the consequences of any rules not being abided by (immediate eviction without any refunds). • Pay a security deposit of \$600. <p>Guests do not receive their check in instructions or the code to the lockbox unless all three items are completed and checked. If needed the management company also makes calls to guests to discuss house rules.</p> <p>The second part to this concern relates to the Minut' Noise Sensor. Please refer to and read this section in the application.</p> <p>To summarise:</p>	
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	<ul style="list-style-type: none"> • Within 10 minutes of Loud noise, the manger receives an alert (24hrs a day) advising it has been noisy for 10 minutes. • The manager checks the noise sensor, how many people are at the property, and movement within the property. • The manager then calls the guest and advises they're in breach of the house rules to quieten down. This is their warning. This is a very clear message. • The manager continues to monitor noise, numbers etc. • If noise continues the manager receives another alert 10 minutes later. • This time the manager advises the guest that they are being evicted, start packing bags. • The manager lives less than 10 minute drive from the property. Manager arrives, conducts eviction, takes keys from guest. <p>This system is set up to deal with Noise or poor behaviour before it escalates. In 99% of the cases guests don't realise they're having an impact on their surrounding environment and will be quiet after their first call. The management team rarely deal with this situation, however the process is followed and very effective when required.</p> <p>Management is highly aware of the neighbourhood. The owners of the management company recently lived in East Fremantle. They are conscientious in their approach to ensure they are part of the solution, not part of the problem.</p> <p>This is <u>not</u> a "Party House", and they are in direct violation of the short-stay agreement if they do have a party or gathering. Any parties verified to be occurring at the property would trigger the "Level 2 Complaint" process resulting in the eviction of the guest, which is done to ensure that any impact on the neighbours of the short -stay rental of this property is minimised as much as possible.</p> <p>I hope that I have been able to satisfactorily address all the concerns raise in the submission by the concerned resident and if you have any further queries than I would be more than happy to address them.</p>	
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Internal Consultation

No internal consultation.

External Consultation

No external consultation.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Local Planning Scheme No. 3 (LPS 3)

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The Town of East Fremantle Strategic Community Plan 2020-2030 states as follows:

Built Environment

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

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

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

3.1.2 Plan for a mix of inclusive diversified housing options.

3.1.3 Plan for improved streetscapes.

3.2 Maintaining and enhancing the Town's character.

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

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

3.3.1 Continue to improve asset management within resource capabilities.

3.3.2 Plan and advocate for improved access and connectivity.

RISK IMPLICATIONS

A risk assessment was undertaken and the risk to the Town in determining this application was deemed to be negligible.

SITE INSPECTION

A site inspection was undertaken.

COMMENT

This development application proposes short term rental accommodation at 44 (Lot 445) King Street, East Fremantle. It is currently zoned residential with a density code of R20 and is a Category B heritage property. The premises will still be used as a residential premises for the owners but the dwelling will be used as short-term rental accommodation when they are travelling and not at home. The heritage status and heritage elements of the property are not impacted by the proposed change of use.

In an effort to clarify and standardise the approval process and also reduce the negative amenity impacts of short term rental accommodation the State government has undertaken to revise key documents and processes around short term rental accommodation. The Department of Planning Lands and Heritage released a *Position Statement – Planning for Tourism* in November 2023 which outlined the approval requirements for short term rental accommodation. The document defined short term rental accommodation as hosted (residents inhabiting the premises) or unhosted (guests living alone in the residence). It is noted that if hosted then short term rental accommodation does not require development approval, however, unhosted accommodation does require development approval if rented out for longer than 90 days within a 12-month period. In this case no time period is stated so it is assumed that the properties will potentially be rented out for more than 90 days. It is also noted that more extensive changes will be introduced in 2024 and these initial documents are a starting point for dealing with the development application. A formal registration system will also be introduced next year and administered by the State government, but the Town will still be responsible for processing development applications for short term rental accommodation for unhosted accommodation available for rent for more than 90 days within a 12-month period. Further legislative and regulatory requirements will be imposed on the operators of short-term rental accommodation depending upon progress of the introduction of the aforementioned changes. These are separate from the development application that is the subject of this report.

As a result of the reforms not having been fully implemented the documents only have to be given due consideration. The Town's Local Planning Scheme is still the guiding document for assessment of the short-term rental accommodation. Within the Town's Local Planning Scheme, the proposed use for short term rental accommodation is an "unlisted use" within a residential zone. However, local government may "determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted" (clause 4.4.2a of Local Planning Scheme No.3).

Council does not have any specific local planning policies or local laws that regulate short term rental accommodation. The WAPC's *Planning for Tourism and Short-Term Rental Accommodation Guidelines* effective from November 2023 provides guidance on matters that should be considered as part of the assessment of short term rental accommodation. The following topics are listed for consideration;

1. Mitigation plan
To control anti-social behaviour, noise, and any other potential conflicts a mitigation plan may be appropriate. Anti-social behaviour should be dealt with by local government/police in the same manner as a property being used as a residential dwelling.
2. Complaints management procedure
The manager of short-term rental accommodation should be contactable in the event that a complaint is made. The guest should have 24-hour access to the manager via phone, email, or an online app. Some local governments may want the operator to provide a record of complaints made against short term rentals and this should be reflected/included in the complaints management procedure.
3. Guest check-in and check-out procedures
Clear check-in and check-out procedures should be outlined in the management plan.
4. Health and safety protocols
Other legislation and standards govern the need to provide and maintain appropriate health and safety requirements in short-term rental accommodation. Local government may wish to advise short-term rental operators of these requirements in the management plan.
5. Management and provision of car parking
On-site parking provision should be considered to accommodate additional vehicles within the property boundary and should align with existing local government parking policies.
6. Waste management
Must specify the requirements of general waste and recycling, bin collection days and location of bins for collection.

The application has been assessed with regards to these Guidelines, Local Planning Scheme requirements, residential amenity, and the impact the use could have on surrounding neighbours with conditions imposed accordingly in the final recommendation.

The following issues are considered relevant to the determination of this application.

Management Plan

A management plan was submitted which addresses a range of matters which are considered relevant to the use of short term rental accommodation. The management plan helps to control activity and noise at the premises and details procedures around issues that have to be considered when a property is utilised as short term rental accommodation. The applicant has provided a management plan that deals with a range of issues that are typical for short term rental accommodation including parking, waste disposal, check-in and out times, noise, and the management contact details if the manager has to be contacted to address issues at the property.

Time Limit for Approval

A time limit will be imposed on the formal approval such that a maximum period of 12 months will be recommended as a condition of approval. This allows the Town to reassess the proposal should there be any adverse outcomes from the approval of the premises as a short term accommodation provider.

Maximum Number of Guests

The proposal is for use of 2 bedrooms, living area, kitchen, and outdoors to be utilised as the short term rental accommodation. The maximum number of guests will be limited to 4 people to ensure that there are no significant amenity impacts on surrounding residents. This will also be included as a condition in the final recommendation for approval.

Car Parking

As short term rental accommodation is an unlisted use there are no specified parking standards. Off-street parking is available on-site and on-street parking is available, however, it is not reserved and there can be no guarantee that spaces will be available in close proximity to the proposed short term rental accommodation. The maximum number of people permitted to be accommodated (4 people) imposed as a condition of approval will also limit parking demand. In line with the Residential Design Codes reduced parking provision is an acceptable outcome if proposed development occurs near major transport routes. It is noted that the property is located relatively close to a bus stop on Canning Highway (approximately 380m in distance) and has the benefit of high frequency bus routes travelling in both directions to and from Fremantle Train Station and Canning Bridge Train Station. This has the potential to reduce the need for guests to have a car.

Signage

Commercial operations in residential areas that impact on the amenity of surrounding residents should be mitigated, including matters such as excessive signage, which can create visual pollution. No signage is referred to in the development application and a condition will be recommended that does not permit signage.

Noise

Noise is a legitimate concern for surrounding residents of short term rental accommodation. It is considered that the day-to-day operations of short term rental accommodation should not exceed normal household levels. In this case the property managers will be able to be contacted if there are issues with noise. The management plan states that noise must be kept to a minimum. It is also noted that an activity monitor will be installed within the dwelling and guests will be notified via their mobile phones when noise and activity reaches excessive levels and the subsequent penalties that apply to the guests if that is the case.

Safety

Smoke alarms and residual current devices are required to be installed and evidence of this is to be provided to the Town before the commencement of operations of the short term rental accommodation. This requirement will be included as conditions in the final recommendation.

Advertising

The development application was advertised from 9 to 24 November 2023. Two submissions were received. Responses have been provided within the submissions schedule earlier in this report.

There are multiple properties within residential zones in East Fremantle that are currently approved for use as short term rental accommodation. This proposal is similar to these and represents minimal risk based on the information supplied by the applicant including the very comprehensive management plan.

CONCLUSION

The proposed short term rental accommodation is considered to be an activity that will have minimal impact on the amenity of nearby properties or on the neighbourhood providing the management plan is adhered to and matters considered in this report are addressed by way of the recommended conditions of development approval.

Based on the assessment the proposed development is recommended for support subject to the conditions included in the final recommendation.

OFFICER RECOMMENDATION / COMMITTEE RESOLUTION

OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP021223

Moved Cr White, seconded Mayor O'Neill

That approval to operate short term rental accommodation be granted by Council at 44 (Lot 445) King Street, East Fremantle, in accordance with correspondence and plans received on 15 November 2023, subject to the following conditions:

- (1) Approval is for a temporary period of 12 months only from the date of this development approval.
- (2) Continuation of the short stay accommodation use after the 12 month approval period has expired will require the submission of a new development application for the consideration of Council.
- (3) Hard wired smoke alarms are to be installed and proof of the instalment is to be provided to the Town to the satisfaction of the Chief Executive Officer and prior to the short term rental accommodation commencing operations.
- (4) Residual Current Devices are to be provided to all power points and lights switches and proof of installation is to be provided to the satisfaction of the Chief Executive Officer and prior to the short term rental accommodation commencing operations.
- (5) The owner/owner's representative is to advise guests of key elements of the management plan including;
 - a) Emergency evacuation procedures,
 - b) Noise is to be kept to a minimum at all times
 - c) Parking requirements, and
 - d) Correct waste disposal procedures.
- (6) Maximum accommodation is for 4 people based on 2 bedrooms only being provided for accommodation. This is not to be exceeded on any occasion.
- (7) No guest or occupant vehicles are to be parked on the Council verge, and in or across crossovers due to inadequate parking on-site or in the street.
- (8) No on-site signage is permitted.
- (9) Compliance with the Management Plan submitted with the application to the satisfaction of the Chief Executive Officer, in consultation with relevant officers.
- (10) The approval may be revoked by Council, prior to the expiry of the 12 month period referred to in (1) above, if any adverse impacts involving noise, anti-social behaviour, breaches of the management plan, waste removal, or parking are unable to be controlled by the applicant/owner or their representative in a timely and effective manner which is to Council's satisfaction.

Footnote:

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

- a) *A new development application is to be submitted for Council's consideration before the expiry of the twelve (12) month temporary approval period should the applicant wish to continue the use;*
- b) *This decision does not include acknowledgement or approval of any unauthorised development including signage onsite.*

- c) A copy of the approved plans as stamped by Council are attached and the use is to conform with the approved plans unless otherwise approved by Council.**
- d) This development approval does not exempt the applicant/owner from meeting requirements in accordance with future State government regulation associated with short term rental accommodation.**

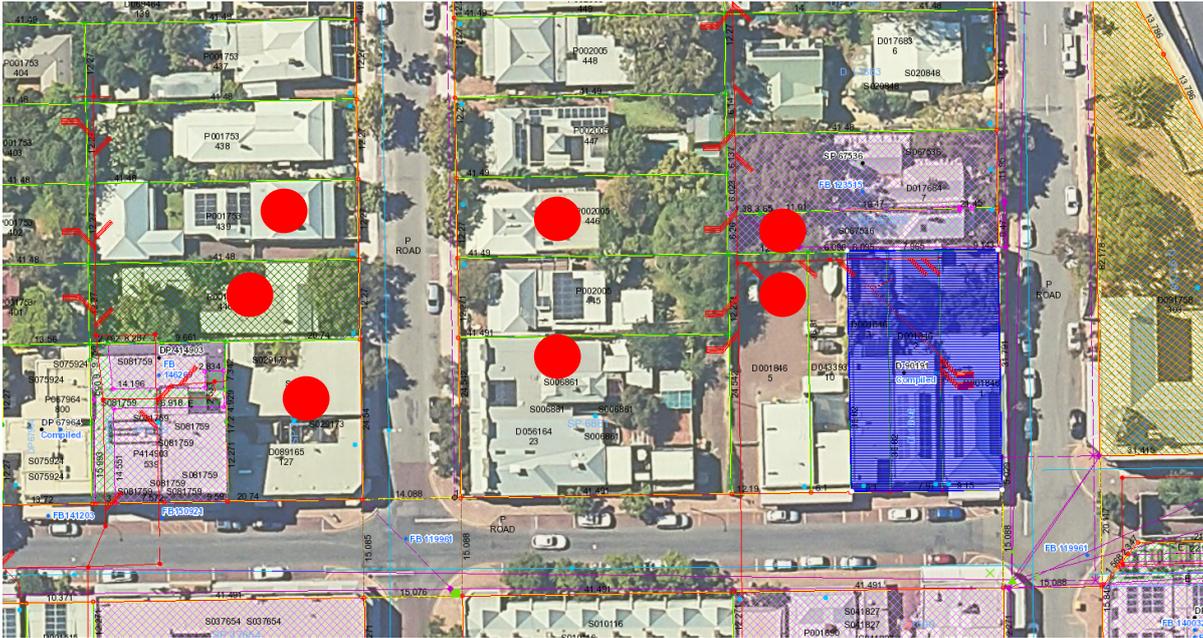
(CARRIED UNANIMOUSLY)

Note: As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 May 2023, this application is deemed determined, on behalf of Council, under delegated authority.

REPORT ATTACHMENTS

Attachments start on the next page

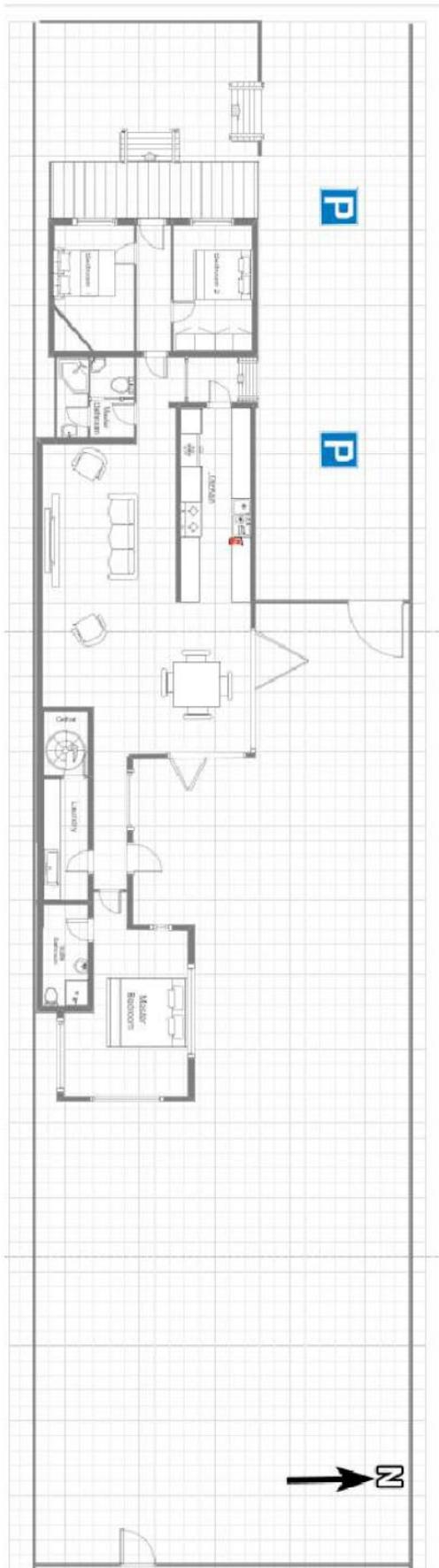
44 King Street - Location and Advertising Plan



Attachment -2
44 King Street – Photos



Attachment -3
Plans - 44 King Street – Short term rental accommodation





Community Engagement Checklist

Development Application P082/23 – 44 King Street

Objective of Engagement	Community Consultation			
Lead Officer:	Regulatory Services			
Stakeholders				
Stakeholders to be Considered <i>Please highlight those to be targeted during engagement</i>	Aged	<input type="checkbox"/>	Ratepayers (all / targeted)	<input type="checkbox"/>
	Businesses	<input type="checkbox"/>	Residents (all / targeted)	<input checked="" type="checkbox"/>
	Children (School / Playground)	<input type="checkbox"/>	Service Providers	<input type="checkbox"/>
	Community Groups	<input type="checkbox"/>	Unemployed	<input type="checkbox"/>
	Disabled People	<input type="checkbox"/>	Visitors	<input type="checkbox"/>
	Environmental	<input type="checkbox"/>	Volunteers	<input type="checkbox"/>
	Families	<input type="checkbox"/>	Workers	<input type="checkbox"/>
	Govt. Bodies	<input type="checkbox"/>	Youth	<input type="checkbox"/>
	Indigenous	<input type="checkbox"/>		<input type="checkbox"/>
	Neighbouring LGs	<input type="checkbox"/>		<input type="checkbox"/>
Staff to be notified:	Office of the CEO	<input type="checkbox"/>	Councillors	<input type="checkbox"/>
	Corporate Services	<input type="checkbox"/>	Consultants	<input type="checkbox"/>
	Development Services	<input type="checkbox"/>		<input type="checkbox"/>
	Operational (Parks/Works)	<input type="checkbox"/>		<input type="checkbox"/>
Community Engagement Plan				
Methods	Responsible	Date Due	Reference / Notes	
1.1 E News	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.2 Email Notification	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.3 Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.4 Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.5 Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.6 Fact Sheet	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.7 Media Rel/Interview	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.1 Information Stalls	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.2 Public Meeting/Forum	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.3 Survey/Questionnaire	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.1 Focus Groups	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.2 Referendum/Ballot	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.3 Workshop	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.1 Council Committee	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.2 Working Group	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
*Statutory Consultation	<input checked="" type="checkbox"/> Relevant Officer	24/11/2023	Advertised to surrounding properties	
#Heritage Consultation	<input type="checkbox"/> Regulatory Services	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
^Mail Out (note: timelines)	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Evaluation				
Summary of...		Date Due	Completed / Attached	
Feedback / Results/ Outcomes / Recommendations		5/12/2023	Town Planning Committee	
Outcomes Shared				
Methods	Responsible	Date Due	Reference / Notes	
E-Newsletter	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Email Notification	<input checked="" type="checkbox"/> Relevant Officer	7/12/2023	<input checked="" type="checkbox"/> To applicant and owner	
Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Media Release	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>			
	<input type="checkbox"/>			
Notes				

12.3 48 CLAYTON STREET - DEVELOPMENT APPROVAL SUBSEQUENT TO DEVELOPMENT - POOL DECK

Owner	Nicolas Spadaccini
Applicant	Nicolas Spadaccini
Report Reference Number	TPR-1714
Planning Reference Code	P079/23
Prepared by	James Bannerman
Supervised by	Andrew Malone
Meeting date	Tuesday, 5 December 2023
Voting requirements	Simple majority
Documents tabled	Nil

Attachments

1. Location and advertising plan
2. Photos
3. Plans submitted 13 November 2023
4. Community engagement checklist

PURPOSE

The purpose of this report is for Council to consider a development application subsequent to development for a pool deck at 48 (Lot 305) Clayton Street, East Fremantle.

EXECUTIVE SUMMARY

This development application seeks development approval subsequent to development for a pool deck at 48 (Lot 305) Clayton Street, East Fremantle. The deck is installed on land that is lower than the surrounding land and will be at the same level as the rest of the rear yard of the existing dwelling. To ensure the required visual privacy setbacks are met screening is to be installed around the eastern, southern and a section of the western edge of the deck. There is only 1 variation to the Residential Design Codes in relation to the rear boundary setback. The variation is as follows.

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Eastern Edge of Deck – 6m required, 1.2m provided

It is recommended that Council support the development application subsequent to development subject to the conditions included in the final recommendation.

BACKGROUND

Zoning	Residential R12.5
Site Area	711m2
Heritage	N/A
Fremantle Port Buffer	N/A
Previous Decision of Town and/or History of Issue Onsite	Nil

CONSULTATIONAdvertising

The development was advertised to surrounding properties and online from 1 to 16 November 2023. One submission was received and is included in the schedule below.

Submission	Applicant Response	Town Response
<p>I have some concerns I wish to address. We noted the construction of the deck related to this application was underway on Thursday 2nd Nov 2023. This was of concern as this was the first we knew of this proposal as the said deck construction was well underway.</p> <p>Given the level of this deck, we had major overlooking concerns regarding this development. We contacted James in the Planning Dept on the same day and followed by an email highlighting our concerns and the potential impact on our outdoor living space.</p> <p>On Friday 3rd of Nov, we meet with James at the Council offices to discuss this proposal and our concerns.</p> <p>We subsequently had a meeting with our neighbour at 48 Clayton St (Friday 10th of Nov) who agreed to increase the height of the screening fence to 1.8m and ensure that the screen was solid (non-transparent).</p> <p>Our neighbour has subsequently, updated the proposal plans to incorporate these changes which have been submitted to Planning (confirmed with James in Planning Wed 15th Nov). We have also seen these updated plans (see attached).</p> <p>As such we are in agreeance with the updated plans with the 1.8m screen height.</p>	<p>This is to confirm conversations with XXX and XXX from XXXX Clayton St and that we have come to a fair compromise. They have requested that the height of the screen be 1.8m rather than 1.6m and that it be non-see-through.</p>	<p>The plans show visual privacy screening on the south western, southern and eastern edges of the pool deck. The screening is solid material and 1.8m high from the finished floor level of the pool deck. By doing this the visual privacy screening requirements from the Residential Design Codes are exceeded. Based on the comments received in the submission the neighbours are satisfied that this response will provide them with satisfactory levels of privacy.</p>

Internal Consultation

Not referred to Operations for comment. Minimal impact on public realm.

External Consultation

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005
Residential Design Codes (Volume 1)
Local Planning Scheme No. 3 (LPS 3)

POLICY IMPLICATIONS

Local Planning Policy 3.1.1 – Residential Design Guidelines
Local Planning Policy 3.1.8 – Wood Encouragement - General

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The Town of East Fremantle Strategic Community Plan 2020-2030 states as follows:

Built Environment

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

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

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

3.1.2 Plan for a mix of inclusive diversified housing options.

3.1.3 Plan for improved streetscapes.

3.2 Maintaining and enhancing the Town's character.

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

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

3.3.1 Continue to improve asset management within resource capabilities.

3.3.2 Plan and advocate for improved access and connectivity.

RISK IMPLICATIONS

A risk assessment was undertaken and the risk to the Town in determining this application was deemed to be negligible.

SITE INSPECTION

A site inspection was undertaken.

COMMENT

Statutory Assessment

This development application was assessed against the Town's Local Planning Scheme No. 3, the Residential Design Codes, and the Residential Design Guidelines.

A summary of the assessment is included in the following tables.

Legend	
A	Acceptable
D	Discretionary
N/A	Not applicable

Local Planning Scheme No. 3/Residential Design Guidelines/Residential Design Codes

Design Element	Required	Proposed	Status
Street front setback			N/A
Garage setback			N/A
Minor incursions			N/A
Lot Boundary Setbacks			
Southern wall	1m	2.5m	A
Eastern wall	6m	1.2m	D
Northern wall	1m	6.89m	A
Car Parking	2 car bays		N/A
Open Space	50%	No change	A
Site Works			N/A
Visual Privacy			
Eastern edge of deck	7.5m	<7.5m	Yes – screening indicated – condition
Southern edge of deck	7.5m	<7.5m	Yes – screening indicated – condition
Northern edge of deck	7.5m	<7.5m	Yes – dividing fence in place on elevated section of rear yard no privacy issue
Overshadowing	Maximum 25%		A
Garage width			N/A
Roof form and pitch	Roof form to be demonstrated		N/A
Materials and colours	Materials and colour schedule to be provided		N/A
Landscaping			

Deep planting zone	2m x 2m	2 deep planting zones shown on plans	N/A
Tree to be planted	At least 1 tree	2 trees shown on the plans	N/A
Front fence & gate			N/A
Sightlines			N/A
Footpaths and crossovers	N/A		
Drainage	Condition		
Wood Encouragement Policy	Pool deck timber framed		

This development application seeks development approval subsequent to development for a pool deck at 48 (Lot 305) Clayton Street, East Fremantle. The deck is partially installed and unfinished. It is on land at the rear of the property that is lower than the surrounding land and will be at the same level as the rest of the rear yard of the existing dwelling. To ensure the required visual privacy setbacks are met screening is to be installed around the eastern, southern and a section of the western edge of the deck. There is only 1 variation to the Residential Design Codes in relation to the rear boundary setback.

It should be noted that the pool is already in place and located on the land that has a lower elevation than the surrounding garden area (approximately 0.7m lower than the retained lawn area at the back of the dwelling and at the northern end of the pool and approximately 1.5m lower at the southern end of the pool).

A site visit was undertaken by the officer completing the assessment on 7 November 2023 to verify the situation with regards to the development application, the existing structure (following complaints from neighbours) and also take photographs and gain an understanding of the issues on site.

A combination of factors led to the property owners undertaking the construction of the pool deck before formal development approval was granted including an offer of labour and expertise from a relative, cost of the structure and affordability issues, timing, and pending birth of a child. Although these issues are not planning related, they are noted for the record. The owner and applicant were requested to cease construction until the formal development approval was granted and a building permit was approved and this was agreed to.

The single variation to the Residential Design Codes does not relate to visual privacy as brought up in the complaint from the neighbours. Although it is understood that a structure such as a deck can be confronting, provided it complies with the requirements of the planning framework or the issues around the development can be addressed then there is no reason to not support the development. As provided on the plans as part of the development application visual privacy screening is to be installed around the eastern, southern, and south western edge of the pool deck and this will be reinforced through the addition of a condition that requires this to be included as part of the development. Following discussions between the owners and the neighbours the visual privacy screening was amended to be 1.8m high from the finished floor level of the pool deck and made from a solid surface which was not transparent and maintained visual privacy between the properties.

Lot Boundary Setback – Eastern Edge of Deck

In accordance with the Residential Design Codes deemed to comply clause 5.1.3 C3.1 the eastern edge of the pool deck should be located 6m from the rear boundary. In this case there is a 1.2m setback. This reduced setback can be supported in accordance with design principles 5.1.3 P3.1 for the following reasons;

- There are minimal impacts on building bulk on the adjoining properties,
- Adequate sunlight and ventilation can reach the building and the open spaces on the site and to adjoining properties, and
- Minimal overlooking or loss of privacy on adjoining properties.

The wall of the deck area is 3m high and setback more than if the structure was along a side boundary. There is adequate distance between the structure and the boundary that would allow sun to penetrate and air to circulate.

The attached photos (Attachment 2) show how the location of the pool area is lower than the surrounding area and the deck increases the elevation but no more than the surrounding lawn and garden area. On the northern side of the property there is a dividing fence that is at least 1.6m high providing adequate screening for the pool deck.

CONCLUSION

Based on the assessment the development application subsequent to development can be supported subject to conditions included in the final recommendation. Although the applicant and owner did not wait for the Town's approval before commencing the development the works have now stopped and the applicant and owners are seeking Council approval for the pool deck. As part of seeking development approval subsequent to development a higher application fee has been paid. Matters around visual privacy to the southern neighbours has also been addressed by way of the visual privacy screening which has been incorporated into the design and will be included as a condition in the final recommendation. The development application for the pool deck subsequent to development is recommended for support.

OFFICER RECOMMENDATION / COMMITTEE RESOLUTION

OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP031223

Moved Cr White, seconded Cr Harrington

That development approval subsequent to development is granted, and Council exercises its discretion regarding the following;

(i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Eastern Edge of Deck – 6m required, 1.2m provided,

for a pool deck at No. 48 (Lot 305) Clayton Street, East Fremantle, in accordance with the plans submitted 13 November 2023, subject to the following conditions:

- (1) Visual privacy screening is to be installed along the edge of the pool deck in accordance with the plans submitted 13 November 2023 that is a minimum of 1.8m from the finished floor level of the pool deck, a minimum of 75% obscurity, permanently fixed, made of durable material and restrict view in the direction of the overlooking.**
- (2) The owner/applicant is to submit the appropriate building permits/building approvals to the Town.**
- (3) The works are not to be varied from the drawings and written information accompanying the application for development approval other than where varied in compliance with the conditions of this development approval or with Council's further approval.**
- (4) With regards to the plans submitted with respect to the building approvals, changes are not to be made in respect of the plans which have received development 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 Town prior to the issue of a Building Permit.**
- (6) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town.**
- (7) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified, or relocated then such works must be approved by the Town and if approved, the total cost to be borne by the applicant. The Town must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
- (8) This development approval is to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

- (a) This decision does not include acknowledgement or approval of any unauthorised development which may be on site.***
- (b) A copy of the approved plans as stamped by Town are attached and the building permit is to conform with the approved plans unless otherwise approved by the Town.***
- (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) Any damage to other Town assets including, but not limited to the kerb, drainage, footpaths, roads, and signage will have to be repaired by the applicant/owners/contractors at their cost.***

(CARRIED UNANIMOUSLY)

Note: As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 May 2023, this application is deemed determined, on behalf of Council, under delegated authority.

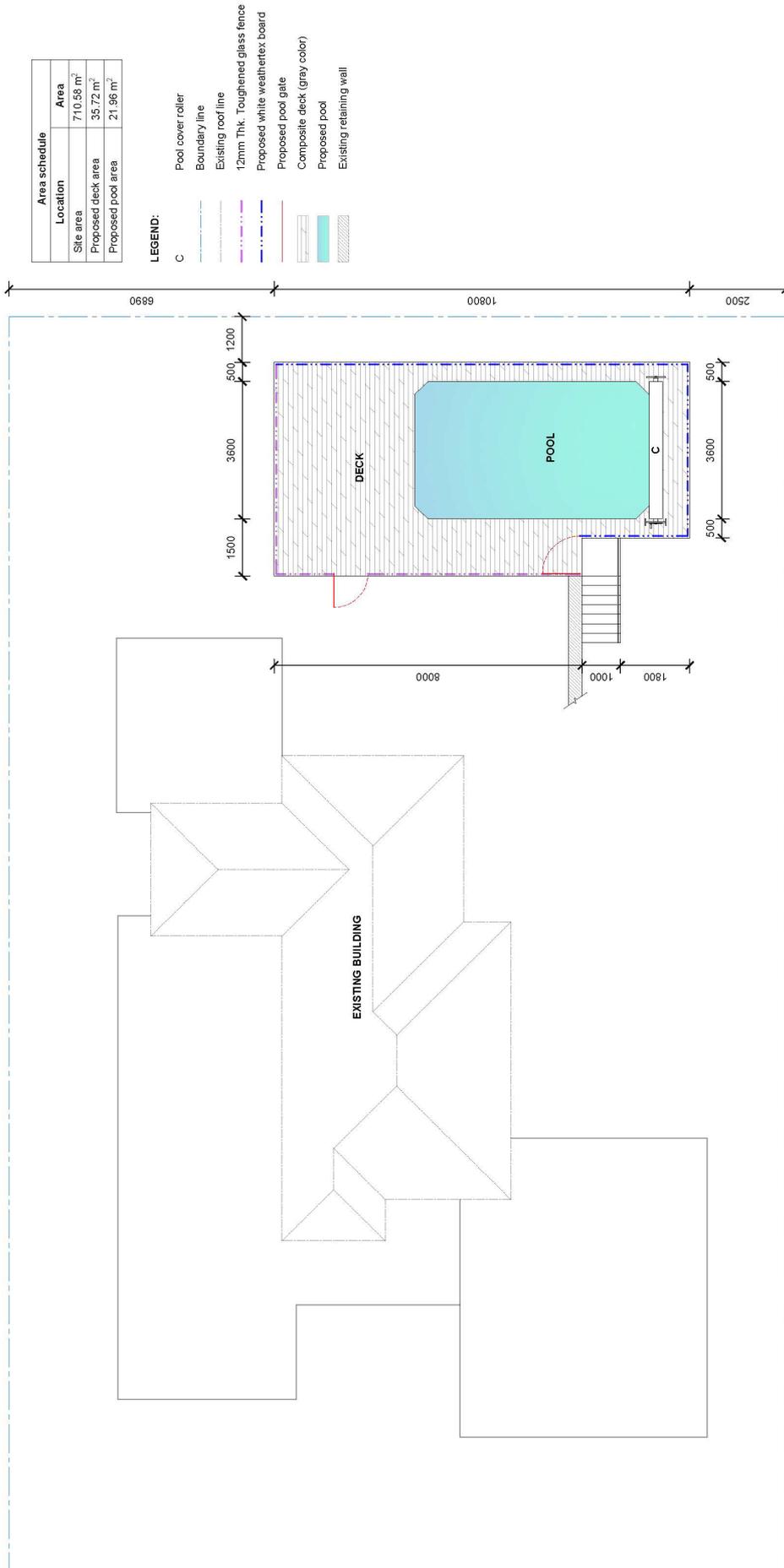
REPORT ATTACHMENTS

Attachments start on the next page

Photos

Photos provided by applicant





SITE PLAN
01 Scale 1:100

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Issue	Revision Description	Date
04	ISSUED FOR COUNCIL APPROVAL REV	10.11.2023
03	ISSUED FOR COUNCIL APPROVAL REV	17.10.2023
02	ISSUED FOR COUNCIL APPROVAL REV	16.10.2023
01	ISSUED FOR COUNCIL APPROVAL REV	06.10.2023
A	ISSUED FOR COUNCIL APPROVAL	28.09.2023

Revision Description	Date



Project
PROPOSED SWIMMING POOL AT 48 CLAYTON STREET

Address
48 Clayton Street East Fremantle, WA 6159

Scale @ A3	(unless noted otherwise)	Drawn	Checked
1:100 @ A3		HM	KW

Drawing Title
SITE PLAN

Drawing No. 01

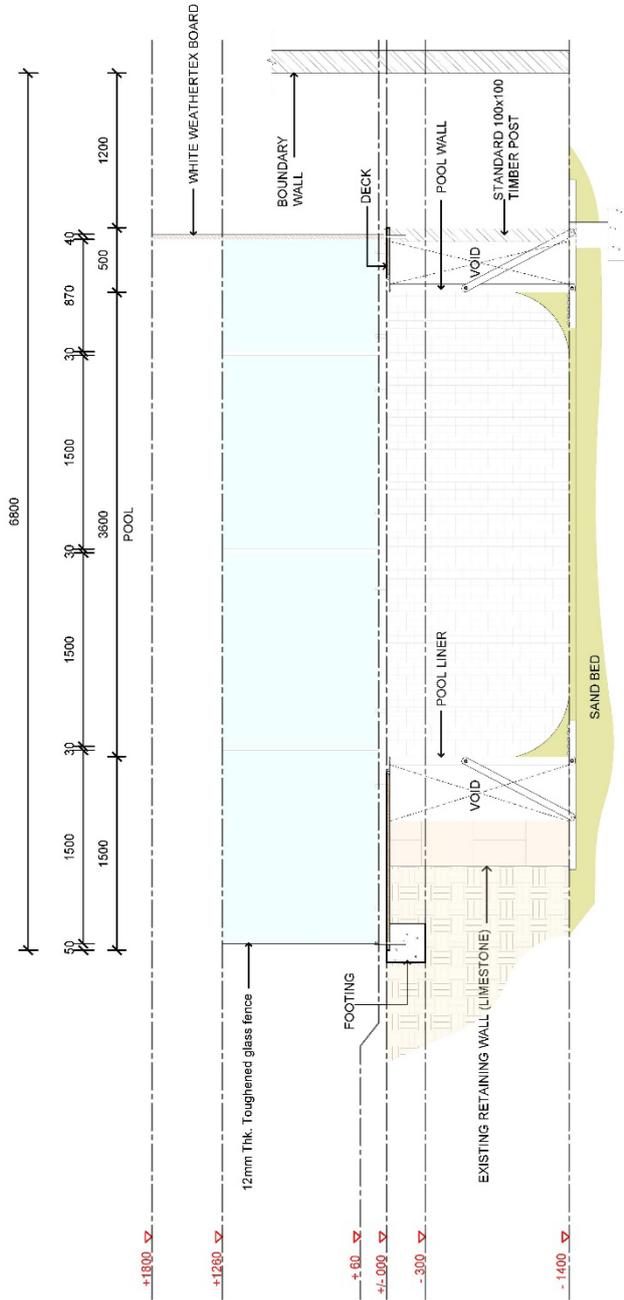
Sheet No. 01

Issue A

- LEGEND:**
-  Mass concrete
 -  12mm Thk. Toughened glass fence
 -  Sand bed

NOTE:

- All structures to engineer's specifications
- Screening should be solid, and should be of 1.8m from the Finished Floor Level of the deck. (Material - White weatherx board)
- Screening fixed details and other specifications are to be as per the Supplier's Manufacturer's or Engineer's recommendation.



SECTION A-A
Scale 1:35

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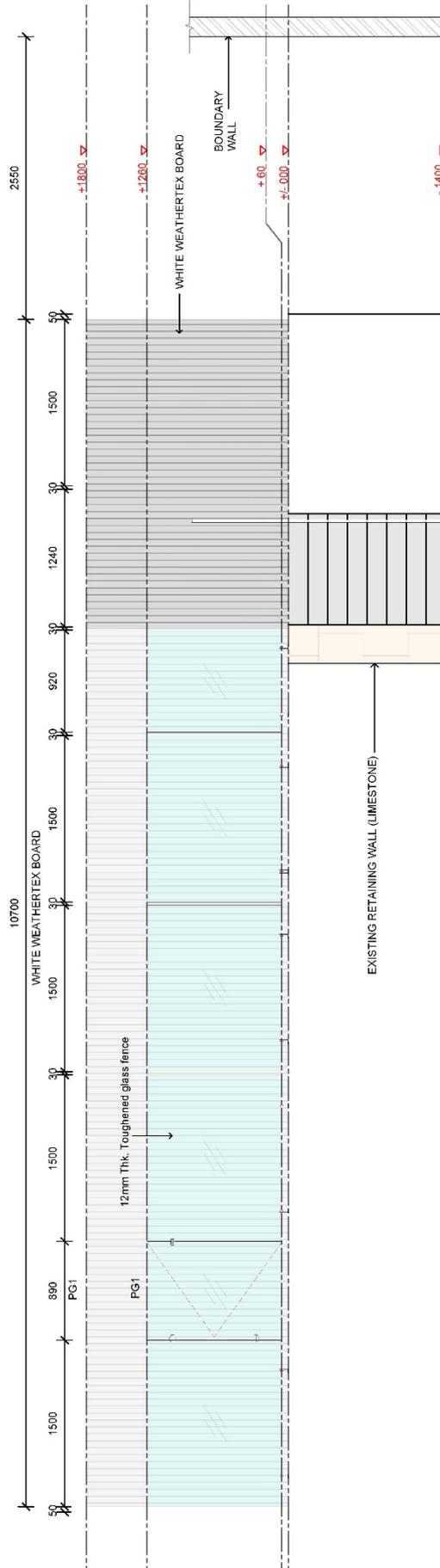
Opening Schedule		
No.	Width(mm)	Height(mm)
PG1	890	1260
		Fence pool gate

LEGEND:

- 12mm Thk. Toughened glass fence
- White weatherex board

NOTE:

- All structures to engineer's specifications
- Staircase risers- 175mm / treads- 250mm
- Screening should be solid, and should be of 1.8m from the Finished Floor Level of the deck. (Material - White weatherex board)
- Screening fixed details and other specifications are to be as per the Supplier's Manufacture's or Engineer's recommendation.



04 WEST ELEVATION Scale 1:35

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02	ISSUED FOR COUNCIL APPROVAL REV	16.10.2023	
01	ISSUED FOR COUNCIL APPROVAL REV	06.10.2023	
A	ISSUED FOR COUNCIL APPROVAL	28.09.2023	

Revision Description	Date

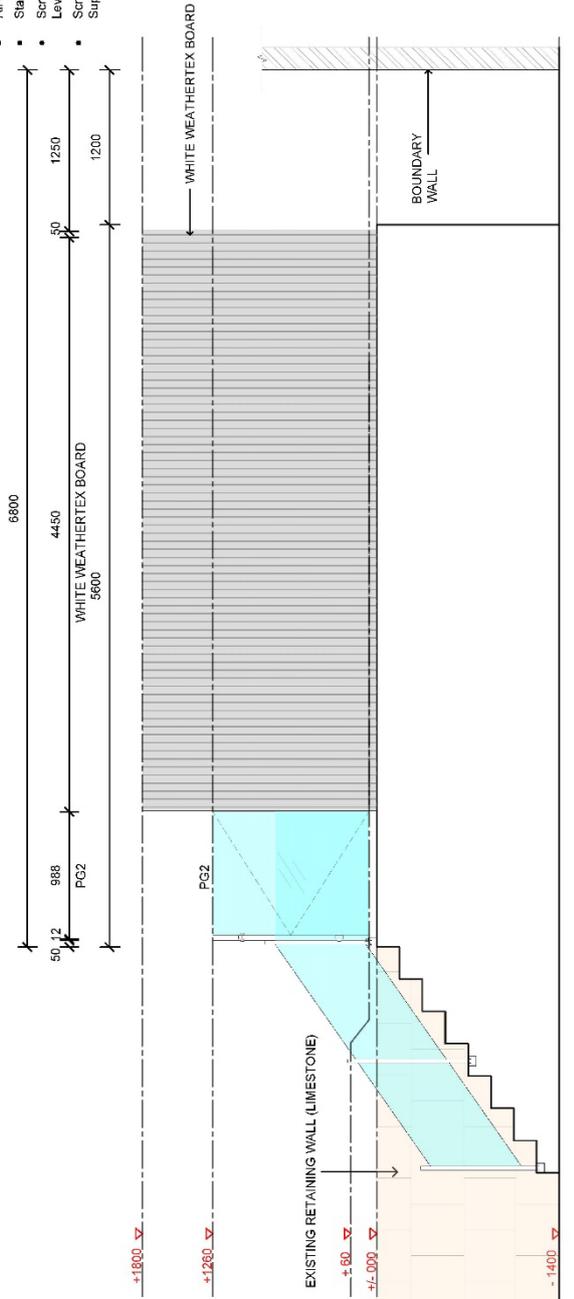
Project: PROPOSED SWIMMING POOL AT 48 CLAYTON STREET
Address: 48 Clayton Street, East Fremantle, WA 6158

Scale @ A3 (unless noted otherwise)	Drawn	Checked
1:35 @ A3	HM	KW
Drawing Title	WEST ELEVATION	
Drawing No.	Sheet No.	Issue
	04	A

Opening Schedule			
No.	Width(mm)	Height(mm)	Type
PG2	988	1260	Fence pool gate

- LEGEND:**
-  12mm Thk. Toughened glass fence
 -  White weatherex board

- NOTE:**
- All structures to engineer's specifications
 - Staircase risers - 17.5mm / treads - 250mm
 - Screening should be solid, and should be of 1.8m from the Finished Floor Level of the deck. (Material - White weatherex board)
 - Screening fixed details and other specifications are to be as per the Supplier's Manufacture's or Engineer's recommendation.



SOUTH ELEVATION
Scale 1:35

Scale @ A3 (unless noted otherwise)
1:35 @ A3

Project: PROPOSED SWIMMING POOL AT 48 CLAYTON STREET
Address: 48 Clayton Street, East Fremantle, WA 6158

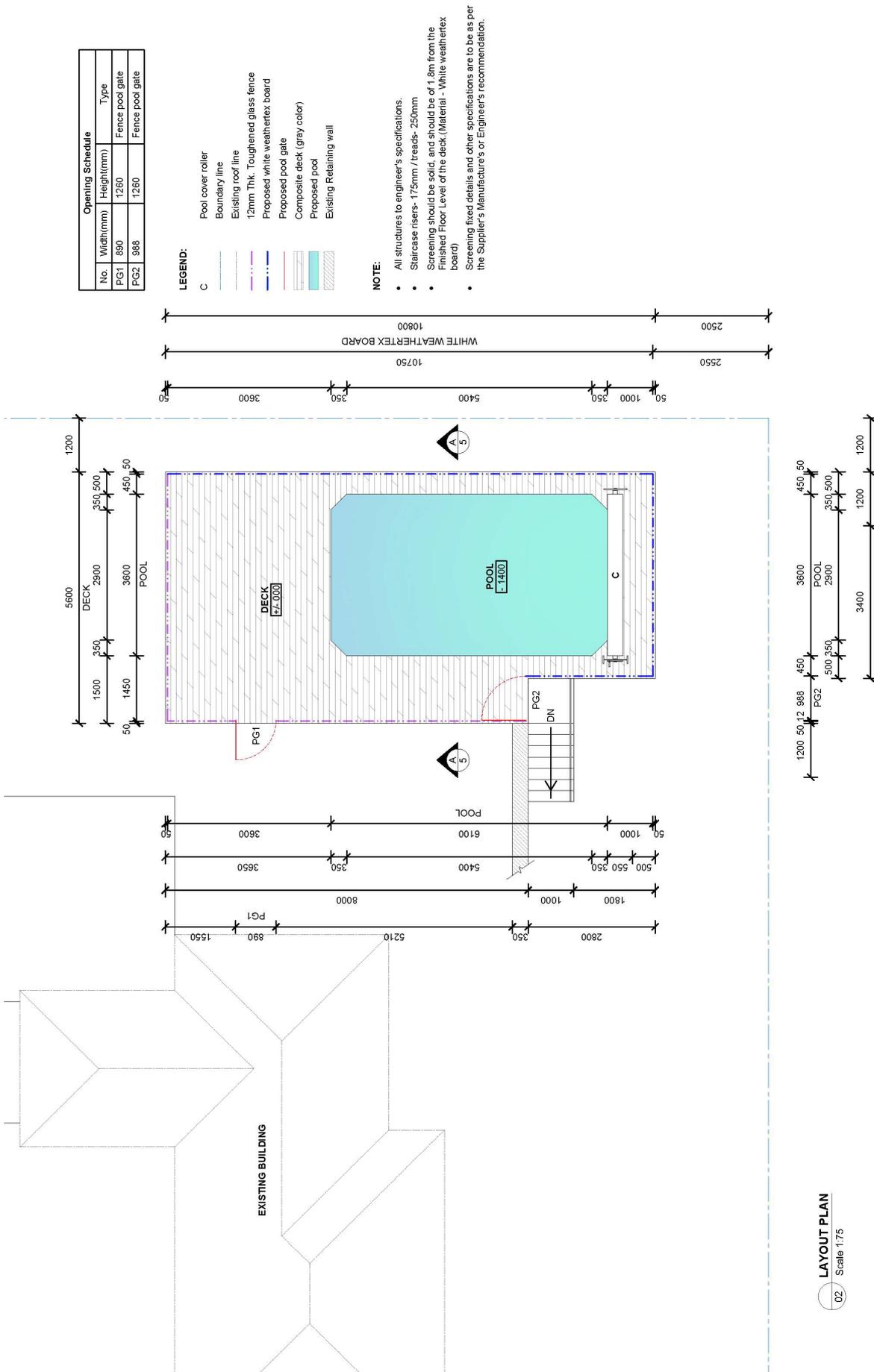
Drawing Title: SOUTH ELEVATION
Drawing No. [Blank]
Sheet No. 03
Issue A

Issue	Revision Description	Date	Issue	Revision Description	Date
04	ISSUED FOR COUNCIL APPROVAL REV	10.11.2023			
03	ISSUED FOR COUNCIL APPROVAL REV	17.10.2023			
02	ISSUED FOR COUNCIL APPROVAL REV	16.10.2023			
01	ISSUED FOR COUNCIL APPROVAL REV	06.10.2023			
A	ISSUED FOR COUNCIL APPROVAL	28.09.2023			

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THIS DOCUMENT NOT TO BE USED FOR CONSTRUCTION UNLESS SIGNED AND ISSUED FOR CONSTRUCTION

Drawn: HM
Checked: KW



Opening Schedule			
No.	Width(mm)	Height(mm)	Type
PG1	890	1260	Fence pool gate
PG2	988	1260	Fence pool gate

- LEGEND:**
- C Pool cover roller
 - Boundary line
 - Existing roof line
 - 12mm Thk. Toughened glass fence
 - Proposed white weatherex board
 - Proposed pool gate
 - Composite deck (gray color)
 - Proposed pool
 - Existing Retaining wall

- NOTE:**
- All structures to engineer's specifications.
 - Staircase risers- 175mm / Treads- 250mm
 - Screening should be solid, and should be of 1.8m from the Finished Floor Level of the deck. (Material - White weatherex board)
 - Screening fixed details and other specifications are to be as per the Supplier's Manufacturer's or Engineer's recommendation.

Project: PROPOSED SWIMMING POOL AT 48 CLAYTON STREET

Address: 48 Clayton Street, East Fremantle, WA 6168

Scale @ A3 (unless noted otherwise): 1:75 @ A3

Drawn: HM KW

Checked: KW

Revision Title: LAYOUT PLAN

Drawing No: 02

Sheet No: 02

Issue: A

Issue	Revision Description	Date	Issue	Revision Description	Date
04	ISSUED FOR COUNCIL APPROVAL REV	10.11.2023			
03	ISSUED FOR COUNCIL APPROVAL REV	17.10.2023			
02	ISSUED FOR COUNCIL APPROVAL REV	16.10.2023			
01	ISSUED FOR COUNCIL APPROVAL REV	06.10.2023			
A	ISSUED FOR COUNCIL APPROVAL	28.09.2023			

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THIS DOCUMENT NOT TO BE USED FOR CONSTRUCTION UNLESS SIGNED AND ISSUED FOR CONSTRUCTION

Community Engagement Checklist

Development Application P079/23 – 48 Clayton Street

Objective of Engagement	Community Consultation			
Lead Officer:	Regulatory Services			
Stakeholders				
Stakeholders to be Considered <i>Please highlight those to be targeted during engagement</i>	Aged	<input type="checkbox"/>	Ratepayers (all / targeted)	<input type="checkbox"/>
	Businesses	<input type="checkbox"/>	Residents (all / targeted)	<input checked="" type="checkbox"/>
	Children (<i>School / Playground</i>)	<input type="checkbox"/>	Service Providers	<input type="checkbox"/>
	Community Groups	<input type="checkbox"/>	Unemployed	<input type="checkbox"/>
	Disabled People	<input type="checkbox"/>	Visitors	<input type="checkbox"/>
	Environmental	<input type="checkbox"/>	Volunteers	<input type="checkbox"/>
	Families	<input type="checkbox"/>	Workers	<input type="checkbox"/>
	Govt. Bodies	<input type="checkbox"/>	Youth	<input type="checkbox"/>
	Indigenous	<input type="checkbox"/>		<input type="checkbox"/>
Neighbouring LGs	<input type="checkbox"/>		<input type="checkbox"/>	
Staff to be notified:	Office of the CEO	<input type="checkbox"/>	Councillors	<input type="checkbox"/>
	Corporate Services	<input type="checkbox"/>	Consultants	<input type="checkbox"/>
	Development Services	<input type="checkbox"/>		<input type="checkbox"/>
	Operational (Parks/Works)	<input type="checkbox"/>		<input type="checkbox"/>
Community Engagement Plan				
Methods	Responsible	Date Due	Reference / Notes	
1.1 E News	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.2 Email Notification	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.3 Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.4 Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.5 Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.6 Fact Sheet	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.7 Media Rel/Interview	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.1 Information Stalls	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.2 Public Meeting/Forum	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.3 Survey/Questionnaire	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.1 Focus Groups	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.2 Referendum/Ballot	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.3 Workshop	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.1 Council Committee	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.2 Working Group	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
*Statutory Consultation	<input checked="" type="checkbox"/> Relevant Officer	16/11/2023	Advertised to surrounding properties	
#Heritage Consultation	<input type="checkbox"/> Regulatory Services	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
^Mail Out (note: timelines)	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Evaluation				
Summary of...		Date Due	Completed / Attached	
Feedback / Results/ Outcomes / Recommendations		5/12/2023	Town Planning Committee	
Outcomes Shared				
Methods	Responsible	Date Due	Reference / Notes	
E-Newsletter	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Email Notification	<input checked="" type="checkbox"/> Relevant Officer	7/12/2023	<input checked="" type="checkbox"/> To applicant and owner	
Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Media Release	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>			
	<input type="checkbox"/>			
Notes				

12.4 UNIT 4 NO 46 EAST STREET - SHORT TERM RENTAL ACCOMMODATION

Owner	George Baramily (3 Knox Pty Ltd)
Applicant	Expanded Equity Group
Report Reference Number	TPR-1686
Planning Reference Code	P068/23
Prepared by	James Bannerman
Supervised by	Andrew Malone
Meeting date	Tuesday, 5 December 2023
Voting requirements	Simple majority
Documents tabled	Nil

Attachments

1. Location and advertising plan
2. Photos
3. Plans submitted 11 October 2023
4. Community engagement checklist

PURPOSE

The purpose of this report is for Council to consider a development application for a change of use to short term rental accommodation at Unit 4 No 46 East Street, East Fremantle.

EXECUTIVE SUMMARY

This development application proposes short term rental accommodation at Unit 4 No 46 (Lot 4) East Street, East Fremantle. It is currently zoned residential with a density code of R40.

The proposed use for short term rental accommodation is an “unlisted use” within a residential zone, however, local government may “determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted” (clause 4.4.2a of Local Planning Scheme No.3).

It is recommended that Council support the proposed change of use to short term rental accommodation subject to the conditions included in the final recommendation.

BACKGROUND

Zoning	Residential R40
Site Area	92m2 (internal area of unit)
Heritage	N/A
Fremantle Port Buffer	Area 2 (no response required as no physical development – change of use only)
Previous Decision of Town and/or History of Issue Onsite	N/A

CONSULTATIONAdvertising

The proposed development was advertised to surrounding properties and online from 11 to 27 October 2023. No submissions were received.

Internal Consultation

No internal consultation.

External Consultation

No external consultation.

STATUTORY ENVIRONMENT

Planning and Development Act 2005

Local Planning Scheme No. 3 (LPS 3)

POLICY IMPLICATIONS

Nil

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The Town of East Fremantle Strategic Community Plan 2020-2030 states as follows:

Built Environment

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

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

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

3.1.2 Plan for a mix of inclusive diversified housing options.

3.1.3 Plan for improved streetscapes.

3.2 Maintaining and enhancing the Town's character.

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

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

3.3.1 Continue to improve asset management within resource capabilities.

3.3.2 Plan and advocate for improved access and connectivity.

RISK IMPLICATIONS

A risk assessment was undertaken and the risk to the Town in determining this application was deemed to be negligible.

SITE INSPECTION

A site inspection was undertaken.

COMMENT

This development application proposes short term rental accommodation at Unit 4 No 46 (Lot 4) East Street, East Fremantle. It is currently zoned residential with a density code of R40. The unit is located within an apartment complex that permits short term rental accommodation with strata approval having been provided as part of the application.

In an effort to clarify and standardise the approval process and also reduce the negative amenity impacts of short-term rental accommodation the State government has undertaken to revise key documents and processes around short-term rental accommodation. The Department of Planning Lands and Heritage released *Position Statement – Planning for Tourism* in November 2023 which outlined the approval requirements for short term rental accommodation. The document defined short term rental accommodation as hosted (residents inhabiting the premises) or unhosted (guests living alone in the residence). It is noted that if hosted then short-term rental

accommodation does not require development approval. Unhosted accommodation does require development approval if rented out for longer than 90 days within a 12-month period. In this case no time period is stated so it is assumed that the properties will potentially be rented out for more than 90 days. It is also noted that more extensive changes will be introduced in 2024 and these initial documents are a starting point for dealing with the development application. A formal registration system will also be introduced next year and administered by the State government, but the Town will still be responsible for processing development applications for short term rental accommodation for unhosted accommodation available for rent for more than 90 days within a 12-month period. Further legislative and regulatory requirements will be imposed on the operators of short-term rental accommodation as the introduction of the aforementioned changes progresses. These are separate from the development application that is the subject of this report.

As a result of the reforms not having been fully implemented the documents only have to be given due regard. The Town's Local Planning Scheme is still the guiding document for assessment of the short-term rental accommodation. Within the Town's Local Planning Scheme, the proposed use for short term rental accommodation is an "unlisted use" within a residential zone. However, local government may "determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted" (clause 4.4.2a of Local Planning Scheme No.3).

Council does not have any specific local planning policies or local laws that regulate short term rental accommodation. The WAPC's *Planning for Tourism and Short-Term Rental Accommodation Guidelines* effective from November 2023 provides guidance on matters that should be considered as part of the assessment of short term rental accommodation. The following topics are listed for consideration;

1. Mitigation plan

To control anti-social behaviour, noise, and any other potential conflicts a mitigation plan may be appropriate. Anti-social behaviour should be dealt with by local government/police in the same manner as a property being used as a residential dwelling.

2. Complaints management procedure

The manager of short-term rental accommodation should be contactable in the event that a complaint is made. The guest should have 24-hour access to the manager via phone, email, or an online app. Some local governments may want the operator to provide a record of complaints made against short term rentals and this should be reflected/included in the complaints management procedure.

3. Guest check-in and check-out procedures

Clear check-in and check-out procedures should be outlined in the management plan.

4. Health and safety protocols

Other legislation and standards govern the need to provide and maintain appropriate health and safety requirements in short-term rental accommodation. Local government may wish to advise short-term rental operators of these requirements in the management plan.

5. Management and provision of car parking

On-site parking provision should be considered to accommodate additional vehicles within the property boundary and should align with existing local government parking policies.

6. Waste management

Must specify the requirements of general waste and recycling, bin collection days and location of bins for collection.

The application has been assessed with regards to these Guidelines, Local Planning Scheme requirements, residential amenity, and the impact the use could have on surrounding neighbours with conditions imposed accordingly in the final recommendation.

The following topics are considered relevant to the determination of this application.

Management Plan

A management plan was submitted which addresses a range of matters which are considered relevant to the use as short term rental accommodation. The management plan helps to control activity and noise at the premises and details procedures around potential issues at the property. The applicant has provided an evacuation plan, and the property manager's contact details if there are any issues at the property.

Time Limit for Approval

A time limit will be imposed on the formal approval such that a maximum period of 12 months will be recommended as a condition of approval. This allows the Town to reassess the proposal should there be any adverse outcomes from the approval of the premises as a short term accommodation provider.

Maximum Number of Guests

The proposal is for use of 2 bedrooms, living area, kitchen, and balcony to be utilised as the short term rental accommodation. As it is a relatively small unit, limits will be imposed in terms of the maximum number of people that can stay as guests at the property. A condition will be included in the final recommendation that limits the number of guests to 4 people to ensure that there are no significant amenity impacts on surrounding residents and there is no issues with the intensification of use.

Car Parking

As short term rental accommodation is an unlisted use there are no specified parking standards. Car parking will be limited for guests to a double garage within the apartment complex. This is considered a satisfactory solution to the provision of parking. Additional parking is available with on-street parking. The maximum number of people permitted to be accommodated imposed as a condition of approval will also limit parking demand. It is noted that the property is located relatively close to a bus stop on Canning Highway (approximately 240m) and has the benefit of high frequency bus routes travelling in both directions to and from Fremantle Train Station and Canning Bridge Train Station. This has the potential to reduce the need for guests to have a car.

Signage

Commercial operations in residential areas that impact on the amenity of surrounding residents should be mitigated, including matters such as excessive signage, which can create visual pollution. No signage is referred to in the development application and a condition will be recommended that does not permit signage.

Noise

Noise is a legitimate concern for surrounding residents of short term rental accommodation. It is considered that the day-to-day operations of short term rental accommodation should not exceed normal household levels. In this case the property managers will be able to be contacted if there are issues with noise. The management plan states that noise must be kept to a minimum. It is also noted that an activity monitor will be installed within the unit and guests will be notified via their mobile phones if noise from activity inside the accommodation reaches excessive levels.

Safety

Smoke alarms and residual current devices are required to be installed and evidence of this is to be provided to the Town before the commencement of operations of the short term rental accommodation. This requirement will be included as conditions in the final recommendation.

Strata Approval

A letter providing strata approval for the proposed change of use from the corporate body was provided by the managing agents of the complex on 11 October 2023 and this was considered the formal date that the development application was submitted.

Advertising

The proposed development was advertised from 11 to 27 October 2023. No submissions were received opposing the short-term rental accommodation.

There are multiple properties within residential zones in East Fremantle that are currently approved for use as short term rental accommodation. This proposal is similar to these and represents a minimal risk based on the information supplied by the applicant.

CONCLUSION

The proposed short term rental accommodation is considered to be an activity that will have minimal impact on the amenity of nearby properties or on the neighbourhood generally providing the management plan is adhered to and matters considered in this report are addressed by way of the recommended conditions of development approval.

Based on the assessment the proposed development is recommended for support subject to the conditions included in the final recommendation.

OFFICER RECOMMENDATION / COMMITTEE RESOLUTION

OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP041223

Moved Cr White, seconded Mayor O'Neill

That approval to operate short term rental accommodation be granted by Council at Unit 4 No 46 (Lot 4) East Street, East Fremantle, in accordance with correspondence and plans received on 11 October 2023, subject to the following conditions:

- (1) Approval is for a temporary period of 12 months only from the date of this development approval.**
- (2) Continuation of the short stay accommodation use after the 12 month approval period has expired will require the submission of a new development application for the consideration of Council.**
- (3) Smoke alarms as required by the National Construction Code are to be installed and proof of the instalment is to be provided to the Town to the satisfaction of the Chief Executive Officer and prior to the short term rental accommodation commencing operations.**
- (4) Residual Current Devices are to be provided to all power points and lights switches and proof of installation is to be provided to the satisfaction of the Chief Executive Officer and prior to the short term rental accommodation commencing operations.**
- (5) The owner/owner's representative is to advise guests of key elements of the management plan including;**
 - a) Emergency evacuation procedures,**
 - b) Noise is to be kept to a minimum at all times,**
 - c) Parking requirements, and**
 - d) Correct waste disposal procedures.**
- (6) Maximum accommodation is for 4 people based on 2 bedrooms only being provided for accommodation. This is not to be exceeded on any occasion.**
- (7) No guest or occupant vehicles are to be parked on the Council verge, and in or across crossovers due to inadequate parking on-site or in the street.**
- (8) No on-site signage is permitted.**
- (9) Compliance with the Management Plan submitted with the application to the satisfaction of the Chief Executive Officer, in consultation with relevant officers.**
- (10) The approval may be revoked by Council, prior to the expiry of the 12 month period referred to in (1) above, if any adverse impacts involving noise, anti-social behaviour, breaches of the management plan, waste removal, or parking are unable to be controlled by the applicant/owner or their representative in a timely and effective manner which is to Council's satisfaction.**

Footnote:

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

- a) A new development application is to be submitted for Council's consideration before the expiry of the twelve (12) month temporary approval period should the applicant wish to continue the use.***

- b) This decision does not include acknowledgement or approval of any unauthorised development including signage onsite.**
- c) A copy of the approved plans as stamped by Council are attached and the use is to conform with the approved plans unless otherwise approved by Council.**
- d) This development approval does not exempt the applicant/owner from meeting requirements in accordance with future State government regulation associated with short term rental accommodation.**

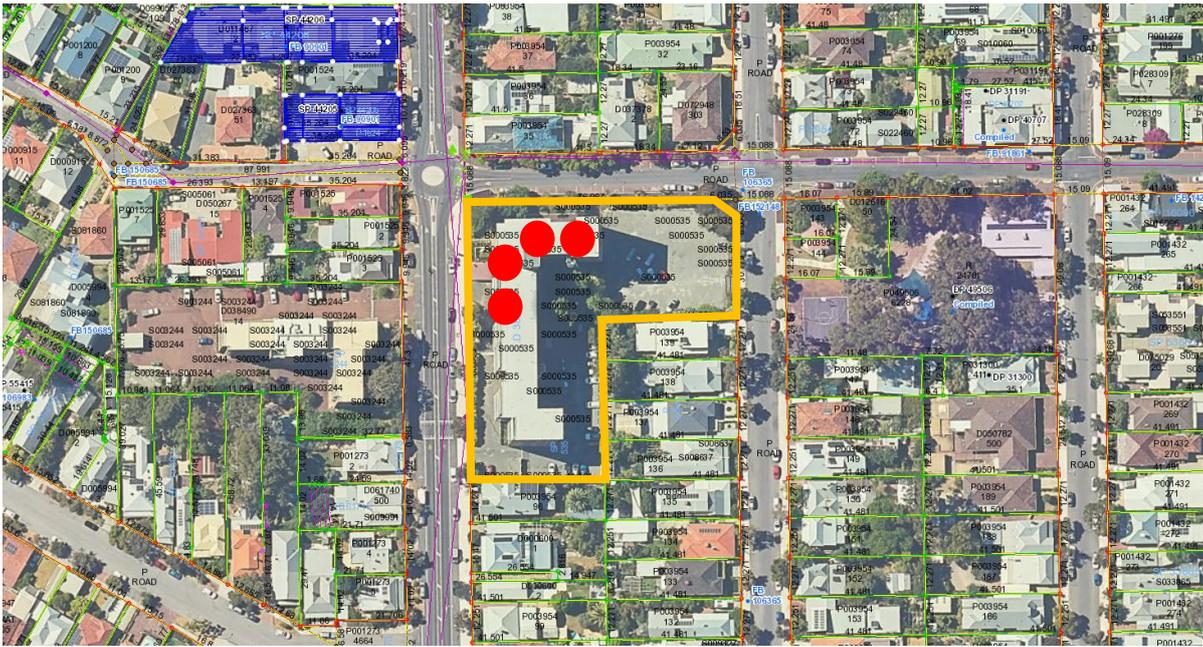
(CARRIED UNANIMOUSLY)

Note: As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 May 2023, this application is deemed determined, on behalf of Council, under delegated authority.

REPORT ATTACHMENTS

Attachments start on the next page

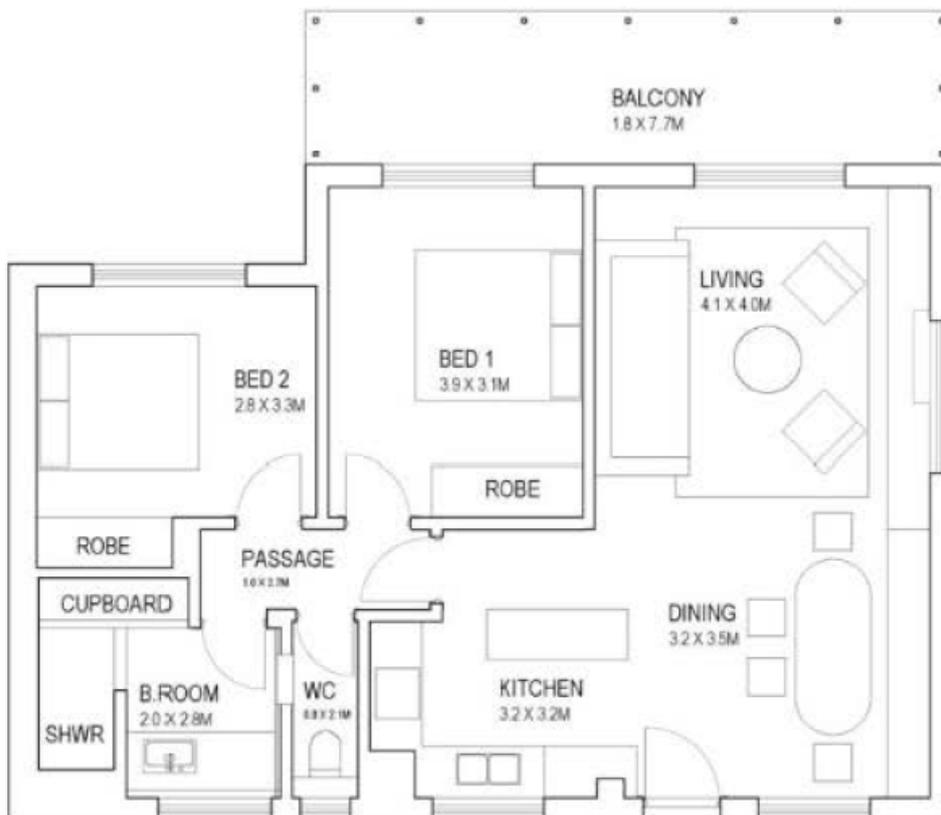
4/46 East Street – Location and Advertising Plan



4/46 East Street – Photos



FLOOR PLAN – 4/46 EAST STREET, EAST FREMANTLE



Community Engagement Checklist

Development Application P068/23 – 4/46 East Street

Objective of Engagement	Neighbour Consultation			
Lead Officer:	Regulatory Services			
Stakeholders				
Stakeholders to be Considered <i>Please highlight those to be targeted during engagement</i>	Aged	<input type="checkbox"/>	Ratepayers (all / targeted)	<input type="checkbox"/>
	Businesses	<input type="checkbox"/>	Residents (all / targeted)	<input checked="" type="checkbox"/>
	Children (School / Playground)	<input type="checkbox"/>	Service Providers	<input type="checkbox"/>
	Community Groups	<input type="checkbox"/>	Unemployed	<input type="checkbox"/>
	Disabled People	<input type="checkbox"/>	Visitors	<input type="checkbox"/>
	Environmental	<input type="checkbox"/>	Volunteers	<input type="checkbox"/>
	Families	<input type="checkbox"/>	Workers	<input type="checkbox"/>
	Govt. Bodies	<input type="checkbox"/>	Youth	<input type="checkbox"/>
	Indigenous	<input type="checkbox"/>		<input type="checkbox"/>
Neighbouring LGs	<input type="checkbox"/>		<input type="checkbox"/>	
Staff to be notified:	Office of the CEO	<input type="checkbox"/>	Councillors	<input type="checkbox"/>
	Corporate Services	<input type="checkbox"/>	Consultants	<input type="checkbox"/>
	Development Services	<input type="checkbox"/>		<input type="checkbox"/>
	Operational (Parks/Works)	<input type="checkbox"/>		<input type="checkbox"/>
Community Engagement Plan				
Methods	Responsible	Date Due	Reference / Notes	
1.1 E News	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.2 Email Notification	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.3 Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.4 Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.5 Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.6 Fact Sheet	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.7 Media Rel/Interview	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.1 Information Stalls	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.2 Public Meeting/Forum	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.3 Survey/Questionnaire	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.1 Focus Groups	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.2 Referendum/Ballot	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.3 Workshop	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.1 Council Committee	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.2 Working Group	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
*Statutory Consultation	<input checked="" type="checkbox"/> Relevant Officer	27/10/2023	<input checked="" type="checkbox"/> Advertised to 4 surrounding properties	
#Heritage Consultation	<input type="checkbox"/> Regulatory Services	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
^Mail Out (note: timelines)	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Evaluation				
Summary of...		Date Due	Completed / Attached	
Feedback / Results/ Outcomes / Recommendations		5/12/2023	To be presented to TPC	
Outcomes Shared				
Methods	Responsible	Date Due	Reference / Notes	
E-Newsletter	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Email Notification	<input checked="" type="checkbox"/> Relevant Officer	8/12/2023	<input checked="" type="checkbox"/> Notification sent to applicant and owner of TPC decision	
Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Media Release	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>			
	<input type="checkbox"/>			
Notes				

12.5 74B DALGETY STREET - DEVELOPMENT APPROVAL SUBSEQUENT TO DEVELOPMENT

Owner	Penny Donaldson
Applicant	Christine Franklin
Report Reference Number	TPR-1688
Planning Reference Code	P071/23
Prepared by	James Bannerman
Supervised by	Andrew Malone
Meeting date	Tuesday, 5 December 2023
Voting requirements	Simple majority
Documents tabled	Nil

Attachments

1. Location and advertising plan
2. Photos
3. Plans submitted 20 September 2023
4. Community engagement checklist

PURPOSE

The purpose of this report is for Council to consider a development application seeking approval for a pergola and visual privacy screening subsequent to development.

EXECUTIVE SUMMARY

This development application is seeking development approval for a pergola, and visual privacy screening subsequent to development at 74B (Lot 2) Dalgety Street, East Fremantle. Following a complaint being lodged by a neighbour, the owner of the subject property was contacted and requested to lodge both a development application and retrospective building permit application. The subject dwelling is located on a rear battle-axe lot with a density code of R12.5. The works were undertaken without any approvals from the Town. The spa is not a subject of the development application, however, the pergola and visual privacy screening does require approval. The development was also advertised to the surrounding property owners. Based on assessment of the structures there are 3 variations to the Residential Design Codes as listed below.

- Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Northern Wall - Pergola – 1m required, 0.1m provided,
- Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Northern Side – Privacy Screen – 1m required, 0.1m provided, and
- Clause 5.1.3 - Residential Design Codes – Lot Boundary Setback - Eastern Side-Privacy Screen – 6m required, 0.15m provided,

The development application is recommended for support subject to the conditions included in the final recommendation.

BACKGROUND

Zoning	Residential R12.5
Site Area	525m ²
Heritage	N/A
Fremantle Port Buffer	N/A

Previous Decision of Town and/or History of Issue Onsite	P120/13 – additions – approved 1 October 2013 P158/2005 – alterations and additions to grouped dwelling (including upper level) – approved 15 November 2005
----------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------

CONSULTATION

Advertising

The proposed development was advertised to surrounding properties and online from 3 to 18 October 2023. No submissions were received from advertising.

Internal Consultation

Nil

External Consultation

Nil

STATUTORY ENVIRONMENT

Planning and Development Act 2005
Residential Design Codes (Volume 1)
Local Planning Scheme No. 3 (LPS 3)

POLICY IMPLICATIONS

Local Planning Policy 3.1.1 – Residential Design Guidelines
Local Planning Policy 3.1.8 – Wood Encouragement - General

FINANCIAL IMPLICATIONS

Nil

STRATEGIC IMPLICATIONS

The Town of East Fremantle Strategic Community Plan 2020-2030 states as follows:

Built Environment

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

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

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

3.1.2 Plan for a mix of inclusive diversified housing options.

3.1.3 Plan for improved streetscapes.

3.2 Maintaining and enhancing the Town's character.

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

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

3.3.1 Continue to improve asset management within resource capabilities.

3.3.2 Plan and advocate for improved access and connectivity.

RISK IMPLICATIONS

A risk assessment was undertaken and the risk to the Town in determining this application was deemed to be negligible.

SITE INSPECTION

A site inspection was undertaken.

COMMENT

Statutory Assessment

This development application was assessed against the Town's Local Planning Scheme No. 3, the Residential Design Codes, and the Residential Design Guidelines.

A summary of the assessment is included in the following tables.

Legend	
A	Acceptable
D	Discretionary
N/A	Not applicable

Local Planning Scheme No. 3/Residential Design Guidelines/Residential Design Codes

Design Element	Required	Proposed	Status
Street front setback			N/A
Garage setback			N/A
Minor incursions			N/A
Lot Boundary Setbacks			
Northern wall – pergola	1m	0.1m	D
Northern side – privacy screen	1m	0.1m	D
Eastern side - privacy screen	6m	0.15m	D
Car Parking			N/A
Open Space			N/A
Site Works			N/A
Visual Privacy			N/A
Overshadowing			N/A
Garage width			N/A
Roof form and pitch	28-36 degrees	30 degrees	A
Materials and colours			N/A
Landscaping			N/A
Front fence & gate			N/A
Sightlines			N/A
Footpaths and crossovers	N/A		
Drainage	Condition		
Wood Encouragement Policy	Timber used throughout pergola and visual privacy screening		

This development application is seeking development approval for a pergola and visual privacy screening subsequent to development at 74B (Lot 2) Dalgety Street, East Fremantle. Following a complaint being lodged by a neighbour the owner of the subject property was contacted by the Town and requested to lodge both a development application and retrospective building permit application. The subject dwelling is located on a rear battle-axe lot with a density code of R12.5. The works were undertaken without any approvals from the Town. The spa is not a subject of the development application, however, the pergola and visual privacy screening does require approval. The rear strata property received written support for the development from the neighbouring strata property owner. The development was also advertised to the surrounding property owners to the north and the east. It is noted that despite the advertising no submissions were received for the development. Based on assessment of the structures there are 3 variations to the Residential Design Codes relating to lot boundary setbacks (3 locations).

Lot Boundary Setback - Northern Wall - Pergola

The northern wall of the patio is 2.36m long and 3.64m high (with a pitched roof) without major openings. In accordance with the Residential Design Codes deemed to comply clause 5.1.3 C3.1 the structure is required to be located 1m from the boundary, but in this case is located 0.1m from the boundary. In accordance with design principles 5.1.3 P3.2 the reduced lot boundary setback can be supported for the following reasons;

- It makes more effective use of space for enhanced privacy for the occupants and the outdoor living areas,
- There are minimal impacts on building bulk on adjoining properties,

- Provides adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties,
- Minimal overlooking and resultant loss of privacy on adjoining properties,
- Has minimal adverse impact on the amenity of the adjoining property,
- Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted, and
- Positively contributes to the prevailing or future development context and streetscape as outlined by the local planning framework.

The proximity of the pergola to the northern boundary has no impact on privacy as the area was already an outdoor entertaining area. As it is an open roofed structure there is still adequate access to sunlight and ventilation. Visual privacy screening has been installed to improve privacy between properties.

Lot Boundary Setback - Northern Side – Privacy Screen

A new privacy screen has been installed on the northern side of the property adjacent to the pergola that is 4m long and 2.3m high. This privacy screen is treated as a wall for assessment purposes and as such is located only 0.1m from the boundary where there should be a 1m setback in accordance with the Residential Design Codes deemed to comply clause 5.1.3 C3.1. In accordance with design principles 5.1.3 P3.2 the reduced lot boundary setback can be supported for the following reasons;

- It makes more effective use of space for enhanced privacy for the occupants and the neighbouring property,
- There are minimal impacts on building bulk on adjoining properties,
- Provides adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties,
- Minimal overlooking and resultant loss of privacy on adjoining properties,
- Has minimal adverse impact on the amenity of the adjoining property,
- Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted, and
- Positively contributes to the prevailing or future development context and streetscape as outlined by the local planning framework.

Visual privacy screening has been installed to improve privacy between properties. Air is still able to circulate and sunshine can still penetrate into the space adjacent to the screening.

Lot Boundary Setback - Eastern Side-Privacy Screen

The eastern privacy screen is 5.9m long and 2.3m high without major openings. In accordance with the Residential Design Codes deemed to comply clause 5.1.3 C3.1 the structure is required to be located 6m from the boundary, but in this case is located 0.15m from the boundary. In accordance with design principles 5.1.3 P3.2 the reduced lot boundary setback can be supported for the following reasons;

- It makes more effective use of space for enhanced privacy for the occupants,
- There are minimal impacts on building bulk on adjoining properties,
- Provides adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties,
- Minimal overlooking and resultant loss of privacy on adjoining properties,
- Has minimal adverse impact on the amenity of the adjoining property,
- Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted, and
- Positively contributes to the prevailing or future development context and streetscape as outlined by the local planning framework.

Visual privacy screening has been installed to improve privacy between properties. Although there is a significant reduction in the lot boundary setback it must be recognised that the property was subdivided at an earlier time and this saw a rear strata dwelling constructed that does not achieve the 6m rear boundary setback as required by the Table 1 of the Residential Design Codes.

The structure is open roofed and a condition will be included in the final recommendation to ensure it remains as such noting that the structure will be approved as a pergola and not a patio. If the owner wishes to install a roof on the open roofed pergola, then a development application will be required to be submitted for the consideration of the Town.

CONCLUSION

It is recommended that Council grant approval to the pergola and visual privacy screening subsequent to development subject to the conditions included in the final recommendation. The structure is not considered unreasonable given that it is located within an area dedicated to outdoor activity. It is noted that approval has been granted for an open roofed pergola and visual privacy screening. The spa does not require development approval.

OFFICER RECOMMENDATION / COMMITTEE RESOLUTION

OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP051223

Moved Mayor O'Neill, seconded Cr White

That development approval subsequent to development is granted and Council exercises its discretion regarding the following;

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Northern Wall - Pergola – 1m required, 0.1m provided,**
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setback - Northern Side – Privacy Screen – 1m required, 0.1m provided, and**
- (iii) Clause 5.1.3 - Residential Design Codes – Lot Boundary Setback - Eastern Side-Privacy Screen – 6m required, 0.15m provided,**

for pergola and visual privacy screening at No. 74B (Lot 2) Dalgety Street, East Fremantle, in accordance with the plans submitted 20 September 2023, subject to the following conditions:

- (1) This approval is for an open roofed pergola and a development application shall be submitted for the consideration of the Town prior to the installation of any roofing or covering on top of the approved pergola.**
- (2) The works are to be constructed in conformity with the drawings and written information accompanying the application for development approval other than where varied in compliance with the conditions of this development approval or with the Town's further approval.**
- (3) With regards 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 development approval, without those changes being specifically marked for the Town'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 Town prior to the issue of a Building Permit.**
- (5) 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.**
- (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 the Town and if approved, the total cost to be borne by the applicant. The Town 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) This development approval is to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

- (a) This decision does not include acknowledgement or approval of any unauthorised development which may be on site.***
- (b) A copy of the approved plans as stamped by Town are attached and the application for a retrospective Building Permit is to conform with the approved plans unless otherwise approved by the Town.***
- (c) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.***

(CARRIED UNANIMOUSLY)

Note: As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 May 2023, this application is deemed determined, on behalf of Council, under delegated authority.

REPORT ATTACHMENTS

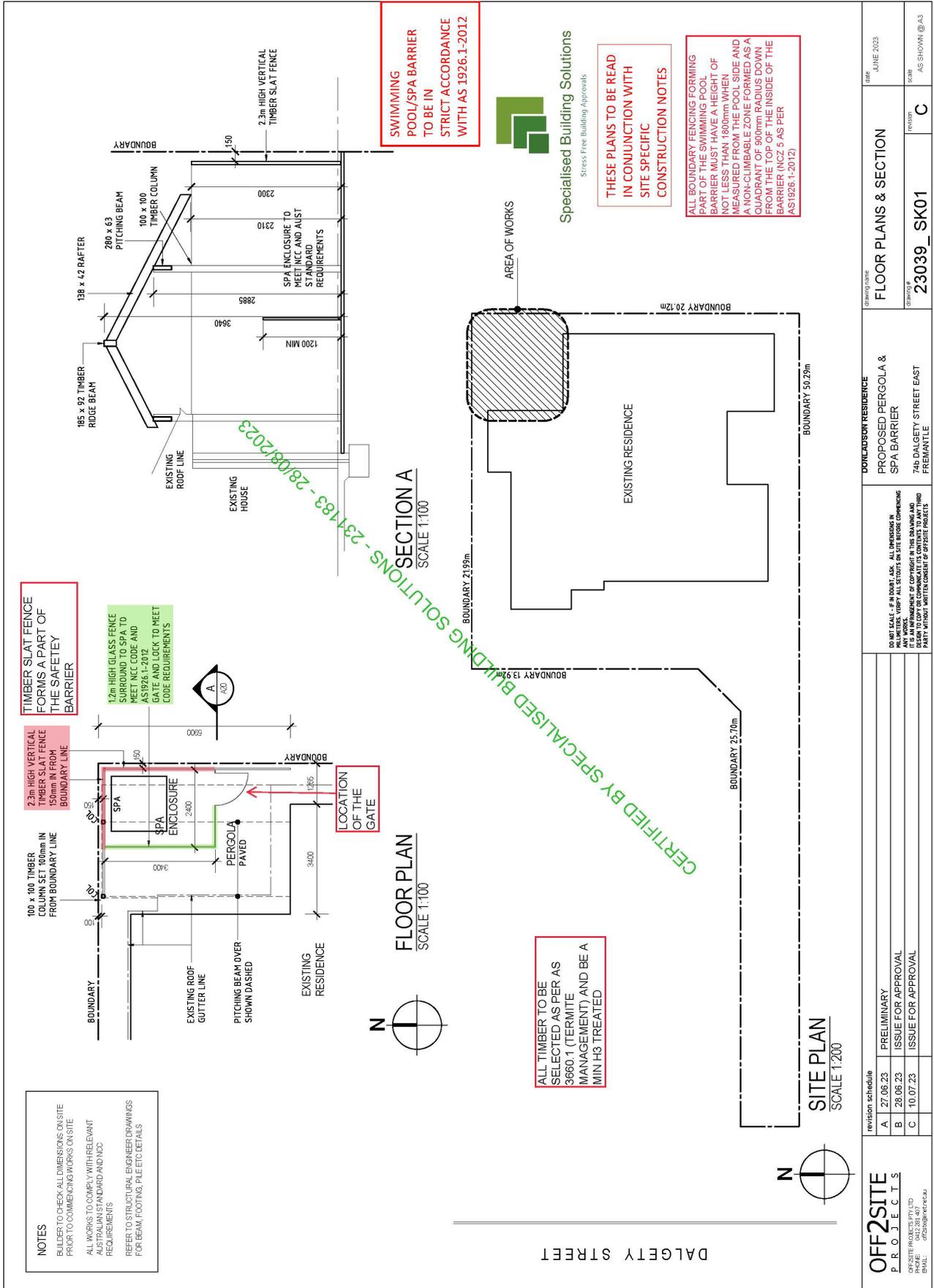
Attachments start on the next page

74B Dalgety Street – Location and Advertising Plan



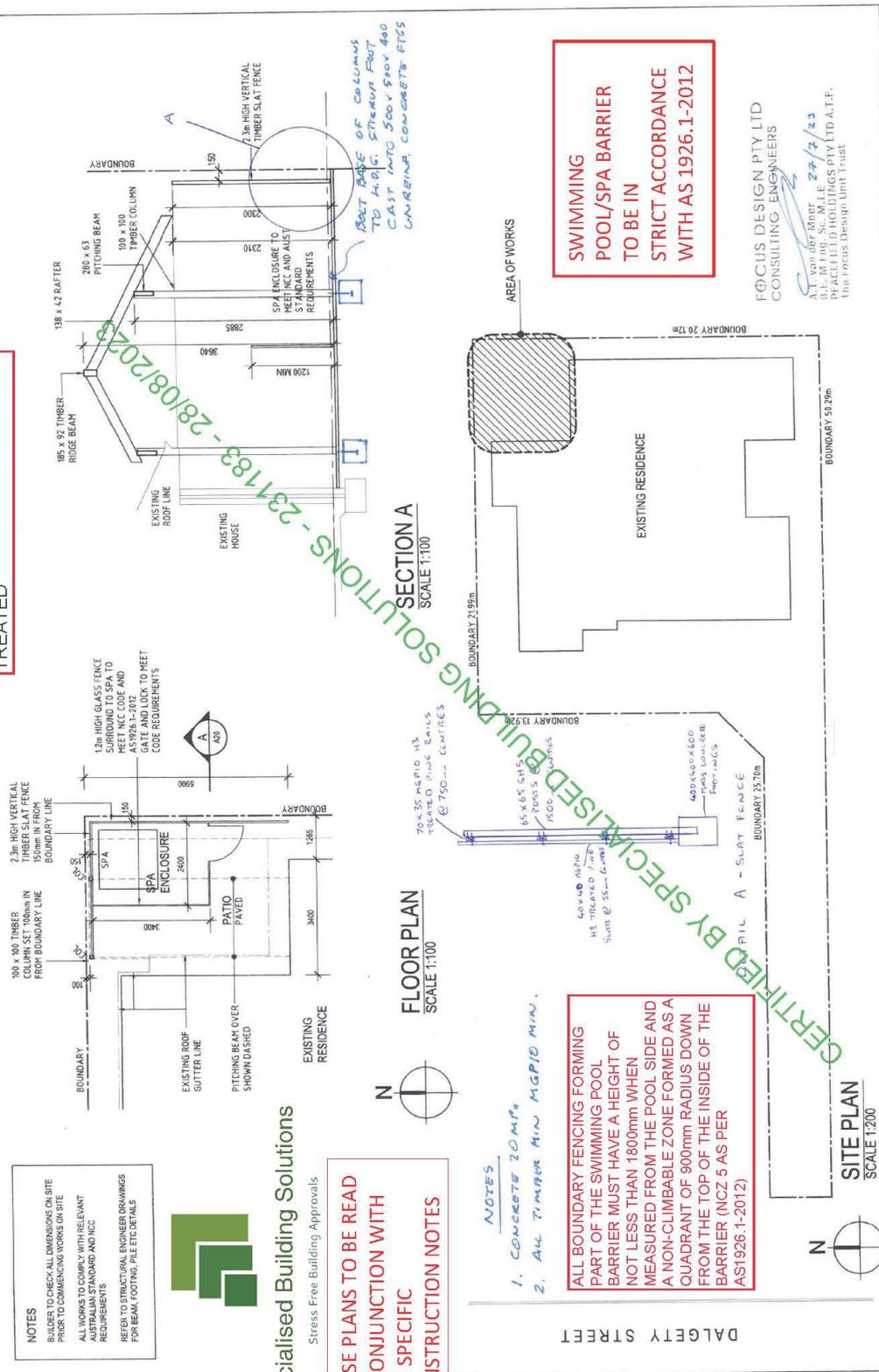
Attachment -2
74B Dalgety Street – Photos





OFF2SITE P. R. O. J. E. C. T. S. OFFSITE PROJECTS PTY LTD 12/120 DUNLOP STREET SYDNEY NSW 1585 EMAIL: OFF2SITE@OFF2SITE.COM		revision schedule A 27.06.23 PRELIMINARY B 28.06.23 ISSUE FOR APPROVAL C 10.07.23 ISSUE FOR APPROVAL	DO NOT SCALE - FINISH ONLY. ALL DIMENSIONS IN MILLIMETRES. VERIFY ALL SETBACKS ON SITE BEFORE COMMENCING WORKS. THIS DRAWING IS THE PROPERTY OF OFF2SITE PROJECTS PTY LTD AND IS NOT TO BE REPRODUCED OR COPIED WITHOUT THE WRITTEN CONSENT OF OFF2SITE PROJECTS PTY LTD.	DONLONSON RESIDENCE PROPOSED PERGOLA & SPA BARRIER 746 DALEGETY STREET EAST FREMANTLE	DRAWING NUMBER FLOOR PLANS & SECTION	DATE JUNE 2023
DRAWING TITLE 23039_SK01		SCALE AS SHOWN @A3	REVISION C			

ALL TIMBER TO BE SELECTED AS PER AS 3660.1 (TERMITE MANAGEMENT) AND BE A MIN H3 TREATED



NOTES
 1. ALL DIMENSIONS ON SITE
 2. PRIOR TO COMMENCING WORKS ON SITE
 3. ALL WORKS TO COMPLY WITH RELEVANT
 4. REFER TO STRUCTURAL ENGINEER DRAWINGS
 FOR BEAM, FOOTING, PILE ETC DETAILS



Specialised Building Solutions
 Stress Free Building Approvals

THESE PLANS TO BE READ IN CONJUNCTION WITH SITE SPECIFIC CONSTRUCTION NOTES

- NOTES**
1. CONCRETE 20MPa
 2. ALL TIMBER MIN H3/T3 MIN.

ALL BOUNDARY FENCING FORMING PART OF THE SWIMMING POOL BARRIER MUST HAVE A HEIGHT OF NOT LESS THAN 1800mm WHEN MEASURED FROM THE POOL SIDE AND A NON-CLIMBABLE ZONE FORMED AS A QUADRANT OF 900mm RADIUS DOWN FROM THE TOP OF THE INSIDE OF THE BARRIER (NCZ 5 AS PER AS1926.1-2012)

SWIMMING POOL/SPA BARRIER TO BE IN STRICT ACCORDANCE WITH AS 1926.1-2012

FOCUS DESIGN PTY LTD
 CONSULTING ENGINEERS
 A.T. van der Meer 27/7/23
 B.J. M. Eng. S.C. M.L.L.E. 27/7/23
 PRACITLED HOLDERS PTY LTD A.T.F.
 THE FOCUS DESIGN UNIT TRUST

OFF2SITE P.R.O.J.E.C.T.S OFF2SITE PRODUCTS PTY LTD 10/100 DUNLOP STREET BUNNINGS NSW 1510 EMAIL: OFF2SITE@OFF2SITE.COM.AU		revision schedule A 27.06.23 PRELIMINARY B 28.08.23 ISSUE FOR APPROVAL C 10.07.23 ISSUE FOR APPROVAL	DONLADSON RESIDENCE PROPOSED PATIO 74B DALGETY STREET EAST FREEMANTLE	FLOOR PLANS & SECTION DRAWING NO: 23039_SK01 REVISION: C	DATE: JUNE 2023 DRAWN: AS SHOWN @ A3
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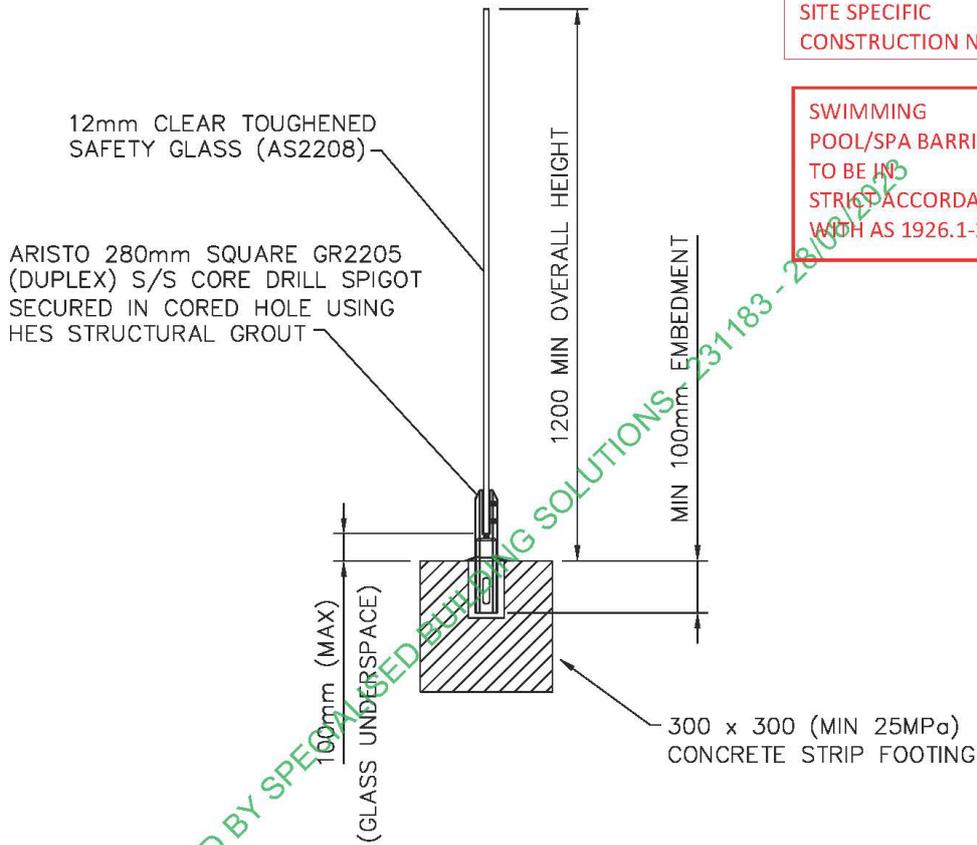


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THESE PLANS TO BE READ IN CONJUNCTION WITH SITE SPECIFIC CONSTRUCTION NOTES

SWIMMING POOL/SPA BARRIER TO BE IN STRICT ACCORDANCE WITH AS 1926.1-2012



ARISTO TYPICAL FRAMELESS GLASS POOL FENCE FOOTING DETAIL

ALL TIMBER TO BE SELECTED AS PER AS 3660.1 (TERMITE MANAGEMENT) AND BE A MIN H3 TREATED

Community Engagement Checklist

Development Application P071/23 – 74B Dalgety Street

Objective of Engagement	Neighbour Consultation			
Lead Officer:	Regulatory Services			
Stakeholders				
Stakeholders to be Considered <i>Please highlight those to be targeted during engagement</i>	Aged	<input type="checkbox"/>	Ratepayers (all / targeted)	<input type="checkbox"/>
	Businesses	<input type="checkbox"/>	Residents (all / targeted)	<input checked="" type="checkbox"/>
	Children (School / Playground)	<input type="checkbox"/>	Service Providers	<input type="checkbox"/>
	Community Groups	<input type="checkbox"/>	Unemployed	<input type="checkbox"/>
	Disabled People	<input type="checkbox"/>	Visitors	<input type="checkbox"/>
	Environmental	<input type="checkbox"/>	Volunteers	<input type="checkbox"/>
	Families	<input type="checkbox"/>	Workers	<input type="checkbox"/>
	Govt. Bodies	<input type="checkbox"/>	Youth	<input type="checkbox"/>
	Indigenous	<input type="checkbox"/>		<input type="checkbox"/>
Neighbouring LGs	<input type="checkbox"/>		<input type="checkbox"/>	
Staff to be notified:	Office of the CEO	<input type="checkbox"/>	Councillors	<input type="checkbox"/>
	Corporate Services	<input type="checkbox"/>	Consultants	<input type="checkbox"/>
	Development Services	<input type="checkbox"/>		<input type="checkbox"/>
	Operational (Parks/Works)	<input type="checkbox"/>		<input type="checkbox"/>
Community Engagement Plan				
Methods	Responsible	Date Due	Reference / Notes	
1.1 E News	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.2 Email Notification	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.3 Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.4 Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.5 Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.6 Fact Sheet	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
1.7 Media Rel/Interview	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.1 Information Stalls	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.2 Public Meeting/Forum	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
2.3 Survey/Questionnaire	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.1 Focus Groups	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.2 Referendum/Ballot	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
3.3 Workshop	<input type="checkbox"/> Relevant Officer	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.1 Council Committee	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
4.2 Working Group	<input type="checkbox"/> Executive Direction	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
*Statutory Consultation	<input checked="" type="checkbox"/> Relevant Officer	27/10/2023	<input checked="" type="checkbox"/> Advertised to 2 surrounding properties	
#Heritage Consultation	<input type="checkbox"/> Regulatory Services	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
^Mail Out (note: timelines)	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Evaluation				
Summary of...		Date Due	Completed / Attached	
Feedback / Results/ Outcomes / Recommendations		5/12/2023	To be presented to TPC	
Outcomes Shared				
Methods	Responsible	Date Due	Reference / Notes	
E-Newsletter	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Email Notification	<input checked="" type="checkbox"/> Relevant Officer	8/12/2023	<input checked="" type="checkbox"/> Applicant/owner emailed	
Website	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Facebook	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Media Release	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
Advert – Newspaper	<input type="checkbox"/> Communications	Click or tap to enter a date.	<input type="checkbox"/> Click or tap here to enter text.	
	<input type="checkbox"/>			
	<input type="checkbox"/>			
Notes				



13 MATTERS BEHIND CLOSED DOORS

Nil

14 CLOSURE OF MEETING

There being no further business, the Presiding member declared the meeting closed at 6.54pm.

I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 5 December 2023, Minute Book reference 1 to 14 were confirmed at the meeting of the Committee on:

[Handwritten signature]
.....

5/3/24

Presiding Member