



MINUTES

Town Planning & Building Committee

Tuesday, 2 July 2019 at 6.32pm

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MINUTES OF THE ORDINARY MEETING OF THE TOWN PLANNING COMMITTEE HELD AT THE EAST FREMANTLE TOWN HALL, 135 CANNING HIGHWAY, EAST FREMANTLE ON TUESDAY 2 JULY 2019.

1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

Presiding member opened the meeting at 6.32pm and welcomed members of the gallery

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. RECORD OF ATTENDANCE

3.1 Attendance

The following members were in attendance:

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

The following staff were in attendance:

Mr A Malone	Executive Manager Regulatory Services
Ms K Culkin	Minute Secretary

3.2 Apologies

Nil

3.3 Leave of Absence

Cr M McPhail

4. MEMORANDUM OF OUTSTANDING BUSINESS

Nil

5. DISCLOSURES OF INTEREST

5.1 Financial

Nil

5.2 Proximity

Nil

5.3 Impartiality

Nil

6. PUBLIC QUESTION TIME

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

Nil

6.2 Public Question Time
Nil

7. PRESENTATIONS/DEPUTATIONS
Nil

7.1 Presentations
Nil

7.2 Deputations
Nil

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Town Planning and Building Committee (7 May 2019)

8.1 OFFICER RECOMMENDATION

Moved Cr Nardi, seconded Cr Natale

That the minutes of the Town Planning and Building Committee meeting held on Tuesday 7 May 2019 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER
Nil

10. REPORTS OF COMMITTEES

10.1 Community Design Advisory Committee (27 May 2019)

Prepared by: Andrew Malone, Executive Manager Regulatory Services
Supervised by: Gary Tuffin, Chief Executive Officer
Authority/Discretion: Town Planning Committee
Attachments: 1. Minutes of the Community Design Advisory Committee Meeting held on 27 May 2019.

PURPOSE

To submit the minutes of the Community Design Advisory Committee meeting held on 27 May 2019 for receipt by the Town Planning Committee.

EXECUTIVE SUMMARY

The Committee, at its meeting held on 27 May 2019, provided comment on planning applications listed for consideration at the July Town Planning Committee meeting and other applications to be considered in the future. Comments relating to applications have been replicated and addressed in the individual reports.

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

10.1 OFFICER RECOMMENDATION

Moved Cr White, seconded Cr Harrington

That the Minutes of the Community Design Advisory Committee meetings held on 27 May 2019 be received.

(CARRIED UNANIMOUSLY)

PROCEDURAL MOTION

Moved Cr Nardi, seconded Cr White

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

(CARRIED UNANIMOUSLY)

11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

11.3 Allen Street, No 35 (Lot 12), Proposal for two new two storey residences

Owner	Heath and Ruth Tyrrell
Applicant	Code Zed Design
File ref	P036/19; ALL35
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	2 July 2019
Voting requirements	Simple Majority
Documents tabled	Nil

Purpose

This report considers a planning application for two new two storey dwellings on a subdivided lot at No 35 Allen Street, East Fremantle.

Executive Summary

The applicant is seeking Council approval for the following variations;

House A

- (i) Western lot boundary setback – 1.1m required, 1m setback provided (0.1 metre discretion required)
- (ii) House A roof pitch – 28 -36 degrees required – 22 degrees provided
- (iii) Alfresco roof pitch – 28 to 36 degrees required – 0 degrees provided
- (iv) Front fence height – 1.8m required – up to 2.2m provided

House B

- (v) Southern lot boundary setback – 1m required – 0.9m provided (0.1 metre discretion required)
- (vi) Northern lot boundary setback – 1.8m required – 1.5m provided (0.3 metre discretion required)
- (vii) House B roof pitch – 28 -36 degrees required – 22 degrees provided
- (viii) Alfresco roof pitch – 28 to 36 degrees required – 0 degrees provided

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

Background

Zoning: Residential R20

Site area: Front lot 716m² Rear lot 734m²

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

Development application P107/18 – February 2019 – demolition and site works including retaining walls and fill.

Subdivision

A subdivision of No. 39 and 41 Allen Street was approved by the West Australian Planning Commission. The application proposed a two stage amalgamation and subdivision process. The first stage being the amalgamation of Lot 12 and 501 into one lot of 2,358m². The second stage being the survey strata subdivision into three lots:

- Lot 1 of 893m² (existing dwelling on corner);
- Lot 2 being 735m² (to the rear but facing Allen Street); and
- Lot 3 730m² (battle-axe lot from Allen Street).

Once amalgamation was effected the lot became a corner lot so Council had the ability to grant planning approval for other dwellings on the subject site under clause 5.3.1 of Local Planning Scheme No. 3 (Density Bonus for Corner Lots up to R20 standards). Notwithstanding clause 5.3.1 of the Scheme, the proposed subdivision significantly complies with the lot area requirements to facilitate the WAPC utilising discretion to approve the subdivision at R12.5. In light of the minor discretion required at a density of R12.5 and the provisions of clause 5.3.1 of the Scheme, the amalgamation and the survey strata subdivision was supported.

Consultation

Advertising

The application was advertised to surrounding land owners from 17 to 31 May 2019. Three responses were received as well as the applicant.

Submissions	Applicant Response
<p>Submission 1 We wish to object to the design of the proposed House B at No.35 Allen Street.</p> <p>In our original objection , which was ignored, we pointed out that the subdivision would result in two, 2 storey, houses that are not in keeping with surrounding houses and which negatively affect the amenity of their neighbours.</p> <p>What we said would happen is precisely what the current plans propose.</p> <p>In particular, House B's patio is too close to the rear fence and noise from parties, BBQ's etc will negatively affect the amenity of the neighbouring properties.</p> <p>Additionally, on the second storey of the west elevation of House B, there is a glass door and balcony, and windows, that directly overlook neighbouring properties and negatively affects our privacy. Having that much glazing on a West wall will result in heat gain, and no doubt this will</p>	<p>The original objection was to the subdivision, irrelevant to this planning application. The proposal is for single storey residences with a roof attic master bedroom suite. It should be noted that one neighbour at 1B Fletcher St has a modern two storey home.</p> <p>Almost all outdoor entertaining areas (which are a requirement of the R-Codes) are by definition near boundaries, as the house itself is required to be setback. That said, the House B roofed alfresco is setback from the rear (west) fence 2.2m.</p> <p>The upstairs deck of House B is 5.69m from the north boundary. This is less than 7m, however it is clearly labelled and drawn as “screened” on plans and elevations as per the R-Codes requirements for less than 7m Windows facing west, or any other direction, is completely irrelevant. Windows have to face somewhere.</p> <p>The development generally complies with the Deemed to Comply provisions and entirely complies with the scope of the Design Principles of the R-Codes, and thus meet the accepted definition of “good design”. The only appreciable difference to SOME of the other residences is that it has gable roofs instead</p>

<p>result in the heavy use of potentially noisy airconditioners.</p> <p>These houses are poorly designed and don't suit the streetscape of Allen Street.</p>	<p>of hipped roofs - normal roof pitch and large overhangs in keeping with the street, ridge heights of 7.35m are entirely in keeping with the the street, the roof material is the same as three of its immediate neighbours and much of the street, there is a high degree of articulation in keeping with the street, the front fence is in keeping with the majority of the street, and the proposed earthen tone colours are in keeping with the street.</p>
<p>Submission 2 I object to the proposal.</p> <p>When we, and many fellow Allen Street residents we have talked with, made the decision to buy our properties, we did so due to the old world charm, character homes and large private blocks that is typical with the area.</p> <p>I know our careful restoration, addition and serene garden design to this heritage listed house (in keeping with the era of the house and surrounds) was a dream. We and most of our neighbors did this in good faith (and with great costs and effort) believing that our neighborhood would be kept in a similar historical / heritage mode due to the strict planning restrictions on development and most especially, subdivision.</p> <p>Now it seems, illogical and most probably a one off interpretation of planning rules can be used to circumvent said rules to allow disruptive and characterless construction to the detriment of existing landholders.</p> <p>Upon perusal of the proposed development plans, we believe the design to be an austere, characterless and unattractive street frontage, totally out of place on such a lovely serene street.</p> <p>We understand the pressure put on council to add a significant number of new dwellings to the area in a short time frame, but think architecturally and artistic thought should be addressed into keeping the historical and lovely street we enjoy up until now.</p> <p>We are of the opinion and do strongly think good faith has been circumvented and would like this recorded and taken into account.</p>	<p>All of these are genuine and heartfelt observations, however they are all completely irrelevant. The area and Allen St are not heritage listed at State or Local level. They are indeed pleasant older areas though. As such the bolded above is the only actual comment on the proposal that can be addressed objectively. Another interpretation of the design is that the houses are far from austere characterless and unattractive, they are in fact heavily articulated with pleasing scales, ratios and dimensions. The respondent is possibly basing his opinion on the fact the proposal has a gable roof instead of a hipped roof. However the roof pitch, overhangs, window dimensions, ridge heights, colours and materials, and every other quantifiable aspect are similar to the existing houses in the street.</p> <p>The respondent is perhaps unaware that the R-Codes ask for new developments in older areas to be complimentary with and sympathetic to the existing milieu without mimicking them.</p> <p>There is no bad faith, nothing has been circumvented. This development application has been talked about with planners at some length, and has been correctly submitted for appraisal in accordance with the R-Codes and Local Authority laws. This is very emotive language and accusations that are not relevant</p>
<p>Submission 3 I object to the proposal.</p> <p>Thank you for extending this opportunity to myself and family to have a voice on this matter.</p>	<p>It should be noted that the neighbouring house at 1B Fletcher St is an entirely modern two storey home (see picture attached). In addition, both the neighbouring houses at 1A Fletcher and 41 Allen St are fully renovated and modernised older dwellings which are both old AND new aesthetic.</p>

We have resided in East Fremantle since 2004 and have held the property in the family for over 35 years so we love the area, streetscape, ambience and the people.

Please note I am not anti-infill development and welcome it, but in context to the streetscape that makes East Fremantle what it is. This is what the conviction of council over many decades have achieved and kudos to the council for this.

Further, many of the houses in Allen St including another neighbouring residence at 33 Allen St and directly across the street at 38 Allen St have done such major changes to their homes as to change the entire roof material and colour from clay tile to zincalume metal sheet.

Looking at the streetscape, the proposal in general is a single storey (with attic) single detached residence facing the street, with a normal roof pitch and large overhangs in keeping with the street, the reduced ridge heights of 7.35m are entirely in keeping with the the street, the roof material is the same as three of its immediate neighbours and much of the street, there is a high degree of articulation in keeping with the street, the front fence is in keeping with the majority of the street, and the proposed earthen tone colours are in keeping with the street.

This entire commentary about sub-development (which went through the Department) is not relevant to this planning application.

Some of the houses are “character homes”, some are not. Some are built at the “turn of the century”, some are built in the 1930s, some are more modern re-interpretations of “character homes”. Some are renovated some are not, some are renovated to a modern aesthetic, some are actually modern. To suggest that a gable roofed house is an “A-Frame barn” is ridiculous. An “AFrame” has a very steep roof forming the side walls. Lets be absolutely clear, this proposal is for entirely normal homes with normally pitched gable roofs. It is not the duty of Council to maintain the heritage “feel” of this precinct, which is not heritage listed at either State or Local level – rather it is in fact a pleasant older area, and the continual use of the word “heritage” is obfuscation. It is in fact the Councils duty to determine if planning applications meet the deemed to comply provisions and design principles of the R-Codes, and any additional provisions of the TPS, which collectively are called “good design” and are to be rewarded as such. One such provision that the respondent is perhaps unaware of is that new developments in older areas are not meant to mimic the existing milieu, rather they are meant to be complimentary and sympathetic. The respondent is possibly basing his opinion on the fact the proposal has a gable roof instead of a hipped roof. However the roof pitch, overhangs, window dimensions, ridge heights, colours and materials, and every other quantifiable aspect are similar to the existing houses in the area.

Another opinion of the design is that the houses are far from characterless and an eyesore, they are in fact heavily articulated with pleasing scales, ratios and dimensions, using most of the macro aspects of many existing houses in the area.. What they are NOT is a direct copy of 100 year old houses.

	Another interpretation is that it would be a wonderful outcome that adds further nuance to the existing eclectic milieu
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Officer response

Responses from the submitters and the applicant are noted and comments are included below.

It is noted that a development application was previously approved by Council in relation to the demolition of the existing dwelling, site works and construction of retaining walls on site. This follows the previous approval of the subdivision of the lot into 2 lots which was approved by the WAPC.

For subdivision purposes the lot was assessed as having an R20 density coding and as such the proposed development is assessed in accordance with the requirements of R20 density coding. This is in alignment with Local Planning Scheme No 3 Clauses 5.3.1.

It should also be noted that the owner and applicant have had significant preliminary discussions with the Town to ensure that the proposed development mitigates negative streetscape effects and loss of neighbourhood amenity. If the lots were subdivided such that the 2 lots were side by side the frontages would be narrower and the neighbouring properties to the south would have potentially had worse outcomes as the proposed dwellings might have been longer and taller, as well as covering a greater proportion of the site, than what is currently proposed. Whilst battle-axe lots aren't necessarily considered best practice in terms of lot layout or streetscape design there are minimal impacts on the streetscape from the proposed development.

House A addresses the front street for 23 of the 27 metre wide lot with a 4 metre wide laneway to House B on the northern side. This laneway is in the same position as the existing driveway that runs down the northern side of the property. Whilst not characteristic to Allen Street the battle-axe arrangements for these lots are similar to many other properties in surrounding streets in the Woodside Precinct including Dalgety, Fortescue, Irwin and Oakover Streets.

There is a requirement in the Residential Design Guidelines that new houses in East Fremantle do not attempt to mimic or copy traditional and heritage properties from the area; faux or imitation heritage buildings should be avoided according to Clause 3.7.6.3.

The proposed dwellings achieve the design principle where they do not achieve the deemed to comply requirements of the R Codes. The proposed dwellings achieve the performance criteria where they do not achieve the acceptable development provisions of the Residential Design Guidelines.

House B's patio is located 1.43m (1m required) from the western fence and 5.69m from the northern fence. In both cases the structure meets the deemed to comply lot boundary setback requirements of the R Codes. In terms of privacy requirements the lot is set 0.5m above neighbouring property boundary heights but a boundary fence is to be installed along the western and northern boundary which ensures compliance with the privacy requirements of the R Codes.

Noise produced from future social gatherings is not a relevant planning consideration. It cannot be predicted what noise will be produced by future social gatherings at proposed dwellings.

As required by the R Codes the proposed balcony from House B has a 1.6m high visual screen added to the northern edge of the balcony. This will be conditioned as part of any subsequent planning approval.

Air-conditioning noise is required to comply with the *Environmental Protection (Noise) Regulations 1997*. Any planning approval will have an advice note included that reminds applicants of the need for compliance with the aforementioned regulations.

House B has minimal interface with Allen Street with a 4m wide laneway at the front of the property and a gate enclosing the property. House A fronts Allen Street and complies with the minimum required setbacks from the street as well as other requirements relating to the streetscape, including addressing the front of the property and maintaining visual surveillance of the front yard. The dwelling is under the maximum permissible roof height. The proposed solar panels face north and do not address the street. The property has minimal overshadowing over properties directly to the south.

Note that the submission received from the same submitter for the previous DA P107/18 was included in the relevant Council report from February 2019.

Community Design Advisory Committee (CDAC)

The application was referred to CDAC. The following responses were received.

CDAC Comments	Applicant Response	Officer Response
<p>(a) The overall built form merits;</p> <ul style="list-style-type: none"> The Committee note there is no outstanding design merit in the proposal. The proposal does not display significant architectural design suitable to the area. The Committee recommend that no variations should be granted for the development proposal considering the design of the dwellings is not to a high architectural standard. 	<p>The committee has made no objective determination on the merits of the overall built form, rather a vague subjective criticism. In keeping with mollifying concerns expressed by initial advertising responses to the subdivision, the overall built forms are essentially single storey residences with an attic space master bedroom suite rather than two storey dwellings as allowed by the R-Codes and TPS, provides a maximum of outdoor area for a minimum footprint, heights are considerably less than those allowed for in the R-Codes, roofs are pitched similarly to the surrounding houses rather than an allowed flat modern outcome, there is considerable articulation and overhangs, there are very large outdoor areas, and there are no overlooking or overshadowing considerations.</p> <p>Further, the overall subdivision and house design provides for two distinct single story residences with a street frontage of one house, rather than a possible street frontage of two co-joined two storey residences which was an allowable possibility.</p> <p>As such, the overall built form has more than considerable merit.</p> <p>Regarding the “architectural standard”, the committee has made no determination with qualifying observations based on objective standards, such the R-Codes deemed to comply provisions and design principles.</p>	<p>If a dwelling design meets the deemed to comply requirements of the R Codes or achieves the design principles of the R Codes then there is no reason for Council to refuse the proposed development.</p> <p>Likewise if the proposed development meets the acceptable development provisions or achieves the performance criteria of the Residential Design Guidelines then there is no reason to refuse the proposed development.</p> <p>However, the character of the area is acknowledged. 36 dwellings in Allen Street are listed on the Heritage List or MHI. The design is simplistic and has been designed so as to not conflict with the prevailing design in the street or with the existing character. The design is considered consistent with the character of existing lot frontages.</p> <p>The architectural merit of the design is not judged separately as part of the planning approval process but as a whole with the planning requirements.</p>

	<p>This is again an entirely subjective criticism. Disregarding the comment above regarding architectural standard, the development generally complies with those Deemed to Comply provisions and entirely complies with the scope of the Design Principles of the R-Codes. This committee tellingly makes no comment on Code violations or variations.</p>	
<p>(b) The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development.</p> <ul style="list-style-type: none"> The Committee noted that the design does not recognise the character of the precinct and is an overall poor outcome for the immediate locality. 	<p>It is important to recognise that the intentions of the R-Codes (utilising the principles of good design) with respect to new developments in older areas is NOT to mimic the existing aesthetic, but to compliment it. One example would be the new garage across the street at 32 Allen St, which is a totally modern flat roofed rendered structure against a quaint older brick and tile home.</p> <p>While both the general area and Allen St do have many older and even some individual premises with heritage significance, collectively they are not listed or regarded as a heritage zone by either the State or Town. Nor in fact are they the ONLY character of the precinct, which is in fact a pleasant and charming mixture of eclectic forms both old (some renovated, some not) and new (some modern, some trying to look "old").</p>	<p>The property is not on the heritage list and as such can be demolished and replaced.</p> <p>The design significant meets the requirements of the R Codes and the Residential Design Guidelines. The applicant has designed the dwellings to meet their future needs.</p> <p>There is a requirement within the Residential Design Guidelines that new dwellings do not mimic or copy heritage properties.</p>
<p>(c) The relationship with and impact on the broader public realm and streetscape;</p> <ul style="list-style-type: none"> The Committee commented that the proposal offers no architectural significant contribution to the streetscape with regard to the overall rhythm and character of the streetscape. 	<p>It should be noted that the neighbouring house at 1B Fletcher St is an entirely modern two storey home (see picture attached). In addition, both the neighbouring houses at 1A Fletcher and 41 Allen St are fully renovated and modernised older dwellings which are both old AND new aesthetic. Further, many of the houses in Allen St including another neighbouring residence at 33 Allen St and directly across the street at 38 Allen St have done such major changes to their homes as to change the entire roof material and</p>	<p>As above</p>

	<p>colour from clay tile to zincalume metal sheet.</p> <p>Looking at the “rhythm and character” of the street, the proposal in general is a single storey (with attic) single detached residence facing the street, with a normal roof pitch and large overhangs in keeping with the street, the reduced ridge heights of 7.35m are entirely in keeping with the street, the roof material is the same as three of its immediate neighbours and much of the street, there is a high degree of articulation in keeping with the street, the front fence is in keeping with the majority of the street, and the proposed earthen tone colours are in keeping with the street.</p> <p>The only appreciable difference to SOME of the other residences is that it has gable roofs instead of hipped roofs.</p>	
<p>(d) The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;</p> <ul style="list-style-type: none"> As noted above. 	<p>The proposal has ZERO impact on “heritage structures, significant natural features and landmarks”, and it was behoven on the committee to say so rather than flippantly insinuate otherwise.</p>	As above
<p>(e) The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;</p> <ul style="list-style-type: none"> The Committee note that there is little design intent for passive solar design. It is noted that rooms are not appropriately orientated/ presented to address suitable passive design/ ventilation. 	<p>This remark is incorrect. The majority of rooms are north facing, they all have cross ventilation, there are large shading overhangs, there is appropriate shading for outdoor areas, and the entire house (roof included) is intended as structural insulated engineered panels which have far superior thermal ratings to traditional materials. Furthermore a complete 6W solar panel array on each house is included on the north facing roof elevations.</p>	<p>The design will have to comply with the Building Code in terms of energy efficiency. It is noted that the living areas at the rear of both dwellings face north, have considerable glazing to allow sunlight into the space and solar panels are also included in the design.</p>
<p>(f) The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;</p>	<p>Again, this remark is not correct, and not backed up with any objective analysis. The street fence is in keeping with the TPS being 60% visually permeable, and there are two ground floor rooms and the roof attic master bedroom suite directly facing the street. The</p>	<p>The Bedroom windows to 3 and 4 and the upstairs Master Bedroom window of Dwelling A all provide passive surveillance of the street.</p>

<ul style="list-style-type: none">The Committee have concerns that there will be unsuitable/ inadequate passive surveillance of the street.	rear house has a ground floor room and the roof attic master bedroom suite observing the driveway – which is behind an 1800H visually permeable gate.	
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External Consultation

Nil

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

Policy Implications

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

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

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

3.1.2 Plan for a mix of inclusive diversified housing options.

3.2 Maintaining and enhancing the Town's character.

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

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

3.3.1 Continue to improve asset management practices.

3.3.2 Optimal management of assets within resource capabilities.

3.3.3 Plan and advocate for improved access and connectivity.

Natural Environment

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

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

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

4.1.2 Plan for improved streetscapes parks and reserves.

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the proposed development	Possible (3)	Moderate (3)	Moderate (5-9)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

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

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

Risk Rating	9
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

House A

Design Element	Required	Proposed	Status
Street Front Setback	6m	6m	A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
North	1.5m	3.31m	A
South	1.0m	1.4m	A
West	1.1	1m	D
Open Space	50%	65%	A
Building Height			
Wall height	5.6m	5.1m	A
Roof height	8.1m	5.0m	A
Setback of Garage	4.5m	5.22m	A
Car Parking	2	2	A
Site Works	Dealt with under previous DA		N/A
Retaining Wall	Dealt with under previous DA		N/A
Overshadowing	≤25%	1.2%	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	Dealt with under previous DA
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	N/A
3.7.11 Front Fences	D
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.16.4.3.3 Fremantle Port Buffer Area	N/A
3.7.17.3.3 Garages and Carports	N/A
3.7.17 Precinct Requirements	D

House B

Design Element	Required	Proposed	Status
Street Front Setback	6m	31m	A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
West	1.1m	1.43m	A
South	1m	0.9m	D
East	1.1m	1.2m	A
North	1.8m	1.5m	D
Open Space	50%	65%	A
Building Height			
Wall height	5.4m	4.4m	A
Roof height	8.1m	7.339m	A
Car Parking	2	2	A
Site Works	Dealt with under previous DA		N/A
Retaining Wall	Dealt with under previous DA		N/A
Overshadowing	≤25%	13%	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	Dealt with under previous DA
3.7.5 Demolition	Dealt with under previous DA
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	N/A
3.7.11 Front Fences	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	A
3.7.14 Footpaths and Crossovers	N/A
3.7.16.4.3.3 Fremantle Port Buffer Area	N/A
3.7.17.3.3 Garages and Carports	N/A
3.7.17 Precinct Requirements	D

Comment

This development application proposes two new two storey dwellings at the subject property. The site has previously had an application to the WAPC for subdivision of the lot into two strata battle-axe lots and a development application for the demolition of the existing dwelling and site works including the construction of retaining walls. This development application represents a continuation of the proposed development on the site.

Five variations are requested to the requirements of the Residential Design Guidelines; three for the House A and two for House B. Three variations are requested for the Residential Design Codes; one for

House A and two for House B. Each dwelling and the respective variations will be addressed separately. The variations are considered minor and do not significantly impact adjoining neighbours.

Heritage and Streetscape Character

The subject development is not on the heritage list.

It is however recognised that Allen Street is a character street, with 36 Heritage and Municipal Inventory listed properties. These properties do form a distinctive character to the street. The comments and concerns of the Community Design Advisory Committee and those of the surrounding neighbours are also acknowledged.

It is considered whilst there are concerns raised about the impact the design of the dwellings have on the area, the variations as listed below are minor and do not have a significant detrimental impact to the surrounding street. The design of dwellings are contemporary and simplistic. It is acknowledged the dwellings do not have outstanding design merit nor does the proposal display significant architectural design, however it is considered the proposed design whilst simplistic has been designed to minimise impacts to the streetscape and neighbours. The design is practical in form. The A frame structure facilitates loft living and minimises the overall height of the dwellings, therefore minimising any impact to surrounding residents. The design does not attempt to replicate the heritage character of the area. The lots are not proposed to be overdeveloped, with both lots providing 65% open space. It is considered alternative designs including a modern two storey design which is compliant would result in a greater impact to the streetscape and neighbours. The A frame design reduces perceived building bulk on Allen Street. The proposal whilst basic in design has been designed to acknowledge existing design features of traditional dwellings with large eaves, similar roof pitches and appropriate setbacks.

In this instance the proposal is recommended for approval subject to conditions. The variations to the deemed to comply provisions are outlined below.

House A - Front Dwelling

Western Boundary Setback

The side boundary setback to the western wall is 6m long, 4.5m high and setback 1m. In accordance with Clause 5.1.3 C3.1 i of the R Codes a 1.1m setback from the boundary is required. However, the reduced setback can be supported based on the design principles Clause 5.1.3 P3.1 because there is minimal impact from building bulk, minimal impact on the neighbouring dwelling in terms of sunlight or ventilation and no loss of privacy or overlooking as the dwelling is to be constructed at a lower level than the neighbouring properties to the south.

Roof Pitch

Roof forms of new developments should be pitched between 28 and 36 degrees according to Clause 3.7.8.3 A4.1 of the Residential Design Guidelines. In this case the pitch of the main roof of the front dwelling is 22 degrees which does not comply. However, this could be considered an acceptable variation as the roof complements the traditional roof forms of surrounding development in the immediate locality in accordance with Performance Criteria Clause 3.7.8.3 P4.

Likewise the alfresco roof on the northern and southern sides of the dwelling are flat roofed which does not match the acceptable development provisions of the Residential Design Guidelines Clause 3.7.8.3 A4.1, however, as these areas are behind the dwelling they do not detract from the main roof. This could be considered an acceptable variation as the alfresco roof complement the more traditional roof forms

of surrounding development in the immediate locality in accordance with Performance Criteria Clause 3.7.8.3 P4.

Front Fence and Gate

The front fence is up to 2.2m above the ground level on the street side of the fence on the north eastern corner of the lot. This does not comply with the deemed to comply requirements of the Residential Design Guidelines Clause 3.7.11.5 which requires fences to be a maximum height of 1.8m and areas above 1.2m to be visually permeable. In this case the proposed wall is built along a sloping street. Areas of the fence on the southern boundary abutting the footpath are 1m high and increase to 2.2m on the northern side of the property. The visually permeable insert between the piers of the wall are 1m high which is more than the minimum requirements. The variation in the height to a maximum of 2.2m can be supported on the basis that the change in levels between one side of the fence and the other side warrant consideration of a higher fence in accordance with the performance criteria Clause 3.7.11.5 P4.1 iii. The fence does remain open, it does facilitate surveillance of the street and it does allow for adequate sight lines for vehicles egressing from both lots. The fence is not considered to impact the streetscape and is consistent with the surrounding streets.

House B – Rear Dwelling

Southern Boundary Setback

The side boundary setback to the southern wall is 6.3m long, 3.1m high and setback 0.9m. In accordance with Clause 5.1.3 C3.1 i of the R Codes a 1m setback from the boundary is required. However, the reduced setback can be supported based on the design principles Clause 5.1.3 P3.1 because there is minimal impact from building bulk, minimal impact on the neighbouring dwelling in terms of sunlight or ventilation and no loss of privacy or overlooking as the dwelling is to be constructed at a lower level than the neighbouring properties to the south.

Northern Boundary Setback

The side boundary setback to the northern wall is 7.25m long, 3.8m high and setback 1.5m. In accordance with Clause 5.1.3 C3.1 i of the R Codes a 1.8m setback from the boundary is required. However, the reduced setback can be supported based on the design principles Clause 5.1.3 P3.1 because there is minimal impact from building bulk, minimal impact on the neighbouring dwelling in terms of sunlight or ventilation and no loss of privacy or overlooking as the dwelling is to be constructed at a lower level than the neighbouring properties to the south.

Roof Pitch Main Roof

Roof forms of new developments should be pitched between 28 and 36 degrees according to Clause 3.7.8.3 A4.1 of the Residential Design Guidelines. The pitch of the main roof of the rear dwelling is also 22 degrees which does not comply. However, this could be considered an acceptable variation as the roof complements the traditional roof forms of surrounding development in the immediate locality in accordance with Performance Criteria Clause 3.7.8.3 P4.

Roof Pitch Alfresco

Likewise the alfresco roof on the northern and southern sides of the dwelling are flat roofed which does not match the acceptable development provisions of the Residential Design Guidelines Clause 3.7.8.3 A4.1, however, as these areas are behind the dwelling they do not detract from the main roof. This could be considered an acceptable variation as the alfresco roof complement the more traditional roof forms of surrounding development in the immediate locality in accordance with Performance Criteria Clause 3.7.8.3 P4.

Conclusion

Given that all the required variations are relatively minor in nature and have minimal impacts on the neighbouring properties and the streetscape, it is recommended that the proposed development be supported.

The variations as stated above are considered acceptable and the development application is recommended for approval subject to conditions.

- *Mr Adrian Grose (Applicant) addressed the Committee and noted the discrepancy of the CDAC recommendations from the planning report regarding the design outcomes of the residential dwellings. He supported the Officer's report. Mr Grose addressed the heritage character of the street, noting the dwellings have been designed to be sympathetic to the street without trying to replicate heritage.*

11.3 OFFICER RECOMMENDATION

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

House A

- Clause 5.1.3 – Residential Design Codes – Western Lot Boundary Setback – 1.1m required, 1.0m setback provided;
- Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – Main Roof – 28 to 36 degrees required, 22 degrees provided;
- Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch - Alfresco – 28 to 36 degrees required, 0 degrees provided
- Clause 3.7.11.5 – Residential Design Guidelines – Fences – Front Fence – 1.8m required, 1m to 2.2m provided

House B

- Clause 5.1.3 – Residential Design Codes – Southern Lot Boundary Setback – 1m required , 0.9m provided;
- Clause 5.1.3 – Residential Design Code – Northern Lot Boundary Setback – 1.8m required – 1.5m provided;
- Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – Main Roof – 28 to 36 degrees required, 22 degrees provided;
- Clause 3.7.8.3 – Residential design Guidelines – Roof Pitch - Alfresco – 28 to 36 degrees required, 0 degrees provided

for two new two storey dwellings at No. 35 Allen Street, East Fremantle, in accordance with the plans date stamped received 7, 28 & 29 May 2019, subject to the following conditions:

- (1) If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (2) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (3) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

- (4) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (5) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (6) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (7) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (8) Visual screening to a minimum height of 1.6m above the finished floor level of the second storey of "House B" is to be installed along the full length of the northern edge of the balcony.
- (9) All fencing and gates are to have 60% visual permeability and be constructed in accordance with the approved plans.
- (10) This planning approval is to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

11.3 PROCEDURAL MOTION/COUNCIL RESOLUTION 010719

Moved Cr Harrington, seconded Mayor O'Neill

That this matter be deferred to the August Town Planning Committee meeting to allow the applicant to reconsider the front façade design and streetscape appearance of House A. The design to consider the significance of the street relating to heritage/character appropriate design relating to the number of character heritage listed properties on the street. The applicant to consider a more appropriate sympathetic heritage design or contemporary dwelling design, with specific attention to material, texture, finish, roof pitch and articulation.

(CARRIED UNANIMOUSLY)

Note:

As the Executive Manager Regulatory Services supported the alternative motion and 4 Committee members voted in favour, pursuant to Council's decision regarding delegated decision making made on 19 March 2019 this application deemed determined, on behalf of Council, under delegated authority.

11.6 View Terrace No 60 (Lot 86) Proposed alterations and additions

Owner	Mike Milton
Applicant	Kensington Design Australia Pty Ltd
File ref	P044/19; VIE60
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	2 July 2019
Voting requirements	Simple Majority
Documents tabled	Nil

Purpose

This report considers a planning application for alterations and additions to an existing dwelling at No 60 (Lot 86) View Terrace, East Fremantle.

Executive Summary

The applicant is seeking Council approval for the following variations;

- (i) Side boundary setback – a pergola is proposed that is located 0.4m from the western side boundary
- (ii) Wall heights- the dwelling is above the maximum permissible wall height of 5.6m.

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

Background

Zoning: Residential R12.5

Site area: 1062m²

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

Nil

Consultation

Advertising

The application was advertised to surrounding land owners 31 May to 17 June 2019. One submissions was received.

Submission	Applicant Response	Officer Response
1. I wish to object to the proposed development. The second storey extension will overlook directly into our backyard and into the windows of our house including bathrooms and bedrooms. This will have a significant impact on our privacy. In addition the noise from the balcony will negatively impact our peace and	Further to your advice regarding the submission received, we respond with our comments as follows: <ul style="list-style-type: none"> • The proposal meets the Deemed-to-Comply requirements of the R-Codes for all aspects of visual privacy and overlooking. • The proposed additions are located on the site with generous setbacks to 	The proposed development complies with the requirements of the Residential Design Codes with regards to the setbacks from the rear boundary and privacy provisions. The balcony is setback 16m from the rear boundary well in excess of the minimum privacy setback of 7.5m required for unenclosed outdoor active habitable spaces. There is an additional 20m separation to the swimming pool in the property of the submitter and 17m to the rear of the existing dwelling. The separation distance between the balcony

<p>quality of life. We spend much of our family life in our backyard.</p>	<p>minimise impacts on adjoining properties.</p> <ul style="list-style-type: none"> All boundary setbacks are significantly greater than the minimum required to meet the Deemed-to Comply requirements of the R-Codes. <p>In regard to concern about potential noise from the balcony, it is worth noting that the houses on the adjoining lots each side of the subject site both have upper floor balconies. In any event, notwithstanding that the impact of noise is not a planning consideration, the proposed balcony is located off the Master Bedroom and is not the primary outdoor living space.</p> <p>While we trust these comments are a sufficient rebuttal to the objections received, please advise if you have any queries or require additional information in regard to the proposal.</p>	<p>and these areas is between 33m and 36m. If an applicant has a design that is compliant with the requirements of the Residential Design Code and the Residential Design Guidelines then there is no reason to refuse the proposal.</p> <p>It is not possible to know what sound levels will be produced in the rear yard of a property until the residents occupy the dwelling, however just as the submitter has the right to utilise their rear yard so too do the residents of the subject property. Noise is not a valid planning consideration in this instance.</p>
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Community Design Advisory Committee (CDAC)

The application was not referred to CDAC. There are no streetscape impacts from the proposed development.

External Consultation

Nil

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

Policy Implications

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

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the proposed development	Possible (3)	Minor (2)	Moderate (5-9)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

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

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

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

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	-	-	N/A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
<u>West pergola</u>	1m	0.4m	D
<u>West scullery and laundry</u>	1.1m	3.7m	A
<u>East living area</u>	3.8m	6m	A

North rear deck	6m	16.2m	A
Open Space	55%	75%	A
Wall height	5.6m	6.1m	D
Roof height	8.1m	8.1m	A
Setback of Garage	-	-	N/A
Primary street setback	-	-	N/A
Car Parking	2	2	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	≤25%	-	N/A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

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

Heritage

The subject property is not on the heritage list but is a Category C building on the Heritage Inventory. The existing dwelling is being retained with the alterations and additions being undertaken at the rear of this property.

Lot Boundary Setback

The proposed development does not comply with the deemed to comply requirements of provision 5.1.3 C3.2 i of the Residential Design Codes for the side boundary setback for the pergola. The pergola is located 0.4m from the western side boundary where there is a requirement for a setback of 1m. The pergola is partially shielded by the boundary wall adjacent to the structure. In accordance with the design principles 5.1.3 P3.2 structures may be built up to side boundaries if it allows for more effective use of space for enhanced privacy, does not have an adverse impact on the amenity of the adjoining property, reduces the impact of building bulk on adjoining properties, does not compromise sunlight or ventilation to the building and open spaces on this site or the adjoining site and minimises the extent of overlooking and loss of privacy on adjoining properties. In this case these design principles are achieved and the variation can be supported.

Wall Height

The dwelling is non-compliant with the Residential Design Guidelines Clause 3.7.17.4.1.3 A1.4. The proposed dwelling exceeds the maximum wall height of 5.6m in 2 sections- on the western and eastern sides to the rear of the structure (upper storey master bedroom) the wall rises to 6.1m. It is a minor variation and does not affect sunlight into buildings, open spaces, habitable rooms or views. The section of the wall that is non-compliant is directly below roofing which rises to the maximum height of 8.1m and as such the total height and bulk of the building remains unchanged and is compliant from a maximum building height perspective. It achieves the performance criteria of this clause (Clause 3.7.17.4.1.3 P1) as the proposed alterations and additions are compatible with the bulk and scale of traditional development in the immediate locality. The design follows the slope of the site and as a result much of the building bulk is hidden from the front streetscape. Based on these reasons this variation can be supported.

Conclusion

The proposed alterations and additions have a relatively small impact on the neighbouring properties and genuine attempts have been made by the applicant to ensure that the proposed development is almost fully compliant with the both the Residential Design Codes and the Residential Design Guidelines and there is minimal heritage impact.

The variations as stated above are considered acceptable and the development application is recommended for approval subject to conditions.

- *Mr Hugh Whettters (Applicant) addressed the meeting to note the level of co-operation and good work achieved by the Planning Department of the Town.*

11.6 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP020719

Moved Cr White, seconded Cr Nardi

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

- (i) Clause 5.1.3 – Residential Design Code – Lot Boundary Setbacks – 1m required, 0.4m provided and**
- (ii) Clause 3.7.17.4.1.3 – Residential Design Guidelines – Wall Height – 5.6m required, 6.1m provided**

for additions and alterations at No. 60 (Lot 86) View Terrace, East Fremantle, in accordance with the plans date stamped received 24 May 2019, subject to the following conditions:

- (1) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- (2) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- (3) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- (4) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**

- (5) If requested by Council within the first two years following installation, the roofing is to be treated to reduce reflectivity. The treatment is to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (6) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (7) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (8) Any proposed new fencing or walls along the front boundary will require the submission of a development application for Council's consideration. All fencing and walls are required to be in compliance with the Residential Design Guidelines in terms of materials, dimensions and visual permeability as well as truncations and sightlines where the fence or wall meets the vehicle driveway.
- (9) This planning approval is to remain valid for a period of 24 months from date of this approval.

Footnote

The following is not a condition but a note of advice to the applicant/owner:

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

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 March 2019 this application deemed determined, on behalf of Council, under delegated authority.

11.1 Petra Street, No. 55 (Lot 1) – Additions and Alterations to a Grouped Dwelling, including a Second Storey

Owner	D & L Hackett
Applicant	John Chisholm Design
File Ref	P/PET55; P070/2018
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	2 July 2019
Voting requirements	Simple Majority
Documents tabled	Nil

Purpose

This report considers a development application for additions and alterations to a heritage listed grouped dwelling, including a second storey.

Executive Summary

The development approval application proposes additions and alterations to the existing grouped dwelling which is a category B heritage listed property.

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

- Lot boundary setback (south);
- Building wall height;
- Second storey setback;
- Overshadowing; and
- Heritage.

The second storey addition comprises a master bedroom and ensuite and is positioned to the rear of the dwelling. The other additions are mostly on the ground floor and involve internal alterations and some minor changes to the exterior rear and sides of the residence. The non-compliance with the Residential Design Guidelines is considered supportable as the additions and alterations are not considered to contribute to undue scale and bulk or overshadowing in respect to the impact on adjoining residences and the streetscape. The heritage elements and character of the existing dwelling are also considered to be maintained and the proposal is not considered to have a detrimental impact on residential amenity. The proposal is therefore recommended for approval subject to conditions relating to construction materials, colours and details and the retention and protection of the existing chimneys.

Background

Zoning LPS No. 3: Residential R12.5
Site area: 455m² (street front strata lot)

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

Nil in respect to this application.

Consultation

Advertising

The proposed application was advertised to impacted land owners from 17 to 31 May 2019. No submissions were received:

The other strata owner has agreed to the proposal and endorsed the plans in a letter dated 1 May 2019.

Community Design Advisory Committee

The initial application for this proposal was received in 2018. At that time it was referred to the CDAC meeting of 27 August 2018. Members of the Committee made the following comments.

(a) The overall built form merits;

- Committee commented that the proposal does not take into account the significance and character of the existing building.
- Committee is not supportive of the proposed change to the roofline.
- The Committee do not support the development as a whole as it was deemed not to contribute to the existing architecture and does not comply with the Residential Design Guidelines in respect to position of bulk and scale of upper storey.

(b) The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;

- Committee commented that there is no separation of the heritage dwelling and addition. Additions should contrast visually with the existing dwelling.

(c) The relationship with and impact on the broader public realm and streetscape;

- The Committee did not believe the proposal would ensure the building's contribution to the streetscape is maintained.
- The existing dwelling will not remain the dominant element when viewed from the street.

(d) The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;

- The Committee determined that the proposal was not respectful of the heritage elements and characteristics listed in the Place Record Form (Municipal Inventory).

(e) The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;

- No comment.

(f) The demonstration of other qualities of best practice urban design including "Crime Prevention" Through Environmental Design performance, protection of important view corridors and lively civic places.

- No comment.

Applicant response

The significance of the existing building has been paramount in the design of this proposal. From the outset and at all times throughout the design process, it has been reinforced to the owners that the proposal must stay behind the existing ridge line and not be allowed to encroach, alter or interfere with the existing ridge.

It is clear from the street photomontage images provided that the proposal:

- (a) Does not interfere with the existing ridge;*
- (b) Does not encroach on the existing roof form; and*
- (c) Respects the existing character home by not interfering with any element forward of the existing ridgeline and protects and maintains the existing chimneys. The existing home stands in its own right with regards to street presentation.*

The proposal appears to sit well in the street scape, indeed it is not highly visible from the south east street view. It is completely hidden from view from the east and sits in a similar scale to the northern adjoining property when viewed from the north east.

With respect to compliance with the R-Codes, I believe this does comply with respect to bulk and scale.

The proposal is physically separated from the existing building by maintaining a respectful distance behind the existing ridge and uses timber weatherboards as a cladding material, incomplete contrast to the existing tuck pointed brickwork.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

LPS 3 Heritage List – Category B

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016

Municipal Inventory – Federation Bungalow c1915

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

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

4.1.2 Plan for improved streetscapes parks and reserves.

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the proposed development	Unlikely (2)	Moderate (3)	Moderate (5-9)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

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

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance,

reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

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

Site Inspection

June 2019

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	7.5m	As existing	A
Lot Boundary Setback	North (upper) – 1.2m	North (upper) – 4.65 m	A
	North (ground) – 1.5m	North (ground) – 1.582m	A
	South (upper) – 3.5m	South (upper) – 7.8m	A
	South (ground) – 1.5m	South (ground) – 1.02m	D
	East (rear) – 1.2m	East (rear) – 4.6m	A
Building wall height	6.0m	6.4m	D
Open Space	55%	No change to existing	A
Outdoor Living	30m ²	As existing	A
Car Parking	2	As existing	A
Site Works	Less than 500mm	As existing	A
Overshadowing	≤25%	~1.8%	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

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

3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.18.3 Garages and Carports	N/A
3.7.15.4.1 Building Height Form Scale and Bulk – wall height and second storey setback	D
3.7.15-20 Precinct Requirements	A

There are three variations from the R-Codes and the Residential Design Guidelines which are discussed below.

Lot Boundary Setback

The southern wall contains a minor incursion into the setback area. The majority of the existing wall is compliant being setback the required 1.5 metres. The exception being the proposed fireplace which is set back at 1.02 metres. This is not considered to have a detrimental impact on the adjoining property or streetscape given there is ample separation between dwellings, including an access driveway to the rear battle-axe lot. The protrusion is minor and the setback is greater than 20 metres from the front boundary.

Building wall height

The non-compliance with building wall height is required so upper and lower floor to ceiling heights are complementary (required: 6.0m and provided: 6.4m). This is considered not to be a substantial variation and does not contribute to the scale and bulk of the dwelling as the proposed upper storey addition is compliant with the overall building height for the precinct and there is no impact on views. This variation is therefore supported.

Second storey setback

The variation from the Residential Design Guidelines provision which states that the second storey is to be setback so that the roof line is below the line of sight of a person on the opposite side of the primary street is considered supportable given the site circumstances. The second storey will be partly visible from the opposite side of the street due to the hipped and gabled roof of the original cottage. Part of the second storey is visible toward the northern end of the roof beyond the gable end. However, this is considered supportable on the basis that the second storey is setback as far as is possible in keeping with the ground floor layout and does not encroach on the primary roof ridgeline or interfere with the two existing chimneys. The building is also well within the maximum building height limits for the Precinct. The Performance Criteria is considered to be achieved in that the bulk and scale is considered compatible with traditional development in the Woodside Precinct.

Overshadowing

There appears to be some inaccuracies in the overshadowing diagram in that it demonstrates more overshadowing than would actually be the case. In any case, the degree of overshadowing of the lot to the south does not exceed that permitted under the R-Codes and is mostly over the battle-axe lot access leg so has minimal impact on the adjoining lot.

Heritage

The site is classified category B under the Municipal Inventory. The Town's assessment of the proposal supports the applicant's response that the proposal (as outlined in the amended plans) does not interfere with the existing ridge, roof form nor the chimneys. The second storey element is forward of the existing ridgeline and protects and maintains the existing chimneys. The existing dwelling retains its presence with regard to street presentation.

The proposal appears to 'sit' well in the streetscape, as it is not highly visible from the opposite side of the street and is considered to be similar in scale to the remainder of the street and to the northern adjoining property when viewed from the north east. It is considered to comply with the R-Codes and the Residential Design Guidelines with respect to bulk and scale.

As the applicant states, *"the proposal is physically separated from the existing building by maintaining a respectful distance behind the existing ridge line and uses timber weatherboards as a cladding material, in complete contrast to the existing tuck pointed brickwork"*.

Conclusion

The application is supported, notwithstanding the variations, on the basis that the applicant has retained the cottage and minimised the impact of the second storey addition. The cottage will still maintain a low scale presence in the streetscape and the addition is considered to respect the heritage character of the Woodside Precinct. The application is therefore recommended for approval subject to conditions relating to construction materials and retention and protection of the chimneys.\

11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP030719

Moved Cr White, seconded Cr Natale

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

- (i) Clause 5.1.3 of the Residential Design Codes of WA to permit a southern lot boundary setback of less than the required 1.5 metres;
- (ii) Clause 3.7.15.4.1.3 (A1.3) of the Residential Design Guidelines to allow the second storey setback to be greater than the line of sight of a person on the opposite side of the primary street; and
- (iii) Clause 3.7.15.4.1.3 (A1.4) of the Residential Design Guidelines to permit a wall height greater than 6.0 metres,

for additions and alterations to a grouped dwelling, including a second storey at No. 55 (Lot 1) Petra Street, East Fremantle, in accordance with the plans date stamped received 3 May 2019, subject to the following conditions:

- (1) The existing chimneys are not to be altered or removed and are to be protected, to the satisfaction of the Chief Executive Officer, during the construction phase.
- (2) Details of construction materials, colours and finishes to the satisfaction of the Chief Executive Officer to be submitted at Building Permit application stage.
- (3) If requested by Council within the first two years following installation, the Colourbond roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (4) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (5) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (6) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.

- (7) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (8) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (9) Prior to the commencement of any works on site, the applicant to notify affected adjoining landowners of intended commencement date.
- (10) This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 March 2019 this application deemed determined, on behalf of Council, under delegated authority.

11.2 Canning Highway No 133 (Lot 3219) Proposed Signage

Owner	Town of East Fremantle
Applicant	The Head Office of More
File ref	P035/19; CAN133
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	2 July 2019
Voting requirements	Simple Majority
Documents tabled	Nil

Purpose

This report considers a planning application for signage at No 133 (Lot 3219) Canning Highway, East Fremantle.

Executive Summary

The applicant is seeking Council approval for signage in accordance with the Signage Design Guidelines - Local Planning Policy 3.1.3.

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

Background

Zoning: Town Centre

Site area: 1669m²

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

Nil

Consultation

Advertising

The application was not advertised.

Community Design Advisory Committee (CDAC)

The application was referred to CDAC.

(a) The overall built form merits;

- The Committee have no significant concerns relating to the proposal.
- The Committee are supportive of the signage proposal.

(b) The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development.

- No comment.

(c) The relationship with and impact on the broader public realm and streetscape;

- No comment.

(d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*

- No comment.

(e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*

- No comment.

(f) *The demonstration of other qualities of best practice urban design including “Crime Prevention Through Environmental Design” performance, protection of important view corridors and lively civic places;*

- No comment

Officer Response

Noted

External Consultation

The proposed signage was referred to the Heritage Council of Western Australia and Main Roads Western Australia.

Heritage Council

The proposed development was supported. The aesthetic impact of the signage was considered a minor detraction from the setting of the place. As it is setback from the corner of the street frontage there is minimal impact on identified cultural significance. The colour palette matches the colour scheme of the verandah. The contribution of the Police Station within the Public Buildings group streetscape remains intact.

Officer Response

Noted.

Main Roads Western Australia

Advice was received that stated;

Main Roads has no objections subject to the following:

Conditions

1. If the sign is illuminated, it must be of a low-level not exceeding 300cd/m² during the hours of night, and not flash, pulsate or chase during all hours
2. The device shall not contain fluorescent, reflective or retro reflective colours or materials.
3. Main Roads agreement is to be obtained prior to any future modifications.

Advice Notes:

Further to condition 1, “Night” has the same definition as that defined in s3 pursuant to the Road Traffic (Vehicles) Act 2012.

“Night means the period between sunset on one day and sunrise on the next day.”

Officer Response

The conditions and advice will be included in the recommendation attached to this report.

Statutory Environment

Planning and Development Act 2005

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

Policy Implications

Signage Design Guidelines - Local Planning Policy 3.1.3

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the proposed development	Unlikely (2)	Minor (2)	Low (1-4)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

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

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

Risk Rating	4
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

A site inspection was undertaken.

Comment

Heritage

The subject property is a Category A building on the Town's heritage list and heritage inventory. It is also listed on the State Heritage register. The proposed signage was referred to the Heritage Council as part

of the assessment process. Comments from the Heritage Council were supportive of the proposed signage and are noted above.

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Signage Design Guidelines - Local Planning Policy 3.1.3.

The table below lists the requirements of the Signage Design Guidelines, as well as the details of the proposed sign and whether the proposed sign complies with these requirements.

Signage Guidelines - Alternative Performance Criteria	Proposed Sign	Complies or Not
Height - 5m maximum	3.042m	Complies
Area per side - 6m ² maximum	3.3m ²	Complies
Identical on both sides	Identical on both sides	Complies
Depth - 0.3m maximum	0.1m	Complies
Number of signs - maximum of 1 per site	1	Complies
Illumination - may be illuminated	Not illuminated	Complies

A single pylon sign is proposed that is 3.042m high, 1.1m wide and 0.1m deep with a total surface area less than 3.3m². It is located in the front yard of the subject property approximately 1m from the front and side boundaries. It is identical on both sides and not illuminated.

When the proposed sign is compared to the criteria laid down in the Signage Guidelines it is fully compliant. Total height is less than 5m, total area of the sign is less than 6m², both sides of the sign are identical, it is less than 300mm deep, only one sign is proposed and it is not illuminated.

In accordance with the Signage Guidelines pylon signs are assessed against the alternative performance criteria. The sign meets the criteria laid down in this document. As such the proposed development can be supported.

Conclusion

The development application is recommended for approval subject to conditions.

11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP040719

Moved Cr Harrington, seconded Cr Natale

That Council grant development approval for signage at No. 133 (Lot 3219) Canning Highway, East Fremantle, in accordance with the plans date stamped received 4 May 2019, subject to the following conditions:

- (1) All signage proposed being in accordance with the correspondence, elevations and accompanying notations and plans in regard to signage dimensions, wording, materials and graphics submitted with the application and date stamped received 4 May 2019 and subject to compliance with Main Roads WA conditions of approval other than where varied by Council and in compliance with conditions of this approval.**
- (2) Any change to the type, design, location or illumination of the signage regime shall be the subject of a further development approval application for the consideration of Council.**
- (3) All signage to be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours to the satisfaction of the Chief Executive Officer.**

- (4) No other unauthorised signage is to be displayed. Additional signage will require the submission of a development application for the consideration of Council.
- (5) If the sign is illuminated, it must be of a low-level not exceeding 300cd/m² during the hours of night, and not flash, pulsate or chase during all hours
- (6) The device shall not contain fluorescent, reflective or retro reflective colours or materials.
- (7) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (8) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (9) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (10) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (11) This planning approval is to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (iii) *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).*
- (iv) *"Night" has the same definition as that defined in s3 pursuant to the Road Traffic (Vehicles) Act 2012. "Night means the period between sunset on one day and sunrise on the next day."*

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 March 2019, this application deemed determined, on behalf of Council, under delegated authority.

11.4 Duke Street No. 19 (Lot 52) – Subsequent Approval of Development for a Front Fence and Retaining Wall

Applicant/Owner	P Galipo
File reference	P/DUK19
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	2 July 2019
Voting requirements	Simple Majority
Documents tabled	Nil

Purpose

This report considers an application for a subsequent approval of development for a retaining wall and front fence at No. 19 Duke Street, East Fremantle.

Executive Summary

A two storey single dwelling has been constructed on the site in accordance with a previously granted planning approval (issued in 2016), with the exception of a retaining wall and front fence which were not part of the original planning approval. A condition of planning approval required construction of these structures to be in compliance with the relevant Council policy and the R-Codes. In addition, an application for a planning approval was required to be submitted. However, the owner of the site sought a building permit for construction of the dwelling and included the retaining wall and the front fence in the building permit plans without seeking planning approval. These plans were not in accordance with the conditions of planning approval, so the owner was requested to submit an application for subsequent approval of the structures.

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

- Non-compliance with the Residential Design Guidelines – front fence height (overall and solid section greater than permitted at 1.8m and 1.2m respectively) and visual permeability (less than 60%);
- Site works (greater than 0.5m permitted);
- Retaining walls (greater than 0.5m permitted);
- impact on amenity and streetscape;
- impact on vehicle, pedestrian and road safety; and
- impact of Stirling Highway.

The owner has also undertaken works on the verge in the form of widening the crossover, paving the verge for parking and building a raised border for a garden bed. The Town's Operations Manager has inspected the already constructed paving and landscaping and considers the works acceptable subject to conditions of maintenance which have been conveyed to the owner by the Operations Manager.

The matter of the retaining wall and front fence is more problematic because it is a substantial structure which has already been constructed. Demolition of the wall is not considered a feasible solution. However, a wall of this height and solidness does not comply with the 'Acceptable Development Provisions' of the Residential Design Guidelines and would not have been approved in its current format. Therefore, discussions with the owner have centred on how to reduce the visual impact and prominence of the wall. The planting of mature trees in front of the retaining wall was considered to be the most

workable solution. The owner has agreed and submitted a set of plans seeking subsequent approval for the retaining wall and front fence, including a landscaping plan which is acceptable to the Town.

Subsequent approval of development for the retaining wall and front fence is therefore supported and approval in respect to variations from the R-Codes for site works and retaining walls is recommended subject to the conditions relating to the number and size of the trees to be planted and their long term maintenance.

Background

Zoning: Residential R20

Site area: 432m²

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

6 December 2016 – Council approval granted for the construction of a two storey single dwelling subject to the following condition:

“All fencing along the street front and within the street setback area to be in compliance with the Residential Design Guidelines 2016 and in compliance with the Australian Standards in respect to sight lines where boundary fencing meets the street front property boundary.”

It is noted the owner has also undertaken works on the verge in the form of paving to allow for an additional vehicle to be parked adjacent to the crossover. The Town’s Operations and Planning Managers have inspected the site and have agreed that the work is acceptable and will provide for a safer parking arrangement at this point on the curve of Duke Street. The Town has received correspondence relating to traffic movements on the corner and there has been concern raised regarding the parking. The off-street parking in this instance improves the safety on Duke Street.

Consultation

Advertising

The proposed application was advertised to surrounding land owners from 17 May to 7 June 2019. No submissions were received.

Community Design Advisory Committee

The application was referred to the Advisory Committee on the 27 May 2019. The following comments were noted.

- (a) *The overall built form merits;*
- The Committee are not supportive of the development as constructed.
 - The Committee have concerns that the bulk, scale and height of the wall/ retaining and the bland architectural design are not suitable. The wall/retaining wall would facilitate opportunities for graffiti and other anti-social behaviours due to a poor interaction with the streetscape.
 - The Committee note the non-compliant wall needs to be articulated with suitable colours and materials and visually permeable. The Panel do note the location of the property and potential for noise but consider the structure unsuitable to the area.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development.*
- No further comment at this time.

- (c) *The relationship with and impact on the broader public realm and streetscape;*
- The Committee comment that the proposal does not suit the character of the streetscape and immediate locality.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- As noted above.
- (e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*
- No further comment at this time.
- (f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;*
- The Committee deem that the development offers limited potential for passive surveillance. The wall should have some articulation and visual surveillance.

Given the wall has been constructed and the proximity of Stirling Highway has a significant impact on the amenity of the lot the Officer recommendation is for the wall not to be demolished or altered, but for subsequent approval of development to be granted and other amelioration works to be undertaken as discussed further in the Report. Allowing the wall to remain as is, allows for the northern portion of the site to be used for its intended purpose of outdoor living and open space. As this a small lot of 432m² the amenity of the outdoor living area is important.

Statutory Environment

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

Policy Implications

*Residential Design Guidelines 2016
Fremantle Port Buffer Zone - Area 2*

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

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

3.3.1 Continue to improve asset management practices.

3.3.2 Optimal management of assets within resource capabilities.

3.3.3 Plan and advocate for improved access and connectivity.

Natural Environment

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

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

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

4.1.2 Plan for improved streetscapes parks and reserves.

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the proposed development	Unlikely (2)	Moderate (3)	Moderate (5-9)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

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

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

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

Site Inspection

June 2019

Comment

Statutory Assessment

Subsequent approval of development

The retaining wall and front fence were constructed along the northern-most end of the Duke Street frontage without planning approval. One of the conditions of planning approval for the single dwelling specified that:

"All fencing along the street front and within the street setback area to be in compliance with the Residential Design Guidelines 2016 and in compliance with the Australian Standards in respect to sight lines where boundary fencing meets the street front property boundary."

During the construction of the single dwelling the retaining wall and front fence were built. It was at this time it came to the Town's attention that the wall and fence did not have approval. Furthermore, the structure was not in compliance with Council policy regarding front fencing. The Planning and Operations Managers subsequently held an on-site meeting with the owner to discuss how the impact of the non-complying retaining wall and fence could be ameliorated without requiring demolition of what is a substantial solid masonry structure (18.8m in length X 3.15m in height). The owner was requested to submit an application for subsequent approval for the wall and fence with plans indicating landscaping of the road verge as required by the Town.

The plans were subsequently submitted indicating the planting of four mature fruitless olive trees. For the trees to have immediate effect in ameliorating the height and scale of the wall and fence they need to be of a certain height so they screen and soften a substantial area of the structure. This was agreed to by the owner and it is therefore recommended that this requirement be specified in a condition of the subsequent approval of development.

It is also recommended that a number of other conditions be applied in relation to the timeframe for planting, the long term care and maintenance of the trees and their replacement should they die. Given they will be located on the road verge and not on private land it is important that the Town be satisfied with their positioning and irrigation and to this end the Operations Manager is to be contacted prior to planting occurring.

Site works and retaining

The non-compliance with site works and retaining wall provisions is a technical non-compliance. The already approved fill on the site was required to level the site for the construction of the dwelling and resulted partially from works undertaken by neighbouring properties. The amount of fill is greater than the 0.5 metres permitted within the street setback area under the R-Codes. The final ground levels are between 1.15 metres and 1.495 metres higher than natural ground level. The retaining wall is therefore higher than 0.5 metres, less than 1.0 metre from the boundary as is required under the R-Codes. It is therefore recommended that the variations be supported.

Amenity

Whilst a wall of this height and scale is not compliant with Council policy and in other circumstances would be unlikely to be approved, in this circumstance it is considered acceptable. It improves the amenity of the lot in respect to the use and enjoyment of the outdoor area and the livability of the dwelling in general by mitigating the impacts of traffic noise from Stirling Highway and increasing privacy. A condition regarding graffiti and vandalism is also recommended due to the length and height of the wall.

Conclusion

The application for subsequent approval of development for a retaining wall and front fence which is not in compliance with the Residential Design Guidelines (fronting fencing provisions) is supported subject to conditions related to landscaping of the road verge with mature trees to ameliorate the scale and height of the fence. The non-compliance with site works (fill) and retaining of the fill under the R-Codes is a technical non-compliance as the ground level has already been approved under the planning approval granted for the construction of the single dwelling. As such there is no objection to the approval of the site works and retaining wall or the front fence

11.4 OFFICER RECOMMENDATION

That Council grants subsequent approval of development and exercises discretion in regard to:

- (i) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to allow fill greater than 0.5 metres behind a street setback line and within 1.0 metre of a lot boundary;
- (ii) Clause 5.3.8 – Retaining Walls of the Residential Design Codes of WA to permit a retaining wall greater than 0.5 metres in height less than 1.0 metre from the lot boundary; and
- (iii) Clause 3.7.11.5 – Front Fences of the Residential Design Guidelines 2016 to allow a front fence which is less than 60% visually permeable above 1.2 metres in height and is over 1.8 metres in overall height in the front setback area;

for a retaining wall and front fence at No. 19 (Lot 52) Duke Street, East Fremantle as indicated on plans date stamped received 16 May 2019 subject to the following conditions:

- (1) The planting of four (4) mature fruitless olive trees with a pot volume (root ball) of at least 200 litres and/or each tree being three (3.0) metres in height, whichever is the larger tree, in the locations shown on the verge works plan date stamped received 14 May 2019.
- (2) The trees are not to be planted until the Town's Operation's Manager has been contacted and a site visit arranged and it is confirmed by the Operation's Manager that the trees to be planted on-site are the correct pot volume/height and species and are to be planted in the preferred locations.
- (3) Prior to the commencement of any landscaping works on site, the owner is to notify affected adjoining land owners of the intended commencement date.
- (4) The trees to be reticulated and maintained in a healthy condition and pruned as required for a period of two (2) years to the satisfaction of the Operations Manager.

- (5) Should any one (1) or more of the trees die within two (2) years they are to be immediately replaced with the same species and height/size of tree as specified in condition 1. There are to be no less than four (4) trees planted on the verge at any one time.
- (6) All four (4) trees are to be planted prior to occupation of the dwelling.
- (7) The wall to be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours to the satisfaction of the Chief Executive Officer.
- (8) The works in regard to the retaining wall and front fence are to be constructed in conformity with the drawings and written information accompanying the application for subsequent approval.
- (9) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (10) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (11) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

Footnote:

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

- (i) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site;
- (ii) a copy of the approved plans as stamped by Council are attached and the development is to conform with the approved plans unless otherwise approved by Council; and
- (iii) matters relating to dividing fences are subject to the Dividing Fences Act 1961.

*Moved Cr Nardi, seconded Mayor O'Neill
The adoption of the officer's recommendation.*

Amendment

Moved Cr White, seconded Cr Harrington

That this matter be deferred to the August Town Planning Committee meeting to allow the applicant to reconsider the front fence finish with specific attention to material, texture, colour and articulation.

(CARRIED UNANIMOUSLY)

11.4 SUBSTANTIVE MOTION/COMMITTEE RESOLUTION TP050719

Moved Cr Nardi, seconded Mayor O'Neill

That this matter be deferred to the August Town Planning Committee meeting to allow the applicant to reconsider the front fence finish with specific attention to material, texture, colour and articulation.

(CARRIED UNANIMOUSLY)

Note:

As the Executive Manager Regulatory Services supported the alternative motion and 4 Committee members voted in favour, pursuant to Council's decision regarding delegated decision making made on 19 March 2019 this application deemed determined, on behalf of Council, under delegated authority.

11.5 View Terrace No 65B (Lot 1) Proposed patio

Owner	Stjepan Hlevnjak
Applicant	Outdoor World Wangara
File ref	P038/19; VIE65B
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	2 July 2019
Voting requirements	Simple Majority
Documents tabled	Nil

Purpose

This report considers a planning application for a new patio at No 65B (Lot 1) View Terrace, East Fremantle.

Executive Summary

The applicant is seeking Council approval for the following variations;

- (i) Side and rear boundary setbacks- the proposed structure is to be built to the boundary for the total length of the side and rear boundaries behind the existing dwelling
- (ii) Open space- the open space falls to 30% of the site area where 55% is required by the R Codes
- (iii) Outdoor Living Area- the entire back yard is proposed to be covered by the structure where 2/3 of the area should be uncovered as required by the R Codes
- (iv) Roof Pitch- flat roof structure where 28 to 36 degrees roof pitch is required by the Residential Design Guidelines.

Background

Zoning: Residential R12.5

Site area: 445m²

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

P068/16- approval given for a two storey dwelling

Consultation

Advertising

The application was advertised to surrounding land owners from 24 May to 7 June 2019. Two submissions were received.

A neighbouring property was in support of the proposed development. No reasons were given. Another neighbouring property complained that the structure was too close to the side boundary and the structure would visually dominate or obstruct views from the adjacent property.

Applicant Response

Nil

Officer Response

Noted

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC. There are no impacts on the streetscape immediately in front of the subject property.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

Policy Implications

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

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

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

3.1.2 Plan for a mix of inclusive diversified housing options.

3.2 Maintaining and enhancing the Town's character.

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

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

3.3.1 Continue to improve asset management practices.

3.3.2 Optimal management of assets within resource capabilities.

3.3.3 Plan and advocate for improved access and connectivity.

Natural Environment

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

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

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

4.1.2 Plan for improved streetscapes parks and reserves.

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council approves the proposed development	Unlikely (2)	Minor (2)	Low (1-4)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

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

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

Risk Rating	4
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	-	-	N/A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
South	1m	0m	D
East	1m	0m	D
West	1m	0m	D
Open Space	50%	30%	D
Building Height			
Wall height	6m	3m	A
Roof height	9m	3m	A
Setback of Carport	-	-	N/A
Primary street setback	-	-	N/A
Car Parking	-	-	N/A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	≤25%	5%	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

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

Comment

This development application proposes a patio at the subject property. The reason that the development is described as a patio and not a pergola is because the structure is enclosed as described in the plans. One variation is requested to the requirements of the Residential Design Guidelines and five variations are requested to the requirements of the Residential Design Codes.

Side and Rear Boundary Setbacks

The structure is located adjacent to the southern, eastern and western boundaries. As such it does not achieve the deemed to comply setback requirements of Clause C3.1 i. of the Residential Design Code. The structure is enclosed by the western, eastern and southern boundary fences. There are concerns from one of the submitters that the structure will have serious impact on the views they have of trees from their boundary due to the proximity and height of the structure directly adjacent to the dividing fence.

Open Space

The addition of the patio in the rear yard of this property would significantly compromise the open space provision under the deemed to comply requirements of Clause 5.1.4 of the R Codes. The previously approved dwelling reduced open space to 51% of the property. This was considered acceptable as the lot was previously subdivided to R20 standards and the minimum required open space under this density coding is 50%, but given that the density coding in the area is now R12.5 the open space requirement is 55%. The proposed patio would reduce the open space to 30% if the remaining area that is uncovered and the area under the alfresco is included in the open space calculations. It does not achieve a number of design principles. It does not aid in reducing building bulk on the site consistent with the density coding and the local planning framework- by covering the whole rear yard and building up to 3m in height above site levels adjacent to the northern, eastern and western boundaries the proposed structures represent significant bulk on the site.

Outdoor Living Areas

Although there is a significant rear yard with approximately 60m² of area two thirds of the area is required to be uncovered according to the deemed to comply requirements of Clause 5.3 C1.1 of the R Codes. In this case the whole backyard is covered by the proposed structure. Under the design principles Clause 5.3.1 P1.1 the outdoor living area is capable of use in conjunction with a habitable room of the building, however, it is not open as it has a permanent mesh structure that covers the whole roof area. It is required to be unenclosed which is defined in the R codes as "an area bounded on no more than two sides by a permanent wall and covered in a water impermeable material." Although the surface may be water impermeable the structure is enclosed on all sides by the boundaries of the property. The plans state that it is a proposed **flyscreen pool enclosure**.

Roof Pitch

The patio has a flat roof pitch of 0 degrees but is angled off the boundary. This does not comply with the acceptable development provisions of the Residential Design Guidelines Clause 3.7.8.3 which requires a roof pitch of between 28 and 36 degrees. The roof design adds to the scale and bulk of the structure as experienced by the neighbours.

Orderly and Proper Planning

The proposed development conflicts with a number of aims and objectives of Local Planning Scheme No 3. In particular Clause 1.6 (b); To enhance the character and amenity of the Town and to promote a

sense of place and community identity within each of the precincts of the Town and Clause 4.2; To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of the existing built form.

In addition the proposed development conflicts with the Deemed Provision Clause 67 of the Planning and Development Regulations subclauses:

- (a) the aims and provisions of this Scheme
- (c) any approved State planning policy;
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (n) the amenity of the locality including the following — (ii) the character of the locality;
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (zb) any other planning consideration the local government considers appropriate.

The proposed development fails to adhere to the type of development expected in an area zoned R12.5 where the lots are large and there is considerable separation between dwellings and structures and considerable amounts of open space. The proposed development covers the whole of the rear yard of the property. It represents overdevelopment of the site and is not representative of the type of development that is wanted in a low density residential environment. The proposed development fails to adhere to a number of clauses of the Residential Design Codes (as explained earlier), it is not in keeping with the character of the locality, and a submission was received that was not supportive of the proposal. There is a concern that the approval of this structure will set a precedent for future undesirable overdevelopment of lots in the area. The proposed development is not in the interests of orderly and proper planning in the Town of East Fremantle.

Conclusion

Based on the assessment the proposed variations cannot be supported. The proposed structure reduces the open space requirements and the outdoor living space areas to unacceptable levels and the boundary setbacks create a structure that does not hide its bulk or allow achievement of the minimum open space requirements or open outdoor living areas. It represents overdevelopment on the subject site and does not achieve a number of key requirements as detailed above. On balance the structure would establish a precedent that is unacceptable in an area that has a density coding of R12.5.

The proposed development cannot be supported in its current form. It is recommended that the proposed development be refused.

11.5 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP060719

Moved Cr Nardi , seconded Cr White

That development approval is refused for a patio at No. 65B (Lot 1) View Terrace, East Fremantle, in accordance with the plans date stamped received 10 May 2019 for the following reasons;

- (1) The proposed development does not comply with the Residential Design Codes:**
 - (a) Clause 5.1.3 C3.1 (i) lot boundary setbacks are not achieved in accordance with Table 1 and 2a**
 - (b) Clause 5.1.4 Open Space is not provided in accordance with Table 1**
 - (c) Clause 5.3.1 C1.1 Outdoor living area is not provided in accordance with Table 1**
- (2) The proposed development does not comply with the orderly and proper planning of the area;**
- (3) The proposed development does not comply with the following requirements of the Local Planning Scheme No 3:**
 - (a) The proposed development conflicts with Clause 1.6b Aims of the Scheme;**
 - To enhance the character and amenity of the Town and to promote a sense of place and community identity within each of the precincts of the Town**
 - (b) The proposed development conflicts with Clause 4.2 Objectives of the Zones- Residential Objectives:**
 - To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of the existing built form;**
 - (c) The proposed development conflicts with the provisions of the Town of East Fremantle Local Planning Scheme No 3 – Deemed Provision Clause 67 because it is incompatible with subclauses:**
 - (a) the aims and provisions of this Scheme**
 - (c) any approved State planning policy;**
 - (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;**
 - (n) the amenity of the locality including the following — (ii) the character of the locality;**
 - (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;**
 - (y) any submissions received on the application;**
 - (zb) any other planning consideration the local government considers appropriate.**

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 March 2019 this application deemed determined, on behalf of Council, under delegated authority.

12. REPORTS OF OFFICERS (COUNCIL DECISION)

Nil.

13. MATTERS BEHIND CLOSED DOORS

Nil.

14. CLOSURE OF MEETING

There being no further business, the Presiding Member declared the meeting closed at 7.44 pm

I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 2 July 2019, Minute Book reference 1. to 14. were confirmed at the meeting of the Committee on:

...6 AUGUST 2019.



Presiding Member