



# MINUTES

## Town Planning Committee

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Tuesday, 6 August 2019 at 6.34pm

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MINUTES OF THE ORDINARY MEETING OF THE TOWN PLANNING COMMITTEE HELD IN THE COUNCIL CHAMBER, 135 CANNING HIGHWAY, EAST FREMANTLE ON TUESDAY 6 AUGUST 2019.

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

Presiding member opened the meeting at 6.34 pm and welcomed members of the gallery

**2. ACKNOWLEDGEMENT OF COUNTRY**

*"On behalf of the Council I would like to acknowledge the Whadjuk Nyoongar people as the traditional custodians of the land on which this meeting is taking place and pay my respects to Elders past 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 A Natale	
Cr A White	
Cr D Nardi	
Cr A McPhail (Observer)	

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**

Nil

**4. MEMORANDUM OF OUTSTANDING BUSINESS**

Nil

**5. DISCLOSURES OF INTEREST**

**5.1 Financial**

Nil

**5.2 Proximity**

Nil

**5.3 Impartiality**

Nil

**6. PUBLIC QUESTION TIME**

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

Nil

**6.2 Public Question Time**  
Nil

**7. PRESENTATIONS/DEPUTATIONS**

**7.1 Presentations**  
Nil

**7.2 Deputations**  
Nil

**8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING**

**8.1 Town Planning Committee (2 July 2019)**

**8.1 OFFICER RECOMMENDATION**

Moved Cr Nardi, seconded Cr White

That the minutes of the Town Planning Committee meeting held on Tuesday 2 July 2019 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

**9. ANNOUNCEMENTS BY THE PRESIDING MEMBER**  
Nil

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**10. REPORTS OF COMMITTEES**

**10.1 Community Design Advisory Committee (1 July 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 1 July 2019.

**PURPOSE**

To submit the minutes of the Community Design Advisory Committee meeting held on 1 July 2019 for receipt by the Town Planning Committee.

**EXECUTIVE SUMMARY**

The Committee, at its meeting held on 1 July 2019, provided comment on planning applications listed for consideration at the August Town Planning Committee meeting and other applications to be considered in the future. Comments relating to applications have been replicated and addressed in the individual reports.

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

**10.1 OFFICER RECOMMENDATION**

**Moved Cr White, seconded Cr Natale**

**That the Minutes of the Community Design Advisory Committee meetings held on 1 July 2019 be received.**

(CARRIED UNANIMOUSLY)

**PROCEDURAL MOTION**

**Moved Cr Nardi, seconded Cr Natale**

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

**(CARRIED UNANIMOUSLY)**

**11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)**

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

<b>Owner</b>	Heath and Ruth Tyrrell
<b>Applicant</b>	Code Zed Design
<b>File ref</b>	P036/19; ALL35
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 August 2019
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	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 application was considered by the Town Planning Committee on 2 July. The Committee resolved to defer the application subject to amended plans being submitted. The applicant has made minor design changes to the front façade to address concerns relating to streetscape impacts of the original design.

The applicant is seeking Council approval for the following variations;

House A

- (i) Front fence height – 1.8m required – 1.1m to 2.5m provided

House B

- (ii) Northern lot boundary setback – 1.8m required – 1.5m provided (0.3 metre discretion required)

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 716m<sup>2</sup> Rear lot 734m<sup>2</sup>

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 Lot 501 into one lot of 2,358m<sup>2</sup>. The second stage being the survey strata subdivision into three lots:

- Lot 1 of 893m<sup>2</sup> (existing dwelling on corner);
- Lot 2 being 735m<sup>2</sup> (to the rear but facing Allen Street); and
- Lot 3 730m<sup>2</sup> (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.

<b>Submissions</b>	<b>Applicant Response</b>
<p><b>Submission 1</b> 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 result in the heavy use of potentially noisy air conditioners.</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 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 street, the roof material is the same as three of its immediate neighbours and much of the street, there is a</p>

<p>These houses are poorly designed and don't suit the streetscape of Allen Street.</p>	<p>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><b>Submission 2</b> 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><b>Submission 3</b> 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>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.</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> <p>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.</p>



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.

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 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, and 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 “A-Frame” has a very steep roof forming the side walls. Let’s 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

Officer Response

Based on the Planning Committee deferral comments regarding the design the applicant has submitted amended plans.

*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. Following the deferral comments from the Planning Committee negotiations have been ongoing to ensure that the amended design addresses the concerns of the Committee. The applicant has amended the plans such that there are only 2 variations required to the R Codes and Residential Design Guidelines. The following matters have been addressed;*

- *The roof pitch has been increased to 30 degrees*
- *A colour swatch has been included with olive, plum, tan and cream colours to demonstrate proposed colours.*
- *A hipped roof has been added over bedroom 3 and a pitched roof has been added above the front entrance*
- *Flat rooves have been replaced with pitched rooves*
- *Setbacks have increased to the southern boundary*
- *Zincalume colorbond roof is proposed in line with all the metal rooves of the traditional houses in the street*

*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 2.6m (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.

<b>CDAC Comments</b>	<b>Applicant Response</b>	<b>Officer Response</b>
<p>(a) The overall built form merits;</p> <ul style="list-style-type: none"> <li>The Committee note there is no outstanding design merit in the proposal. The proposal does not display significant architectural design suitable to the area.</li> <li>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.</li> </ul>	<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</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</p>

	<p>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. This is again an entirely subjective criticism.</p> <p>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>planning approval process but as a whole with the planning requirements.</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"> <li>The Committee noted that the design does not recognise the character of the precinct and is an overall poor outcome for the immediate locality.</li> </ul>	<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>	<p>It should be noted that the neighbouring house at 1B Fletcher St is an entirely modern two storey home (see picture attached). In</p>	<p>As above</p>

<ul style="list-style-type: none"> <li>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.</li> </ul>	<p>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> <p>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.</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"> <li>As noted above.</li> </ul>	<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>	<p>As above</p>
<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"> <li>The Committee note that there is little design intent for passive solar design. It is noted that rooms are not appropriately orientated/</li> </ul>	<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</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>

presented to address suitable passive design/ ventilation.	each house is included on the north facing roof elevations.	
(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; <ul style="list-style-type: none"> <li>The Committee have concerns that there will be unsuitable/ inadequate passive surveillance of the street.</li> </ul>	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 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.	The windows to Bedroom 3 and 4 and the upstairs Master Bedroom window of Dwelling A all provide passive surveillance of the street.

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		Insignificant	Minor	Moderate	Major	Extreme	
		1	2	3	4	5	
Likelihood	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.

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

### 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	6.5m	A
South	1.0m	1.4m	A
West	1.1	2.77m	A
Open Space	50%	66%	A
Building Height			
Wall height	5.6m	5m	A
Roof height	8.1m	8m	A
Setback of Garage	4.5m	5m	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
<b>3.7.7 Building Setbacks and Orientation</b>	<b>D</b>
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	N/A
<b>3.7.11 Front Fences</b>	<b>D</b>
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	A

**House B**

Design Element	Required	Proposed	Status
Street Front Setback	6m	31m	A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
West	1.1m	1.5m	A
South	1m	1m	A
East	1.1m	1.2m	A
<b>North</b>	<b>1.8m</b>	<b>1.5m</b>	<b>D</b>
Open Space	50%	66%	A
Building Height			
Wall height	5.4m	4.4m	A
Roof height	8.1m	8.1m	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
<b>3.7.7 Building Setbacks and Orientation</b>	<b>D</b>
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	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	A

**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, both of which were approved. This development application represents a continuation of

the proposed development on the site and is the result of many meetings and significant negotiation with the applicant and owner. At all times meetings have been a valuable exercise in understanding the intentions of the applicant and owner and addressing issues related to design and development.

The applicant has revised the plans to address the concerns that Planning Committee had with regards to the original design. The plans have been amended such that there are only 2 variations required to the R Codes and Residential Design Guidelines. The following matters have been addressed;

- The roof pitch has been increased to 30 degrees
- Colour swatch has been included with olive, plum, tan and cream colours.
- A hipped roof has been added over bedroom 3 and a pitched roof has been added above the front entrance
- Flat rooves have been replaced with pitched rooves
- Setbacks have increased to the southern boundary
- Zincolume colorbond roof is proposed in line with all the metal rooves of the traditional houses in the street

One variation is requested to the requirements of the Residential Design Guidelines; one for House A. One variation is requested for the Residential Design Codes; one for House B. Each dwelling, and the respective variations will be addressed separately. The variations are considered minor and do not significantly impact on adjoining neighbours or the surrounding street.

#### Heritage and Streetscape Character

The subject development is not on the heritage list. However, it is 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. The applicant has submitted revised plans that address this commentary.

Whilst there are concerns raised about the design of the dwellings and their impact on the surrounding area, the variations as listed below are minor, and do not have a significant detrimental impact on the surrounding street. The design of the dwellings are contemporary, practical and simple in nature and minimise impacts on the streetscape and neighbours. The roof structure facilitates loft living and minimises the overall height of the dwellings, therefore reducing any impact on surrounding residents. The design does not attempt to replicate the heritage character of the area, however, the roof form and materials have been modified to better address the characteristics of the street.

The lots are not proposed to be overdeveloped, with both lots providing 66% open space. It is considered that alternative designs including some modern two storey designs which are compliant with the Residential Design Guidelines and the Residential Design Codes could potentially have a greater impact on the streetscape and neighbours than this proposal. The design reduces perceived building bulk on Allen Street. The proposal has been designed to acknowledge existing design features of traditional dwellings with large eaves, similar roof pitches and appropriate setbacks.

The variations to the Residential Design Guidelines and Residential Design Codes are outlined below.

#### **House A - Front Dwelling**

##### Front Fence and Gate

The front fence is up to 2.5m 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

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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 1.1m high and increase to 2.5m 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 2.5m 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 P4.1iii. 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 design is consistent with fences on surrounding streets.

### **House B – Rear Dwelling**

#### **Northern Boundary Setback**

The northern wall is 7.33m long, 3.8m high and setback 1.5m to the northern boundary. In accordance with Clause 5.1.3 C3.1i 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. This variation can also be supported.

### **Conclusion**

The revised design of the two dwellings is complementary to the surrounding street and acknowledges the existing character, built form and streetscape. Although the proposal is double storey (but not the traditional two storey rather a loft two storey that reduces the streetscape impact) the impact on surrounding properties is minimal. The required variations to the Residential Design Guidelines and the Residential Design Codes are relatively minor in nature and have negligible impacts on the neighbouring properties. The final plans that have been presented for consideration are the result of a number of meetings and considerable negotiation with the applicant and owner who have endeavoured to comply with all the requests placed on them by the Town and comments made by Planning Committee. It is noted that following discussions with the applicant the comments and advice made by CDAC have been addressed in subsequent amended plans that were submitted.

The proposed redesign based on the Committee's commentary, is a welcome addition to the housing stock in East Fremantle as it demonstrates alternative approaches to design that can be adopted for subdivided lots that have a both a front lot that has a large street frontage and a battle-axe rear lot. The design challenges more traditional housing without compromising amenity, heritage or streetscape qualities. A spacious, modern house is being proposed that has significant private open space, generous front and side setbacks, ample parking for the inhabitants, northern facing living areas, without compromising on privacy or the features that many modern homes on smaller lots have to consider.

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

- *Chris and Marianne Hodgson addressed the Committee and expressed their concerns and lack of support for this development, describing it as 'modernist rubbish' and not in keeping with the existing character of the Woodside precinct and considered that it would affect the amenity of the area and their property. They raised further concerns that the building is 2 storey and windows would be overlooking their backyard and that of their elderly neighbour's.*

- *Mr Adrian Grose (Applicant) addressed the Committee and stated that he had met with Planning representatives from The Town of East Fremantle three times since the last Town Planning meeting to address all issues raised to ensure compliance with the R codes and the development was in keeping with State and Local Government guidelines as enumerated in the Comment section of the Officer's report.*

**11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP010819**

**Moved Cr Nardi , Seconded Cr White**

**That development approval be granted under delegated authority and discretion exercised in regard to the following:**

**House A**

- (i) Clause 3.7.11.5 – Residential Design Guidelines – Fences – Front Fence – 1.8m required, 1m to 2.2m provided**

**House B**

- (ii) Clause 5.1.3 – Residential Design Code – Northern Lot Boundary Setback – 1.8m required – 1.5m provided;**

**for two new two storey dwellings at No. 35 Allen Street, East Fremantle, in accordance with the plans date stamped received 25 July 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".***

(CARRIED 5:1)

**Note:**

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

#### 11.4 Duke Street No 59 (Lot 383) Subsequent approval of shed

<b>Owner</b>	Andy and Rachael McIntyre
<b>Applicant</b>	Andy and Rachael McIntyre
<b>File ref</b>	P045/19; DUK59
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 August 2019
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

#### Purpose

This report considers a planning application for a shed subsequent to its development at No 59 (Lot 383) Hubble Street, East Fremantle.

#### Executive Summary

The applicant is seeking Council approval for a shed subsequent to its development. The works have already been completed.

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

#### Background

Zoning: Residential R20  
Site area: 508m<sup>2</sup>

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

Development application P013/16 – 5 April 2016 – additions and alterations to existing dwelling

#### Consultation

Nil

#### Advertising

Submission	Applicant Response	Officer Response
I am writing in regard to application P045/19 for subsequent approval of a shed at 59 Duke St. I understand that the Planning Committee will be considering that application at its August 6 meeting. Unfortunately, I will not be able to attend that meeting, my mother is sick and I am putting her in care, but I do wish to comment on the application. I will also post these comments at the appropriate location on the council website.	I don't believe answering each of the points raised would be relevant to the retrospective approval being sought. So with this in mind I would like to state the following: 1. The shed has been in situ now for well over 6 years and has never been an issue in this time. It was built well inside the existing fence line (which at the time we believed was our boundary). Subsequently we accept that this is not now the case and are happy to bring the	The development application involves the proposed relocation of the shed so it is wholly within the boundaries of 59 Duke Street. The shed is 2.1m high at the wall and 2.2m to the peak of the roof in accordance with the plans that have been provided by the applicant. The development application is only dealing with the relocation of the shed to ensure that it is wholly within the boundaries of 59 Duke Street. It does not concern itself with other unrelated matters. There have been a number of development applications dealt with by the Town in relation to development at 59 Duke Street. The existing house has had

<p>I object to granting retroactive approval for the shed at 59 Duke St. for the following reasons:</p> <p>1. The shed, as situated, is over the boundary line between #59 and #61, and is in fact partially on my property at its southeastern corner by about 10 cm. (Even before the boundary line was adjusted, the shed was wholly within 20cm of the boundary, much less than the 100 cm which is usually required.) There are a few photographs attached here, which show the location of the shed with respect to the fence, as well as one which shows how tall the shed is compared to a newly installed section of fence, and a copy of the surveyors report showing the resurveyed boundary line</p> <p>2. It is tall, about 200 cm in height, and so looms over the northern boundary of my property, blocking the light into my back garden, where I mostly sit particularly during the winter months.</p> <p>3. The shed is only one of several structures on my northern boundary. In addition there are two sections of parapet wall, two stories tall and recessed from the boundary by only 1 cm, which together cover 13.45 meters of the boundary line. Another section of wall, also two stories, is recessed by only 60 cm and covers a further 5.50 meters. And the shed itself covers a further 6.20 meters. Together, these structures, all at least 2 meters tall, shadow 13.45 meters of my back garden. Add to this the 180 cm tall boundary fence which covers the rest of the back garden, and a glass door located in the recessed section of the parapet wall that opens directly in to dining room at #59 and I feel completely closed in whenever I</p>	<p>shed in by the required distance in order to comply.</p> <p>2. The height of the shed is 2.1m at its walls, lifting to 2.2m at its peak. Ms Greene has stated that the shed "overshadows" her rear garden, which is untrue in winter or summer, its height and position in relation to the angle of the sun all year round does not cast a shadow across Ms Greene's garden, which until recently had trees and shrubs higher than the fence/Shed.</p> <p>3. To comment on items 3/4 in Ms Greene's response, all structures on the boundaries are as per the council approved design.</p> <p>In closing we are happy and willing to comply with whatever council deems appropriate. We do not wish to prolong this process and would like to resolve ALL the issues that are currently being discussed in the quickest time possible.</p>	<p>alterations and additions which have passed through formal and proper processes related to the assessment of residential development.</p> <p>Although the deemed to comply requirements set a 1m setback from the boundary for walls without openings it is possible to propose development closer to property boundaries, however, approval is subject to justification and achieving the design principles that are included in the Residential Design Codes.</p> <p>It must be recognised that the Plympton precinct was first developed prior to the existence of planning and building controls as well as modern surveying techniques. As such development has occurred over the years which does not meet the current established requirements for residential development and development that has occurred on neighbouring properties with owners completely unaware of this. Despite this the area is considered to have features of suburban development that newer residential subdivisions aspire to achieve including smaller lots with narrower street frontages and more compact development. Such development is not without its difficulties and as such there has to be some compromise from residents in regards to boundary setbacks, loss of privacy, possibility of overlooking and overshadowing. It is very difficult to have smaller, narrower lots without compromising some elements of the current R Codes and Residential Design Guidelines.</p>
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<p>am sitting in my back garden. In truth, it feels like a prison yard back there.</p> <p>4. I might also note that plans submitted for approval of renovation works at 59 Duke St., if taken at scale, do not accurately represent to true location of the shed in question, nor the existence of the glass door mentioned above.</p> <p>5. Finally, I have been at pains, when completing or contemplating renovation projects of my own, to ensure that every wall is set back a minimum of one meter from every boundary. With that in mind, it seems quite unfair to me that my neighbor should be allowed, without prior approval, to build a non-compliant structure that impacts my enjoyment of my property and receive retro-active approval just for the asking.</p> <p>Thank you for your time and consideration in this matter.</p>		
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Community Design Advisory Committee (CDAC)

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

**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 Some temporary non-compliances	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.

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

**Site Inspection**

No

**Comment**

Statutory Assessment

The proposal was assessed against the provisions of Local Planning Scheme No. 3, the Town's Local Planning Policies including the Residential Design Guidelines, as well as the Residential Design Codes. 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			
<b>South</b>	<b>1.0m</b>	<b>0m</b>	<b>D</b>
<b>West</b>	<b>1.0m</b>	<b>0.9m</b>	<b>D</b>
Open Space	50%	>50%	A
Wall height	6m	2m	A
Roof height	9m	2.2m	A

Setback of Carport			N/A
Primary street setback			N/A
Car Parking	2	2	N/A
Site Works	Less than 500mm		N/A
Retaining Wall	Less than 500mm		N/A
<b>Overshadowing</b>	<b>≤25%</b>	<b>32%</b>	<b>D</b>
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
<b>3.7.2 Additions and Alterations to Existing Buildings</b>	<b>D</b>
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	N/A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
<b>3.7.7 Building Setbacks and Orientation</b>	<b>D</b>
<b>3.7.8 Roof Form and Pitch</b>	<b>D</b>
3.7.9 Materials and Colours	A
3.7.10 Landscaping	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
<b>3.7.17 Precinct Requirements</b>	<b>D</b>

Heritage

The subject property is listed as Category C property on the Municipal Heritage List. The works are considered to have no heritage impact on the existing dwelling.

This development application proposes giving planning approval to a shed subsequent to development at the subject property. One variation is requested to the requirements of the Residential Design Guidelines and 2 variations are requested to the requirements of the Residential Design Codes.

Lot Boundary Setbacks - Southern and Western Boundaries

The shed is to be moved such that it is relocated inside the property boundary. It does not achieve deemed to comply setbacks of clause 5.1.3 C3.2 ii of the Residential Design Codes but the proposed setbacks of 1m from the southern boundary and 0.1m from the western boundary, will achieve design principles 5.1.3 P3.2 because

- it makes more effective use of space,
- does not significantly compromise the sunlight and ventilation to neighbouring property,
- does not reduce privacy,
- has minimal impact on adjoining properties and
- it has no impact on the streetscape.

Minimal space is wasted on the applicant's property as a result of its location. Air and sunlight is not significantly compromised by the location of the shed. Privacy is maintained between the 2 properties as there is minimal space between the boundary and the shed and the height of the shed wall ensures that

there is no overlooking. It is rectifying an issue identified by the neighbour to ensure that the shed is located in the correct position and therefore reduces the impacts on the adjoining property. As the shed is at the rear of the property it cannot be seen from the street front.

#### Solar Access for Adjoining Sites

The shed overshadows the southern property by an additional 7% on top of the existing overshadowing created by the existing dwelling on site. The maximum allowable overshadowing is 25% according to Clause 5.4.2 C2.1 but in this case reaches 32%. The high level of overshadowing is acceptable in accordance with design principles P2.2, given the width of the lots within the Plympton precinct, and the fact that the overshadowing is predominantly over garden beds at the rear of the neighbouring property, rather than major openings to habitable rooms. Given a drawn angle of 34 degrees from the top of the roof of the shed with a wall height of 2.2m which is only 0.4m above the boundary fence. It does not impact on solar collectors on the neighbouring property's roof. The shed is partially screened by vegetation on the southern side of the boundary, although this has been cut back and is now relatively empty.

#### Roof Pitch

The shed has a roof pitch of approximately 5 degrees which 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. However, the roof pitch of 5 degrees is an acceptable variation as the roof contributes positively and complements the existing dwelling, and is sympathetic to surrounding dwellings in accordance with Performance Criteria Clause 3.7.8.3 P1, P2, P3 and P4. It is located to the rear of the lot and is not visible from the street

#### **Conclusion**

The previous development application P013/16 involved the approval of alterations and additions to the existing dwelling at the subject site. The shed which is the subject of this report was constructed in 2013 by the owners without an application for development approval and was not included in the previous development application.

There has been ongoing issues between the owners of this property and the neighbouring property to the south as a result of previous construction and the shed being located 100mm over the boundary between the 2 properties. The approval of this development application will correct this problem and formalise the structure on the subject property.

The shed is proposed to be moved so it is not located over the boundary and on neighbouring property. The works have no impact on the heritage qualities of the dwelling or the aesthetics of the main dwelling.

The approval of the application for development approval subsequent to works being carried out is at the discretion of Council. The development application is recommended for approval subject to conditions.

- *Mr Andrew McIntyre addressed the Committee stating that the issue with regard to the boundary dispute arose as a result of a re-survey. The shed has been in-situ for more than 6 years and he is happy to move it to be located wholly within his property so that it would comply with the recommendations of the Town Planning Committee.*

**11.4 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP020819**

Moved Cr Nardi , Seconded Cr Harrington

That Council exercises its discretion in regard to granting approval subsequent to the development of the shed and exercises its discretion in regard to the following variations;

- (i) Clause 5.1.3 C3.2 ii – Residential Design Codes – Lot Boundary Setbacks – southern side boundary - 1m required, 0m provided;
- (ii) Clause 5.1.3 C3.2 ii – Residential Design Codes – Lot Boundary Setbacks – western rear boundary – 1m required, 0.9m provided;
- (iii) Clause 5.4.2 C2.1 – Residential Design Codes – Solar Access for Adjoining Sites – 25% required, 32% provided;
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 -36 degrees required, 5 degrees provided;

at No. 59 (Lot 383) Duke Street, East Fremantle, in accordance with the plans date stamped received 17 June 2019, subject to the following conditions:

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

**Footnote:**

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

- (i) *this decision does not include acknowledgement or approval of any other 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.**

**(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.

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**11.5 Fortescue Street No 32 (Lot 1) Proposed alterations and additions to existing residence**

<b>Owner</b>	Travis Leahy and Lydia Warburton
<b>Applicant</b>	Craig Steere Architects
<b>File ref</b>	P050/19; FOR32
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 August 2019
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

**Purpose**

This report considers a planning application for proposed alterations and additions to an existing dwelling at No 32 (Proposed Front Lot 1) Fortescue Street, East Fremantle.

**Executive Summary**

The applicant is seeking Council approval for the following variations to the Residential Design Codes and the Residential Design Guidelines;

- Lot boundary setbacks on the northern side of dwelling – 1m required, 0m provided;
- Lot boundary setback – eastern boundary – covered walkway and deck– 6m required, 0.45m to 4.226m provided;
- Open space- 55% required, 54% provided
- Roof pitch- 28 to 36 degrees required, 21 degrees and 3 degrees provided

The dwelling is heritage listed as a Category B property and is the subject of a heritage agreement between the owners and the Town of East Fremantle. It is critical that the renovations to the front property comply with this agreement and simultaneously comply with the requirements of the Residential Design Codes and the Residential Design Guidelines.

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: 508m<sup>2</sup>

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

P051/19 - Simultaneous planning approval being sought for new two storey residence with pool at the rear battle-axe lot

Subdivision P078/18 Subdivision of lot WAPC Ref 156903- conditions of subdivision still not cleared

**Consultation**

Advertising

The application was advertised to surrounding land owners from 19 June to 5 July 2019. Two submissions were received.

<b>Submission</b>	<b>Applicant Response</b>	<b>Officer Response</b>
<p>I have no objection to a dwelling being built on rear block in Fortescue St. Just concerned about the demise of big trees on the back block. Will the trees be considered in the building plan?</p>	<p>No response from applicant</p>	<p>Annotations have been included on the plans that state that the mature Eucalyptus tree at the rear of the property and between the proposed new development on the rear lot and the existing heritage dwelling will be retained. Remaining vegetation in the rear yard will be removed, but there is intention according to the plans for many trees and shrubs to be planted.</p>
<p>To Town of East Fremantle (Town Planning) concerning Proposed Alteration and Additions to Existing Dwelling and New Two Story Dwelling N. 32 (Lot 2) Fortescue Street</p> <p>I am the owner of Fortescue Street No. 28 and my property is connected in the back of PO51/19 (proposed lot B).</p> <p>The dividing fence between my property and Lot B on the north side is proposed to be 1.80 m high. My concern is the existing fence is 1.40 m high on my side and 1.60m high as described on the plan on the side of Lot B. The previous owner of Lot B had the soil level lowered and as a result the dividing fence has started to lean to the south. To achieve the heights of 1.80m the soil level of Lot B has to be lowered by at least 0.20m. I am afraid the fence will topple over unless a retaining wall is incorporated, or a new fence has to be erected to the heights of 1.80m to ensure my privacy and stop people from looking into the bedroom of the new building which incorporates two windows on the northern side of the building.</p> <p>My other concern is if nothing is done at the planning phase to make sure the fence does not topple over it will become a problem later and I could be liable to fix the dividing fence which I could not afford because I am living on a Gov. Pension. At this moment the existing fence is efficient and it good order.</p> <p>I believe the best and fairest way to deal with these concerns, such that a planning approval does not cause</p>	<p>No response from applicant</p>	<p>It is noted on the plans that proposed new fence is to be erected by the owners of the subject lot and this dividing fence will be 1.8m high. It is recognised that this fence will act as screening for the ground floor section of the proposed rear development. In addition the proposal includes obscure glazing to all openings facing the side and rear boundaries to improve privacy between properties.</p>



<p>privacy and sufficient fence concerns down the track, is for the approval to specify that at this location a new fence needs to be erected, at the applicants expense, which is 1.80m high from the existing ground level on the applicants side.</p> <p>If Council does not see fit to specify that a new fence is erected it needs to explain how the planning approval is going to ensure my privacy, my neighbours privacy and a 1.80m high fence which is not toppling over (and certainly will not entail a lowering of soil level to artificially achieve this height) will be in place and which constitutes a sufficient fence under the relevant fencing laws.</p> <p>If there is any uncertainty regarding the situation I would be pleased to receive a site visit by the Town Planner prior to his report being completed.</p>		
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Community Design Advisory Committee (CDAC)

The application was referred to CDAC. The following comments were made by the Committee.

(a) *The overall built form merits;*

- The Committee note that no arrangement has been made to facilitate the inclusion of 2 car parking bays on the property. The location of the fence, existing tree and proposed planters will restrict the potential to park in the indicated location to the rear of the property. It is also noted a vehicle egress turning from the property would not be compliant.
- The Committee note the 3.5 metre wide access leg is not acceptable. Committee recommend 4.0 metre wide access leg including 0.5 metre wide garden bed on southern lot boundary.
- Committee note any requirements as per the subdivision plan should be notated on the plans, including easements and shared areas.
- The Committee commented that the plans have some inconsistencies, this included a tree noted on the site plan is not notated on the floor plans for the development of Lot A, and is not referenced on Lot B with regard to the canopy. Additionally the structure located on the lot boundary is not notated on the plans for both dwellings.

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

- The Committee commend the heritage retention of the dwelling. The additions and alterations to the heritage dwelling are acceptable and the verandah addition is considered an improvement.

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

- Refer to (a).
- The Committee positively commented that the retention of the heritage building is a good outcome for streetscape character.

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

- The Committee praised the applicant for commendable efforts to ensure the retention of the existing heritage dwelling while citing that reinstating the verandah is an improvement to the current structure.
- (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;*
- The Committee commented that the orientation of the original heritage building does not facilitate climactic passive solar design however, the Panel commended the applicant for their inclusion of solar panels, commitment to planting and retention of existing significant vegetation as a positive outcome.
- (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 commented that there is acceptable passive surveillance provided by the existing dwelling.

#### Applicant Comment

The applicant did not directly respond to the CDAC comments but did amend the plans to address concerns raised in the minutes.

#### Officer Comments

A meeting was held with the applicant and plans were amended following this discussion to address a number of points brought up by CDAC as well as concerns raised by the planning officer. A number of relevant points were addressed including;

- The inclusion of 2 car bays at the side of the dwelling.
- The addition of a 0.5m garden bed on the southern boundary of the access lane to the rear lot. A condition has been included in the final recommendation requiring the creation of an easement utilising the rear lot laneway and the existing crossover to guarantee vehicular access to the front property.
- The retention of the large Eucalyptus tree at the rear of Lot A has also been noted on the plans.

#### 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.

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

**Site Inspection**

A site inspection was not 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 Codes. 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	-	Existing dwelling	N/A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
<b>North- ensuite and robe</b>	<b>1m</b>	<b>0m</b>	<b>D</b>
<u>East- ensuite</u>	6m	6.486m	A
<u>North- hall</u>	1m	1.545m	A
<u>North bed 2</u>	1.1m	1.6m	A

South- laundry and kitchen	1.1m	3.5m	A
East- covered walkway and rear deck	6m	0.45m - 4.226m	D
South- rear deck	1.8m	3.5m	A
Open Space	55%	54%	D
Wall height	6m	5.965m	A
Roof height	9m	6.959m	A
Setback of Garage	-	-	N/A
Car Parking	2 cars	2 cars	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	≤25%	4%	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

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

This development application considers additions and alterations to the existing heritage dwelling at the front lot of 32 Fortescue Street. Significant changes are being proposed to the dwelling including;

- Removal of sleep out and reinstatement of verandah
- Removal of rear sheds and alteration to the rear toilet to ensure that subdivision can occur
- Addition of ensuite and robe
- Addition of kitchen, dining room and deck
- Provision of 2 tandem car parking bays (unroofed) on the southern edge of the property boundary utilising the easement created by proposed lot B in favour of proposed lot A in accordance with the conditions of subdivision.
- Use of visually impermeable screening 1.6m high (from finished floor level) on the southern and eastern edge of the rear deck
- Retention of the existing mature Eucalyptus tree at the rear of the property and new landscaping to be undertaken in the front yard
- Use of rain water tanks located under the rear deck

An attempt has been made to improve the sustainability of the front house, while retaining the heritage features of the dwelling and making the development in combination with the rear development a multigenerational housing development.

### Heritage

The property is heritage listed as Category B for heritage purposes. It is protected through both the Local Planning Scheme as a Category B property cannot be demolished, and also as a result of the heritage agreement that is in place between the owner of the property and the Town of East Fremantle which requires renovations to be undertaken in accordance with the agreement. Although there are extensive changes being proposed to the dwelling significant improvements will result, without compromising the heritage qualities of the building. From the front streetscape the old sleep out is being removed and the verandah reinstated. The timber work on the verandah including the balustrading is being restored or replaced and the brickwork is being tuck-pointed. The front of the dwelling will be restored closer to the original dwelling and additions are being carried out to the rear of the property. Plans show that the rear extensions will be barely noticeable from the front of the property with the exception of the contemporary roof design and the new rear property that is being proposed simultaneously.

A number of variations are requested to the Residential Design Guidelines and the Residential Design Codes. It must be noted that as the lot was subdivided and there is an existing dwelling on site there are certain elements of the design that cannot be altered, and this has an impact on the achievement of other elements of the proposed development.

### Lot Boundary Setback- Northern Boundary

The additions at the rear of the property are designed to be built along the boundary. As such they do not comply with the Residential Design Codes deemed to comply requirements of Clause 5.1.3 C3.1i where a 1 m setback from the side boundary is required. In this case the design can achieve the design principles Clause 5.1.3 P3.2.

The location of the wall adjacent to the northern boundary;

- makes effective use of space,
- reduces the impact of building bulk on adjoining properties,
- does not impact on sunlight and ventilation or open spaces,
- improves privacy between properties and
- does not have an adverse impact on adjoining property.

It is noted that part of the wall of the proposed structure abuts another structure on the adjacent property. Given these reasons the proposed location of the development on the northern boundary can be supported.

### Lot Boundary Setback – Eastern Boundary - Covered Walkway and Rear Deck

A covered walkway is proposed between this property and the neighbouring property to the east. This walkway is designed to facilitate the multigenerational aspects of the dwellings and allow residents to pass between the two dwellings independent of weather. A break was provided in the proposed walkway to ensure there is some separation between the structures if either of the 2 properties are sold and the inclusion of a 0.45m separation distance between the walkway and the boundary complies with the minimum requirement of the building code. At the same time a rear deck is proposed that is 4.226m from the eastern boundary.

Although the deemed to comply Clause 5.1.3 of the Residential Design Codes requires a 6m setback between 0.45m and 4.226m is provided. It is noted that the lot has been subdivided which compromises the ability to have larger setbacks to rear lot boundaries from the front lot. In addition, the original heritage

dwelling has been retained. As such there are certain characteristics that cannot be altered. The separation distance ensures some privacy between this site and adjoining properties and ensures adequate direct sunlight and ventilation can be provided to the building and open spaces on the site and adjoining properties. As such the design principles of Clause 5.1.3 P3.1 of the R Codes is achieved and the reduced setback can be supported.

#### Open Space

There is a minor variation in the open space requirement of 55%. In this case 54% open space is provided. This is an acceptable variation and achieves the design principles of Clause 5.1.4 P4. The design ensures;

- access to sunlight,
- provides an attractive setting for buildings, landscape, vegetation and streetscape,
- the outdoor spaces can be used by residents and space is provided for external features and essential facilities.

In the rear yard the existing Eucalyptus tree is being retained which ensures that both the front and rear properties benefit from the shade and regulation of temperatures provided by the tree and this is noted on the plans.

#### Roof Pitch

There are multiple skillion roof elements with a pitch of 21 degrees. There is also a roof with a pitch of 3 degrees. These roof pitches do not comply with the acceptable development requirements of Clause 3.7.8.3 of the Residential Design Guidelines, however, in line with the performance criteria of this clause the contemporary roof design does not attempt to mimic the roof of the heritage dwelling, but rather demonstrates the contrasting elements of the design. The varied roof pitch achieves performance criteria 3.7.8.3 P1, P2, P3 and P4. The roof positively contributes to the existing dwelling, the eaves complement the existing dwelling and are sympathetic to the immediate locality in terms of overhang and complement the traditional form of surrounding development. As such the proposed variation of the roof pitch can be supported.

#### **Conclusion**

The development that has been proposed is sympathetic to the heritage qualities of the existing dwelling on the front lot at 32 Fortescue Street. Following discussions with the applicant changes have been made to the plans to minimise the variations to the Residential Design Codes and the Residential Design Guidelines, while at the same time retaining the Category B listed heritage dwelling and ensuring that the renovation is in alignment with the heritage agreement between the owners and the Town. The amended plans that have been received have also addressed matters that were highlighted by the Community Design Advisory Committee and identified as issues by submitters following advertising of the development proposal, including the provision of tandem parking bays at the side of the property and the retention of the large Eucalyptus tree on site.

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

- *Mr Mark Derozario (Applicant) did not wish to address the meeting but supported the officer's recommendation*

**11.5 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP030819**

**Moved Mayor O'Neill , Seconded Cr White**

**That development approval is granted and Council exercises its discretion in regard to the following;**

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks- northern boundary – 1m required, 0m provided;**
- (ii) Clause 5.1.3 – Residential Design Codes - Lot boundary setback – eastern boundary – covered walkway and rear deck– 6m required, 0.45m to 4.226m provided;**
- (iii) Open Space – Residential Design Codes – 55% required, 54% provided**
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 to 36 degrees required, 21 degrees and 3 degrees provided;**

**for alterations and additions to the existing residence at No. 32 (Lot 1) Fortescue Street, East Fremantle, in accordance with the plans date stamped received 8 July 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 be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
- (5) 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.**
- (6) The tree that is to be retained at the rear of the dwelling is to be protected from damage to the roots, trunk and foliage during works by way of a barrier being placed around the base to the satisfaction of the Chief Executive Officer on the advice of officers from the Town of East Fremantle.**
- (7) A carport shall not be constructed in the front setback area or in front of the existing dwelling without the submission of a development application and consideration by Council.**
- (8) Visually impermeable screening shall be installed on the southern and eastern edge of the rear deck to a height of 1.6m from the finished floor level of the deck in accordance with the approved plans.**
- (9) The front fence shall be compliant with the Residential Design Guidelines with a maximum height of 1.8m from natural ground level and visual permeability of at least 60% for any section of the fence in excess of 1.2m in height from natural ground level and in accordance with the approved plans.**
- (10) An easement, in accordance with Section 136C of the Transfer of Land Act 1893, for the benefit of front Lot 1, is to be placed on the certificate of title of rear Lot 2 specifying access rights. Notice of this easement is to be included on the diagram or plan of survey (deposited plan).**



- (11) There shall be no widening of the existing crossover and all access to the front Lot 1 by motor vehicles shall be by way of the access lane for the rear property at 32 Fortescue Street.
- (12) Works undertaken on the front heritage dwelling are to take into account and ensure compliance with the heritage agreement between the owner and the Town of East Fremantle.
- (13) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (14) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (15) This planning approval 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".*

(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.

**11.6 Fortescue Street No 32 (Lot 2) Proposed new two storey residence with pool**

<b>Owner</b>	Travis Leahy & Lydia Warburton
<b>Applicant</b>	Craig Steere Architects
<b>File ref</b>	P051/19; FOR32
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 August 2019
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

**Purpose**

This report considers a planning application for proposed new two storey residence with pool at the rear of No 32 (Lot 2) Fortescue Street, East Fremantle.

**Executive Summary**

The applicant is seeking Council approval for the following variations to the Residential Design Codes and the Residential Design Guidelines;

- (i) Lot boundary setbacks - north east wall – 2m required, 1.73m provided;
- (ii) Lot boundary setbacks – eastern boundary - hall - 2.8m required, 1.82m provided;
- (iii) Lot boundary setback – western boundary - bedroom nearest sitting room - 1.8m required, 1m provided;
- (iv) Lot boundary setback – northern boundary - northern wall - 2.8m required, 1.504m provided;
- (v) Lot boundary setback – western boundary - covered walkway - 1m required, 0.45m provided
- (vi) Roof pitch - 28 to 36 degrees required, 2-3 degrees and 21 degrees provided;

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: 777m<sup>2</sup>

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

P050/19 - Simultaneous planning approval being sought for alterations and additions to a heritage listed dwelling at the street front

Subdivision P078/18 Subdivision of lot WAPC Ref 156903- conditions of subdivision still not cleared

**Consultation**

Advertising

The application was advertised to surrounding land owners 17 June to 3 July 2019.

<b>Submission</b>	<b>Applicant Response</b>	<b>Officer Response</b>
1. To Town of East Fremantle (Town Planning) concerning Proposed Alteration and Additions to Existing Dwelling and New Two Story Dwelling N. 32 (Lot 2) Fortescue Street	The applicant has not directly responded to the comments although has provided amended plans which address both the privacy concerns and	It is noted on the plans that proposed new fence is to be erected by the owners of the subject lot and this dividing fence will be 1.8m high. It is recognised that this fence will act as screening for the ground floor section

<p>I am the owner of Fortescue Street No. 28 and my property is connected in the back of PO51/19 (proposed lot B). The dividing fence between my property and Lot B on the north side is proposed to be 1.80 m high. My concern is the existing fence is 1.40m high on my side and 1.60m high as described on the plan on the side of Lot B. The previous owner of Lot B had the soil level lowered and as a result the dividing fence has started to lean to the south. To achieve the heights of 1.80m the soil level of Lot B has to be lowered by at least 0.20m. I am afraid the fence will topple over unless a retaining wall is incorporated, or a new fence has to be erected to the heights of 1.80m to ensure my privacy and stop people from looking into the bedroom of the new building which incorporates two windows on the northern side of the building.</p> <p>My other concern is if nothing is done at the planning phase to make sure the fence does not topple over it will become a problem later and I could be liable to fix the dividing fence which I could not afford because I am living on a Gov. Pension. At this moment the existing fence is efficient and it good order. I believe the best and fairest way to deal with these concerns, such that a planning approval does not cause privacy and sufficient fence concerns down the track, is for the approval to specify that at this location a new fence needs to be erected, at the applicants expense, which is 1.80m high from the existing ground level on the applicants side.</p> <p>If Council does not see fit to specify that a new fence is erected it needs to explain how the planning approval is going to ensure my privacy, my neighbours privacy and a 1.80m high fence which is not toppling over (and certainly will not entail a lowering of soil level to artificially achieve this height) will be in place and which constitutes a sufficient fence under the relevant fencing laws. If there is</p>	<p>questions regarding the trees on site.</p>	<p>of the proposed rear development. In addition the proposal includes obscure glazing to all openings facing the side and rear boundaries to improve privacy between properties.</p>
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<p>any uncertainty regarding the situation I would be pleased to receive a site visit by the Town Planner prior to his report being completed.</p>		
<p>2. I have no objection to a dwelling being built on rear block in Fortescue St. Just concerned about the demise of big trees on the back block. Will the trees be considered in the building plan?</p>	<p>The applicant has not directly responded to the comments although has provided amended plans which address both the privacy concerns and questions regarding the trees on site.</p>	<p>Annotations have been included on the plans that state that the mature Eucalyptus tree at the rear of the property and between the proposed new development and the existing dwelling will be retained. Remaining vegetation in the rear yard will be removed, but there is intention according to the plans for many trees and shrubs to be planted.</p>

Community Design Advisory Committee (CDAC)

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

- (a) *The overall built form merits;*
- The Committee comment that the roof setback to the north may be non-compliant with Building Code of Australia specifications and may have an adverse impact to the northern neighbour.
  - The Committee note that car parking at the new dwelling is an issue that the applicant should seek to amend.
  - The Committee note the interesting nature of the design.
- (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;*
- No further comment at this time.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- The Committee commented that the subdivision sketch should be provided to demonstrate design compliance with the conditions of the subdivision.
- (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;*
- The Committee comment on the overall good solar design of the new dwelling, however, it was noted that the passive solar access to the pool is poor and should be reconsidered.
- (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 further comment at this time.

Applicant Comment

The applicant did not directly respond to the CDAC comments but did amend the plans to address concerns raised in the minutes.

### Officer Comments

A meeting was held with the applicant and plans were amended following this discussion to address a number of points brought up by CDAC as well as concerns raised by the planning officer. A number of relevant points were addressed including;

- An annotation was added to the top of the roof to reflect compliance with the Building Code in terms of separation distance between the dwelling and the boundary.
- A condition has been included in the final recommendation requiring the creation of an easement utilising the rear lot laneway and the existing crossover to guarantee vehicular access to the front property.
- Advice was provided by the applicant that the location of the pool could not be changed to improve solar access due to the fixed location of the sewer easement.

### 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.

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

### 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 Codes. A summary of the assessment is provided in the following tables.

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

#### Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	7.5m	36.5m	A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
<b>North east wall</b>	<b>2m</b>	<b>1.73m</b>	<b>D</b>
<b>Hall</b>	<b>2.8m</b>	<b>1.82m</b>	<b>D</b>
South east wing	1.6m	1.73m	A
Ensuite east	1.2m	1.213m	A
Bath balcony	1.2m	1.213m	A
Living area	2.8m	3.269m	A
Sitting room	1.1m	1.1m	A
<b>Bedroom nearest sitting room</b>	<b>1.8m</b>	<b>1m</b>	<b>D</b>
<b>Northern wall</b>	<b>2.8m</b>	<b>1.504m</b>	<b>D</b>
<b>Covered walkway</b>	<b>1m</b>	<b>0m</b>	<b>D</b>
Open Space	55%	55%	A
Wall height	6m	6m	A
Roof height	9m	8.2m	A
Setback of Carport	4.5m	36.5m	A
Car Parking	2 car bays	2 car bays	A
Site Works	Less than 500mm	Less than 500mm	A
Visual Privacy	-	-	N/A
Overshadowing	≤25%	10%	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

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

This development application proposes a new double storey residence at the rear of a property that has subdivision approval, but is yet to obtain clearance of conditions for the subdivision.

Although the dwelling has a relatively large footprint and has a second storey it has been designed to ensure privacy and minimise the impact on adjoining properties. The proposed dwelling does comply with the open space requirements. Extensive use has been made of obscure glazing where there is an opening to a boundary. Alternatively, natural lighting is provided to many rooms in the house via the skylights that the unusual roof profile enables. In addition, the outdoor living space with the pool is located at the centre of the proposed dwelling. The living areas face the pool and outdoor living space, rather than neighbouring properties with the exception of the dwelling at the front of this property that is part of the multigenerational development that the owners are undertaking. The dwelling has been designed such that there are walls that only have a few openings looking out towards the neighbouring properties. One variation is requested to the requirements of the Residential Design Guidelines. Five variations are requested to the requirements of the Residential Design Codes, all relating to lot boundary setbacks.

Lot Boundary Setbacks - North East Wall

Clause 5.1.3 deemed to comply criteria of the Residential Design Codes requires a 2 m setback however, 1.73m is provided. Although there is a door and window from a bedroom facing this boundary, obscure glazing is utilised which increases privacy between this site and adjoining properties and adequate direct sunlight and ventilation can be provided to the building and open spaces on the site and adjoining properties. This reduced setback can be supported.

Lot Boundary Setbacks – Eastern Boundary - Hall

Clause 5.1.3 deemed to comply criteria of the Residential Design Codes requires a 2.8m setback however, 1.82m is provided. There is a large gate with obscure glazing in the centre of the hall which has been utilised to ensure access to the sewerage easement located underneath this area. Obscure glazing is utilised on the gate which increases privacy between this site and adjoining properties and adequate direct sunlight and ventilation can be provided to the building and open spaces on the site and adjoining properties. This reduced setback can be supported.



Lot Boundary Setback – Western Boundary - Bedroom Nearest Sitting room

Clause 5.1.3 deemed to comply criteria of the Residential Design Codes requires a 1.8m setback however, 1m is provided. Although there is a door and window from a bedroom facing this boundary obscure glazing is utilised which increases privacy between this site and adjoining properties and adequate direct sunlight and ventilation can be provided to the building and open spaces on the site and adjoining properties. This reduced setback can be supported.

Lot Boundary Setback – Northern Boundary - Northern Wall

Clause 5.1.3 deemed to comply criteria of the Residential Design Codes requires a 2.8m setback however, 1.504m is provided. Although there is a door and window from two bedrooms facing this boundary obscure glazing is utilised which increases privacy between this site and adjoining properties and adequate direct sunlight and ventilation can be provided to the building and open spaces on the site and adjoining properties. This reduced setback can be supported.

Lot Boundary Setback – Western Boundary - Covered Walkway

A covered walkway is proposed between this property and the neighbouring property to the west. This walkway is designed to facilitate the multigenerational aspects of the dwellings and allow residents to pass between the two dwellings independent of weather. A break was provided in the proposed walkway to ensure there is some separation between the structures if either of the 2 properties are sold and the inclusion of a 0.45m separation distance between the walkway and the boundary complies with the minimum requirement of the building code. Clause 5.1.3 deemed to comply criteria of the Residential Design Codes requires a 1m setback however, 0.45m is provided. The separation distance increases privacy between this site and adjoining properties and ensures adequate direct sunlight and ventilation can be provided to the building and open spaces on the site and adjoining properties. This reduced setback can be supported.

Roof Pitch

The Residential Design Guidelines requires a roof pitch of between 28 to 36 degrees, however, the multiple skillion roof elements combined with sections of relatively flat roof mean that the roof pitch varies between 2-3 degrees and 21 degrees. This is considered acceptable on the grounds that the roof elements achieve the acceptable development provision of the Residential Design Guidelines Clause 3.7.8.3 P3 and P4. The dwelling is located on a rear lot so the roof as a whole is almost completely hidden from the front streetscape. Nonetheless the roof is a contemporary design that does not attempt to mimic more traditional heritage properties in the area.

**Conclusion**

The proposed development is a contemporary design that utilises the rear lot by making the constraints opportunities to develop a unique house design. Use is made of a central courtyard to locate both the outdoor living space and swimming pool, thereby reducing the amenity impacts on the adjoining properties. Skillion roof elements with skylights ensure that natural lighting can be provided to rooms without having to rely on clear glazing at the boundaries facing neighbouring properties. Parking is provided from car bays on site that are accessed from a battle-axe laneway which hides the home and the cars from the front streetscape. Despite being a double storey design there is no overlooking from the upper storey bedrooms towards the adjacent properties as permanent impermeable screening is fitted to the exterior of the bathroom balcony and again skylight windows, rather than clear windows facing the neighbours, provide natural lighting. Water tanks are to be located under the decking of the outdoor living area and extensive landscaping will be undertaken around the dwelling to provide screening. Significant use is also made of the surrounding properties which have structures close to the boundaries and these have been utilised to shield parts of the development. The proposed design, is a welcome addition to the housing stock in East Fremantle

as it demonstrates alternative approaches to design that can be adopted for rear lot designs that challenge more traditional housing design without compromising amenity, heritage or streetscape qualities.

It is also noted that following discussions with the applicant the comments and advice made by CDAC have been addressed in subsequent amended plans that were submitted, including complying with separation distances between the roof and property boundaries in accordance with the National Building Code requirements, provision of parking for 2 cars and the addition of a condition in the final officer recommendation requiring the creation of an easement to allow the proposed driveway to service the proposed front lot.

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

- *Mr Mark Derozario (Applicant) did not wish to address the meeting but supported the officer's recommendation*

#### **11.6 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP040819**

**Moved Cr Harrington, Seconded Cr White**

**That development approval is granted and Council exercises its discretion in regard to the following;**

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 2m required, 1.73m provided;**
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 2.8m required, 1.82m provided;**
- (iii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1.8m required, 1m provided;**
- (iv) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 2.8m required, 1.504m provided;**
- (v) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1m required, 0.45m provided;**
- (vi) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 to 36 degrees required, 21 degrees and 2-3 degrees provided;**

**for new 2 storey residence with pool at No. 32 (Lot 2) Fortescue Street, East Fremantle, in accordance with the plans date stamped received 8 July 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) Visually impermeable screening shall be installed and fixed in place on the southern edge of the bathroom balcony in accordance with the approved plans.**

- (5) An easement, in accordance with Section 136C of the Transfer of Land Act 1893, for the benefit of front Lot 1, is to be placed on the certificate of title of rear Lot 2 specifying access rights. Notice of this easement is to be included on the diagram or plan of survey (deposited plan).
- (6) There shall be no widening of the existing crossover and all access to the front lot by motor vehicles shall be by way of the access lane for the rear property at 32 Fortescue Street.
- (7) The proposed works are not to be commenced until written approval has been received from the Water Corporation in regards to works in proximity to the sewerage easement.
- (8) The front gate shall be compliant with the Residential Design Guidelines with a maximum height of 1.8m from natural ground level and visual permeability of at least 60% for any section of the gate in excess of 1.2m in height from natural ground level and in accordance with the approved plans.
- (9) The pool filter and pump is to be located a minimum of 1m from the adjoining property boundaries and shielded to minimise noise.
- (10) The toilet block is to be removed and relocated to ensure that it does not interfere with the boundary location of the property.
- (11) 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.
- (12) 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.
- (13) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (14) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (15) This planning approval 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”.**

**(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.

**11.7 Glyde Street No 71 (Lot 125) Proposed alterations and additions- new upper floor addition and alterations to existing dwelling**

<b>Owner</b>	Greg Watkinson and Melanie Watkins
<b>Applicant</b>	White Noise Designs
<b>File ref</b>	P048/19; GLY71
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 August 2019
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

**Purpose**

This report considers a planning application for proposed alterations and additions- new upper floor addition and alterations to an existing dwelling at No 71 (Lot 125) Glyde Street, East Fremantle.

**Executive Summary**

The applicant is seeking Council approval for the following variations to the Residential Design Codes and the Residential Design Guidelines;

- Lot boundary setbacks on southern side of dwelling – a wall is proposed that is 1.6m from the boundary where 1.9m is required;
- Wall height- the dwelling exceeds the maximum 6m required on the southern side of the dwelling;
- Roof pitch- the upper storey is less than the 28 degrees

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

**Background**

Zoning: Residential R20  
Site area: 508m<sup>2</sup>

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

P086/17 - 7 November 2017 - Planning approval given for 2 storey addition with studio addition above existing garage

**Consultation**

Advertising

The application was advertised to surrounding land owners 17 June to 3 July 2019.

<b>Submission</b>	<b>Applicant Response</b>	<b>Officer Response</b>
Thank you for notifying us of, and for the opportunity to comment on, the proposed development at 71 Glyde Street, East Fremantle.	As discussed over the phone, and as indicated by the council planner, the neighbour's comments apply exclusively to issues relating to the existing	The proposed development involves the modification of an existing dwelling which has pre-existing site levels and windows notably on the ground floor. As such conditions cannot be imposed on development that is pre-existing. There is

<p>We are the owners and occupiers of 69 Glyde Street, the property next door to the proposed development, located on its northern side.</p> <p>We support the proposed plans for the development at 71 Glyde Street on the basis that the owner agrees to install sufficient screening (landscape or fencing) of existing active habitable spaces and outdoor living areas located along the northern boundary of their site, to provide some visual privacy for our adjacent outdoor living areas.</p> <p>We consider this screening can be designed in a manner that provides an appropriate compromise between the maintenance of reasonable views from the ground floor of 71 Glyde Street and the provision of a reasonable level of visual privacy of our adjacent outdoor living area.</p> <p>We make this request based on the following considerations:</p> <p>1.0 Site History</p> <p>1.1 At the time that we bought the property at 69 Glyde Street in late 2017 we were made aware of a previous application for development at 71 Glyde Street (File Ref P/GLY71; P086/17 dated 7 November 2017). That application was approved subject to the following condition:</p> <p>“Permanent and visually non permeable screening to be installed to comply with the “Deemed to comply” standards of the Deemed to Comply provisions of Clause 5.4.1 C1.2 (visual privacy) of the pool deck and alfresco area on the northern side of the dwelling to the satisfaction of the Chief Executive Officer. The details of the screening to be indicated on the plans submitted with the Building Permit application.”</p> <p>1.2 As a result of that condition the owners of 71 Glyde Street requested we meet with them in late 2017 (prior to us taking possession of 69 Glyde Street in January 2018) to discuss an appropriate design solution to meet the above condition. Nothing was resolved at, or</p>	<p>boundary retaining wall. The retaining wall in question has been present for a long time, well before either of the current owners purchased their properties. The issues raised in the neighbour’s letter do not relate to the additions as proposed in the submitted DA (and as outlined in the architectural drawings). All overlooking issues in the proposed addition are compliant with the residential codes.</p> <p>As the issues raised in the letter do not relate to the submitted planning addition, we ask that the matters pertaining to the retaining wall be resolved separately, outside the scope of this DA. This is in line with the opinions of the council planner as discussed over the phone. The client is happy to discuss the subject of the existing retaining with the relevant neighbour to arrive at a separate understanding.</p>	<p>development that is proposed for the ground floor on the western side of the dwelling but it does not exceed the deemed to comply requirements of the R Codes. Likewise the upper storey section of the development meets the deemed to comply requirements for boundary setbacks and the privacy and overlooking setbacks. As the development on this side of the property at both the ground and upper floors is compliant no conditions have to be imposed in relation to the development. There is no requirement for screening by way of landscape or fencing if the development meets the deemed to comply requirements of the R Codes.</p> <p>The development application that is being assessed has no link to the previous development approval and the conditions imposed for DA P086/17 are unrelated to the development application that is the subject of this report.</p> <p>When a property is purchased the new owners take on the existing circumstances associated with that property including having to accept that there is development on adjacent sites that may be non-compliant in terms of contemporary development standards. Variations in site levels between lots may cause issues with regards to overlooking and privacy, however, new requirements cannot be imposed retrospectively unless it is part of a new development application that is non-compliant. As stated previously in this case the development being proposed is compliant on the northern side of the lot.</p> <p>It appears from both the plans and aerial photos that the retaining wall is located within the boundary of 71 Glyde Street. Safety implications related to the wall would have to be addressed by the owner and ultimately questions of liability are</p>
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<p>after that meeting, and no screening has been indicated on the current application.</p> <p>1.3 To date we have not raised the issue of landscape screening or the potential for the construction of a sufficient boundary fence with the owners of 71 Glyde Street, nor installed landscape screening on our own site as we have been waiting to receive a proposal based on the previous application. Although the current application differs from the previous application it would seem nonetheless an appropriate place to address the issue of visual privacy.</p> <p>1.4 We consider that the proposed development at 71 Glyde Street represents a significant development of that site (an additional storey with windows on the northern side and two additional rooms at the front of the building) and it reasonable to request that the plans indicate proposals to provide appropriate screening (landscape or fencing) along its northern boundary to provide visual privacy as outlined in the R Codes 5.4.1</p> <p>2.0 Visual privacy We fully appreciate that the owners at 71 Glyde are keen to maintain their views from ground floor level but we consider that some compromise should be possible between their desire for a ground floor view and our desire for some visual privacy of our outdoor living areas.</p> <p>2.1 The height of the retaining wall above the existing elevated deck/outdoor living area on the northern boundary of 71 Glyde Street is of limited height (estimated to be approx. 500mm above deck level). See photos at <a href="https://www.realestate.com.au/property/71-glyde-st-east-fremantle-wa-6158">https://www.realestate.com.au/property/71-glyde-st-east-fremantle-wa-6158</a> Our site is significantly lower (estimated at 2m lower) as shown in photo below. Taken in combination, this means that there is direct overlooking of our outdoor living area from 71 Glyde Street which affects how we currently use that space.</p>		<p>civil matters not planning considerations.</p> <p>Matters relating to the retaining walls between properties are a matter to be addressed by the owners of the land.</p> <p>An advice note is often provided in planning determinations that provides advice to applicants to seek a structural engineer's dilapidation report in relation to which structures on adjoining properties may be adversely affected by works. This is not a condition and is not mandatory. The onus is on the builder to ensure at all times that no damage is done to neighbouring properties.</p> <p>I would urge you to have discussions with your neighbour in relation to the state of the neighbouring retaining wall and request action be taken by the owners to repair the retaining wall which is unrelated to the assessment of this development application.</p>
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2.2 From reviewing old realestate.com.au photos of the site <https://www.realestate.com.au/property/71-glyde-st-east-fremantle-wa-6158> it appears that the elevated deck at 71 Glyde Street had previously been set back from the retaining wall on the northern boundary but has been extended at some stage between 2010 and 2011 to meet the existing retaining wall, exacerbating the overlooking effect.

2.3 The limited height of the wall above the deck area at 71 Glyde Street and the drop of approximately 2m to our deck area below may have safety implications and we would be concerned that if anyone was to fall and injure themselves, we may be held liable.

2.4 The lack of screening along the northern boundary and overlooking from 71 Glyde Street also affects our rear bedroom (see photo below – view from bedroom doors). We note that the plans and elevations show a new window in the north facing wall of bedroom 2 at ground floor level but this is not shown on the Graphics. Can you confirm that this window will be set back or treated appropriately to avoid further overlooking of our site.



### 3.0 Retaining Wall

3.1 We note that the development plans show that the retaining wall on the northern boundary of the development site is located



within the property boundary of 71 Glyde Street.

3.2 We also note that the previous application for development on the site included a note of advice to the owner of 71 Glyde Street that they provide a Structural Engineer's dilapidation report, at their 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

3.3 The section of the wall at its eastern end is currently in very poor repair with lumps regularly falling out of it and on to our property (see photos below)



3.4 We would be concerned that the proposed construction work at 71 Glyde Street may have an adverse impact on the structural integrity of the retaining wall and request that

1. this is monitored appropriately during and after construction and
2. the development plans should detail work required to repair and make good the

<p>existing state of disrepair along the eastern section.</p> <p>Conclusion: In conclusion we support the proposed plans for development at 71 Glyde Street on the basis that the owner agrees to install sufficient screening (landscape or fencing) of existing active habitable spaces and outdoor living areas located along the northern boundary of their site, to provide some visual privacy for our adjacent outdoor living areas and our concerns with regard to the existing retaining wall are addressed.</p>		
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Community Design Advisory Committee (CDAC)

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

<b>CDAC Comment</b>	<b>Applicant Comment</b>	<b>Officer Comment</b>
<p><i>The overall built form merits;</i></p> <p>The Committee acknowledged the applicant's previous development application and note the reduced nature of the project. The design is located well setback from the street and will have little streetscape impact.</p> <p>The Committee commented that the design and built form is considered simplistic, however consideration could be given to altering the built form to complete the overall design. The Committee suggest as an example the continuation of the eaves to the southern boundary.</p>	<p>Thank you for the positive feedback on this point</p> <p>With regards to the southern eaves, an extension of the eaves may increase slightly the overshadowing to the southern neighbour, something we are keen to minimise. Under these circumstances, we would like to keep the southern eaves as shown.</p>	<p>Noted</p>
<p><i>(b)The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development.</i></p> <p>No comment.</p>	<p>No comment</p>	
<p><i>(c)The relationship with and impact on the broader public realm and streetscape;</i></p> <p>As per (a) the Panel noted that the development is located well setback from the street.</p>	<p>Thank you for the positive feedback on this point</p>	<p>Noted</p>
<p><i>(d)The impact on the character of the precinct, including its</i></p>	<p>No comment</p>	

<p><i>impact upon heritage structures, significant natural features and landmarks;</i></p> <p>No comment.</p>		
<p><i>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;</i></p> <p>The Committee noted the proposed material to be utilised and the Town's Wood Encouragement Policy. The Committee suggested that preference should be given to the use of wood cladding in the design instead of the Scyon 'Linea' Weatherboard cladding.</p>	<p>There are some factors that make us prefer scyon cladding in this case. Environmentally, a 'timber frame, fibre-cement weatherboard wall' is given the lowest embodied energy for construction (MJ/m<sup>2</sup> rating (169) - <a href="http://www.yourhome.gov.au/materials/embodied-energy-">http://www.yourhome.gov.au/materials/embodied-energy-</a> '. A timber frame, timber weatherboard wall is given a much higher rating of 377. We are keen to build as sustainably as possible and would prefer the FC cladding in this case. We would also note (as above) that the cladding is to walls well set back from the street.</p>	<p>Noted</p>
<p><i>(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;</i></p> <p>No further comment at this time.</p>	<p>No comment</p>	

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.

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

### 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 Codes. 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	6m	25.855m	A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
<u>South bed 1</u>	1.1m	1.6m	A
<u>South verandah</u>	1.1m	1.6m	A

<u>North verandah</u>	1.1m	1.6m	A
<u>North bed 2</u>	1.1m	1.6m	A
<u>North master bedroom</u>	3.5m	4.7	A
<u>North study and stairs</u>	4.3m	6m	A
<u>West study</u>	1.1	4.385m	A
<b><u>South study stairs and master bedroom</u></b>	<b>1.9m</b>	<b>1.6m</b>	<b>D</b>
<u>Patio</u>	1m	1.15m	A
Open Space	55%	69%	A
<b>Wall height</b>	<b>6</b>	<b>6.446m-6.775m</b>	<b>D</b>
Roof height	9m	7.5m	A
Setback of Garage	-	-	N/A
Primary street setback	-	-	N/A
Car Parking	-	-	N/A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	≤25%	22%	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
<b>3.7.2 Additions and Alterations to Existing Buildings</b>	<b>D</b>
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
<b>3.7.7 Building Setbacks and Orientation</b>	<b>D</b>
<b>3.7.8 Roof Form and Pitch</b>	<b>D</b>
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	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	A
3.7.17.3.3 Garages and Carports	A
<b>3.7.17 Precinct Requirements</b>	<b>D</b>

This development application proposes additions and alterations to an existing dwelling including an upper storey at the subject property. The property is not on the heritage list or the heritage inventory and as such significant changes can be made to the dwelling. The property is located at the rear and on the highest point on the lot to maximise views from the proposed upper storey of the dwelling while simultaneously achieving the privacy and setback requirements of the Residential Design Codes. One variation is requested to the requirements of the Residential Design Guidelines and two variations are requested to the requirements of the Residential Design Codes.

Southern Upper Storey Wall

The southern upper storey wall backing onto the study, staircase and master bedroom is 13.2m long and 6.3m high with highlight windows. It is required to have a setback of 1.9m in accordance with deemed to comply requirements of Clause 5.1.2 C3.1 of the Residential Design Codes, however, this wall is setback 1.6m to the boundary. The building is lower in height than what is possible, the wall does not adversely impact on sunlight or ventilation to the neighbouring property as overshadowing is within the maximum of

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25% of the neighbouring lot size and the use of highlight windows ensures that privacy is maintained to the neighbouring property. The proposed upper storey does not have an overall negative impact and therefore can be supported.

#### Wall Height

Where a maximum wall height of 6m is required in accordance with the deemed to comply requirements of Clause 5.1.6 C6 of the Residential Design Codes the proposed additions result in the maximum wall height being exceeded at the front and rear sides of the dwelling with heights of 6.446m and 6.775m respectively. However, the total roof height is less than what is required by the R-Codes and there is no significant impact on sunlight, or views as a result of the higher walls. As such the wall height which is below the maximum possible roof height can be supported.

#### Roof Pitch

The upper storey has a roof pitch of approximately 8 degrees which 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. However, the roof pitch of 8 degrees is an acceptable variation as the roof contributes positively and compliments the existing dwelling and is sympathetic to surrounding dwellings in accordance with Performance Criteria Clause 3.7.8.3 P1, P2, P3 and P4. The proposed roof pitch also minimises the overall height of the dwelling and as a contemporary design can be supported.

#### Fremantle Port Buffer Area 2

The property is located within Area 2 of the Fremantle Port Buffer Zone. As such there is a requirement to include conditions that minimise the risks associated with being located in this zone in accordance with the Residential Design Guidelines Clause 3.7.16.4.3.3 A2. These conditions have been included in the subsequent recommendation.

#### **Conclusion**

The proposed development is not considered excessively bulky or imposing on the lot and it has minimal amenity impacts on surrounding properties. There have been claims made by the neighbouring property on the north side of the subject lot that there should be a condition imposed requiring the addition of screening to reduce the privacy or overlooking impacts on the northern property. As has been highlighted in the response to the submission received in relation to this development application it is not possible to impose conditions on an existing development where there are no breaches of the Residential Design Codes or the Residential Design Guidelines. It should also be noted that development within the Plympton precinct was originally completed before the imposition of contemporary planning and building controls and as such there has to be an acceptance that what was considered acceptable when the lots were subdivided and built on may not be acceptable today. Nonetheless conditions on existing development cannot be imposed retrospectively.

It is also noted that the Community Design Advisory Committee was broadly supportive of the proposal and had no negative comments to make regarding the design.

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

- *Melanie Watkins (Applicant) did not wish to address the meeting but supported the officer's recommendation*

**11.7 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP050819**

Moved Cr White , seconded Cr Natale

That development approval is granted and Council exercises its discretion in regard to the following;

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1.9m required, 1.6 m provided;
- (ii) Clause 5.1.6 – Residential Design Codes – Wall Height – 6m required – 6.446m to 6.775m provided;
- (iii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 to 36 degrees required, 8 degrees provided;

for new upper floor addition and alterations to existing residence at No. 71 (Lot 125) Glyde Street, East Fremantle, in accordance with the plans date stamped received 25 June 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 be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (5) 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.
- (6) Any glass used for windows or other openings shall be laminated safety glass of minimum thickness of 6mm or double glazed utilising laminated or toughened safety glass of a minimum thickness of 3mm. All safety glass shall be manufactured and installed to an appropriate Australian Standard.
- (7) All air-conditioning is to have a centrally located shut down point and associated procedures for emergency use, and there is a preference for split refrigerative systems.
- (8) The principles of quiet house design shall be adopted including the incorporation of roof insulation.
- (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) 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.

### 11.8 King Street No 58 (Lot 366) Proposed alterations and additions

<b>Owner</b>	Christopher Jones & Kharis Burns
<b>Applicant</b>	Christopher Jones
<b>File ref</b>	P055/19; KIN58
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 August 2019
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

#### **Purpose**

This report considers a planning application for proposed alterations and additions including a carport, pergola, extended verandah and balcony to an existing dwelling at No 58 (Lot 366) King Street, East Fremantle.

#### **Executive Summary**

The applicant is seeking Council approval for the following variations to the Residential Design Codes and the Residential Design Guidelines;

- Lot boundary setbacks - carport – the carport is located on the southern boundary where a 1m setback is required;
- Lot boundary setback – pergola – the pergola is located on the boundary where a 1m setback is required;
- Roof pitch – carport – the roof has a pitch of 3 degrees where 28 to 36 degrees is required;
- Roof pitch- verandah - the roof is flat roofed where 28 to 36 degrees is required;
- Privacy setbacks – balcony – 5m provided where 7.5m is required

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

#### **Background**

Zoning: Residential R20  
Site area: 507m<sup>2</sup>

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

Nil

#### **Consultation**

Nil

#### Advertising

The application was not advertised as the proposed development does not have an impact on rear neighbouring property and support was received from both the northern and southern neighbouring properties.

#### Community Design Advisory Committee (CDAC)

The application was referred to CDAC. The following comments were made.

- (a) *The overall built form merits;*
- The Committee noted the variations being sought and also acknowledged their support for the variations based on support from the neighbours.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development.*
- The Committee praise the design as being consistent with the overall building and is considered acceptable.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
- The Committee praised the overall design as being consistent with the heritage component of the dwelling.
- (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;*
- No further comment at this time.

Applicant Response

Nil

Officer Response

Noted

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.

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

### 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 Codes. 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			
<b>South carport</b>	<b>1m</b>	<b>0m</b>	<b>D</b>
<b>North pergola</b>	<b>1m</b>	<b>0m</b>	<b>D</b>
<u>East verandah</u>	1m	16m	A
<u>North verandah</u>	1m	2.9m	A

South verandah	1m	3.499m	A
Open Space	50%	55%	A
Wall height	6m	3.625m	A
Roof height	9m	7.5m	A
Setback of Garage	1.2m behind building line	2m from front building line	A
Primary street setback	-	-	N/A
Car Parking	1-2	1	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	≤25%	Additional 7%	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

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

This development application proposes the addition of a front carport, side pergola, larger rear verandah and an upper storey balcony to the subject property. Two variations are requested to the requirements of the Residential Design Guidelines and three variations are requested to the requirements of the Residential Design Codes.

Heritage- Category B

The property is heritage listed with a Category B listing on the Town's heritage list. The works are relatively minor and compliment, rather than detract from the heritage qualities of this dwelling. There has previously been additions completed to the dwelling and the proposed changes are largely concentrated at the rear of the building. The pergola is a simple flat timber framed structure. The verandah is being extended outwards towards the rear of the property utilising similar design and materials to the existing verandah. The balcony is an open structure with simple balustrading and screening. The only change that can be seen from the front of the property is the carport which is relatively minor in nature and sympathetic to the character of the dwelling. It complements the dwelling as a result of it being located behind the building line and takes up less than 30% of the lot frontage. The design of the carport has simple lines with a roof that has a pitch of only 3 degrees with turned timber posts supporting the roof located on the boundary. There is already a driveway in position suitable for the parking of 1 car in the same location. There is also a wall and door proposed for the rear of the carport which improves privacy and security. This wall is proposed to be constructed of

limestone and red brick similar to the front facade of the existing dwelling. Each element of the proposed additions does not detract from the heritage character of the property or the surrounding streetscape.

#### Carport Side Boundary Setback

The carport is located on the southern side boundary rather than having a setback of 1m. As such it does not achieve the deemed to comply requirements of Clause C3.1 ii. of the Residential Design Codes. However, this variation can be supported based on design principles Clause 5.1.3.P3.1 for the following reasons:

- (i) More effective use of the space;
- (ii) There is minimal impact of building bulk on adjoining properties;
- (iii) Minimal impact on sunlight and ventilation to the building and open spaces on the site or adjoining properties;
- (iv) No overlooking or loss of privacy;
- (v) Does not have an adverse impact on the amenity of the adjoining property.

#### Pergola Side Boundary Setback

The pergola is located on the northern side boundary rather than having a setback of 1m. As such it does not achieve the deemed to comply requirements of Clause C3.1 ii. of the Residential Design Codes. However, this variation can be supported based on design principles Clause 5.1.3.P3.1 for the following reasons:

- (i) More effective use of the space;
- (ii) There is minimal impact of building bulk on adjoining properties;
- (iii) Minimal impact on sunlight and ventilation to the building and open spaces on the site or adjoining properties;
- (iv) No overlooking or loss of privacy;
- (v) Does not have an adverse impact on the amenity of the adjoining property.

#### Roof Pitch of Carport

The carport has a roof pitch of approximately 3 degrees which 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. However, it can be argued that the roof pitch of 3 degrees is an acceptable variation as the roof contributes positively and complements the existing dwelling and is sympathetic to surrounding dwellings in accordance with Performance Criteria Clause 3.7.8.3 P1, P2, P3 and P4.

#### Roof Pitch of Verandah

Likewise the rear verandah is flat roofed with a bull nose edge. 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. However, it can be argued that the roof pitch is an acceptable variation as the roof contributes positively and complements the existing dwelling and is sympathetic to surrounding dwellings in accordance with Performance Criteria Clause 3.7.8.3 P1, P2, P3 and P4.

#### Balcony Privacy Setbacks

The upper storey balcony does not achieve the full privacy setbacks in accordance with Clause 5.4.1 C1.1i but is able to achieve design principles 5.4.1 P1.1 & P1.2 as a result of screening. The design sees privacy setbacks of approximately 5m with the use of screens fitted to the southern edge of the balcony. Although the privacy setback of 7.5m is not achieved it is improved such that there is a setback of 5m and the balcony overlooks a shed on the southern property which is built up to the common boundary for a length of 12m. In addition the neighbouring property owners have been supportive of the proposed development. As such the overlooking issue and privacy concerns are significantly mitigated.

## Conclusion

The proposed changes to the existing dwelling are respectful of the heritage listing of this dwelling and the street. The majority of the proposed works are at the rear and sides of the dwelling and out of sight of the street. Similar materials to the existing dwelling will be used, including timber, brick, limestone and zincalume.

The proposed carport which can be seen from the street has minimal impact on the streetscape or the dwelling. It is of a simple, linear design, setback behind the building line.

The proposed alterations and additions to the rear are not bulky or excessive and do not significantly impact on the amenity of adjoining properties. Screening from the balcony maintains privacy and the pergola and verandah ensure that there is minimal impact on the neighbouring properties.

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

- *Sam Martin (Building Designer for Applicant) did not wish to address the meeting but supported the officer's recommendation.*

### 11.8 OFFICER RECOMMENDATION/ COMMITTEE RESOLUTION TP060819

Moved Cr Natale , seconded Cr Nardi

That development approval is granted and Council exercises discretion in regard to the following;

- (i) Clause 5.1.3 – Residential Design Codes – Carport Side Boundary Setback – 1m required, 0m provided;
- (ii) Clause 5.1.3 – Residential Design Codes – Pergola Side Boundary Setback – 1m required, 0m provided;
- (iii) Clause 3.7.8.3 – Residential Design Guidelines – Carport Roof Pitch – 28 to 36 degrees required, 3 degrees provided
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Verandah Roof Pitch – 28 to 36 degrees required, 0 degrees provided
- (v) Clause 5.4.1 – Residential Design Codes – Balcony Privacy Setbacks – 7.5m required, 5m provided

for alterations and additions at No. 58 (Lot 366) King Street, East Fremantle, in accordance with the plans date stamped received 21 June 2019, subject to the following conditions:

- (1) Visual privacy screening in accordance with the Residential Design Codes Clause 5.4.1 C1.2 with a minimum height of 1.6m from the finished floor level of the balcony is to be fitted to the full extent of the northern and the southern edges of the balcony.
- (2) The carport is not to be enclosed with walls or doors, either at the sides or the front. Any changes to the carport including garage doors or gates or side walls will require a development application to be submitted for consideration by Council.
- (3) The pergola is not to be enclosed with walls or roof, either at the sides or the top. Any changes to the pergola including walls, windows or impermeable roofing will require a development application to be submitted for consideration by Council.



- (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) 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.
- (6) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (7) 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.
- (8) 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.
- (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) *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*

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***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.

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**11.2 No. 19 (Lot 52) Duke Street, East Fremantle – Subsequent Approval of Development for a Front Fence and Retaining Wall**

<b>Applicant/Owner</b>	P Galipo
<b>File reference</b>	P/DUK19
<b>Prepared by</b>	Christine Catchpole, Senior Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 August 2019
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	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.

The application was deferred by the Town Planning Committee at its meeting of 2 July 2019 to allow the applicant to reconsider the front fence finish with specific attention to material, texture, colour and articulation. The owner has responded by proposing to install more landscaping on the wall. The landscaping is in the form of a creeper which over time will grow to cover the wall, minimising the current bulk and scale of the wall. The landscaping is considered a greening of the verge. This response to the Town Planning Committee's concerns is considered satisfactory, subject to further conditions of approval, as it is considered to address the matter of lessening the visual impact and dominance of the wall along this section of the lot frontage.

### **Background**

Zoning: Residential R20

Site area: 432m<sup>2</sup>

### 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 432m<sup>2</sup> 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**

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

**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.

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

**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. 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.

#### Deferral

The application was deferred by the Town Planning Committee at its meeting of 2 July 2019. The Committee resolved”

*“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.”*

The Committee’s resolution to defer the application has been conveyed to the owner. The owner has responded by stating that he is not in a financial position to add any further embellishments to the wall. His has indicated he is willing to add to the landscaping of the area and has submitted a plan (dated 10 July 2019) indicating the addition of climbing plants at the base of the wall. A framework to which the plants can attach, has also been indicated as being installed on the lower half of the wall for the full extent of the solid section.



This is considered an acceptable response to the Town Planning Committees concerns. The climbing plants will eventually cover, soften and screen the lower half of the wall, providing a green backdrop behind the four olive trees. This will lessen the visual impact of the wall in terms of its height and plainness. Conditions in respect to planting, the installation of a framework on which the plants can grow and the maintenance of the plants until they are established is therefore recommended.

This response to the Town Planning Committee's concerns is considered satisfactory and to address the matter of lessening the visual impact and dominance of the wall along this section of the lot frontage. The application is therefore recommended for approval subject to the additional conditions 7 – 9 below.

**11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP070819**

**Moved Cr Nardi, Seconded Cr White**

**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 14 and 16 May and 10 July 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 planting of at least five (5) climbing plants, evenly spaced at the base of the wall, and the installation of an appropriate framework permanently attached to the wall to which the plants can attach as indicated on the plan date stamped received 10 July 2019.**
- (8) The climbing plants to be reticulated and maintained in a healthy condition for a period of two (2) years to the satisfaction of the Operations Manager.**
- (9) Should any one (1) or more of the climbing plants die within two (2) years they are to be immediately replaced with the same species. There are to be no less than five (5) plants installed at the base of the wall at any one time.**
- (10) 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.**

- (11) 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.
- (12) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (13) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (14) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

**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 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.***

**(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.

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### 11.3 Clayton Street No 47 (Lot 1) Proposed additions and alterations

<b>Owner</b>	Conor Blakely
<b>Applicant</b>	Ox Studio – Drew O’Dwyer
<b>File ref</b>	P025/19; CLA47
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 August 2019
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

#### **Purpose**

This report considers a planning application for the addition of a rumpus room to an existing dwelling that is heritage listed (Category B) and strata titled at No 47 (Lot 1) Clayton Street, East Fremantle.

#### **Executive Summary**

The applicant is seeking Council approval for one variation to the Residential Design Codes and one variation to the Residential Design Guidelines;

- Lot boundary setbacks – the rumpus room is located on the northern boundary where a 1m setback is required;
- Roof pitch – 28- 36 degrees required, 25 degrees provided

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: 496m<sup>2</sup>

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

Nil

#### **Consultation**

Nil

#### Advertising

The application was advertised to the neighbouring property directly to the north of the proposed development. No submission was received.

Written support was received from the other strata property owner at 68 Pier Street.

Community Design Advisory Committee (CDAC)

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

*(a) The overall built form merits;*

- The Committee noted the provision under Residential Design Codes for the inclusion of 2 car parking bays on site and comment that this should be maintained. It is noted that should the 'Rumpus' room be setback 1 metre as per (b) below the applicant should be able to facilitate two car parking bays on site.

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

- The Committee suggest that the structure ('Rumpus' room) be setback 1 metre from its proposed location or the reduce the size of the room by 1 metre to better integrate the room with the existing dwelling and to reduce the impact of the room to the front façade and streetscape.

*(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

Applicant Response

No formal written response was received from the applicant. However, the applicant provided amended plans that responded to concerns regarding the design.

Officer Response

Following discussions with the applicant it was agreed to comply with the request from CDAC to better integrate the rumpus room with the existing development and reduce the impact of the room on the front facade and streetscape as well as ensure that 2 car parking bays are provided on site. Amended plans were received that setback the rumpus room in line with the front wall of the existing garage and 2 car bays are provided in the front setback area on the driveway.

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	Unlikely (2)	Minor (2)	Low (1-4)	COMPLIANCE Minor	Accept Officer Recommendation

approve the proposed development				regulatory or statutory impact	
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### 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.

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

### 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 Codes. 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	10.138m	A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
<b>North rumpus room wall</b>	<b>1m</b>	<b>0m</b>	<b>D</b>

<u>West rumpus room wall</u>	6m	8.304m	A
Open Space	50%	69%	A
Wall height	6m	3m	A
Roof height	9m	4m	A
Setback of Garage			N/A
Primary street setback	-	-	N/A
Car Parking	1-2	2	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	≤25%	Overshadows subject dwelling	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

<b>LPP Residential Design Guidelines Provision</b>	<b>Status</b>
3.7.2 Additions and Alterations to Existing Buildings	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	A
<b>3.7.8 Roof Form and Pitch</b>	<b>D</b>
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
3.7.16.4.3.3 Fremantle Port Buffer Area	N/A
3.7.17.3.3 Garages and Carports	N/A
3.7.17 Precinct Requirements	N/A

This development application proposes the addition of a rumpus room to the northern side of the subject property. One variation is requested to the requirements of the Residential Design Codes and one variation is requested to the requirements of the Residential Design Guidelines.

Heritage- Category B

The property is heritage listed with a Category B listing on the Town's heritage list. The works are relatively minor and compliment, rather than detract from the heritage qualities of this dwelling. The existing garage is being replaced with a rumpus room. It is setback behind the front of the porch of the dwelling therefore has minimal impact on the streetscape or the heritage dwelling. It has a roof pitch of 25 degrees which is similar to the existing roof and constructed of similar materials to the original dwelling. Windows have also been modified which allows the rumpus room to better integrate with the original dwelling.

Rumpus Room Side Boundary Setback

The rumpus room is located on the northern side boundary rather than having a setback of 1m. As such it does not achieve the deemed to comply requirements of Clause C3.1 ii. of the Residential Design Codes. However, this variation can be supported based on design principles Clause 5.1.3.P3.1 which states that such development can be approved where there is ;

- (i) More effective use of the space
- (ii) Minimal impact of building bulk on adjoining properties as it is replacing an existing garage

- (iii) Minimal impact on sunlight and ventilation to the building and open spaces on the site or adjoining properties.
- (iv) No overlooking or loss of privacy
- (v) No adverse impact on the amenity of the adjoining property

The location of the rumpus room on the boundary has minimal impacts on the adjoining property as it is located in a similar position to the current garage and is situated south of the neighbouring property so does not impact on sunlight or ventilation to open spaces. As a result of building the wall on the boundary privacy between the dwellings is improved as overlooking is prevented. For these reasons the variation to the setback can be supported.

#### Roof Pitch of Rumpus Room

The rumpus room has a roof pitch of approximately 25 degrees which 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. However, it can be argued that the roof pitch of 25 degrees is an acceptable variation as the roof is similar to the existing dwelling and is sympathetic to surrounding dwellings in accordance with Performance Criteria Clause 3.7.8.3 P1, P2, P3 and P4. As a result the variation to the roof pitch can be supported.

#### **Conclusion**

The proposed rumpus room which can be seen from the street has minimal impact on the streetscape or the dwelling. It is of a simple design, setback behind the building line. It is not bulky or excessive and does not significantly impact on the amenity of adjoining properties. The proposed development will improve privacy between the dwelling and neighbouring properties. The proposed changes to the existing structure are also respectful of the heritage listing of this dwelling and the streetscape. The proposed works are at the side of the dwelling setback the same amount as the existing garage which is to be replaced by the rumpus room and utilise similar materials as the existing dwelling.

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.



**11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP080819**

Moved Cr Harrington , Seconded Cr Natale

That development approval is granted and Council exercises discretion in regard to the following;

- (i) Clause 5.1.3 – Residential Design Codes – Rumpus Room Side Boundary Setback – 1m required, 0m provided;
- (ii) Clause 3.7.8.3 – Residential Design Guidelines – Rumpus Room Roof Pitch – 28 to 36 degrees required, 25 degrees provided

for alterations and additions at No. 47 (Lot 1) Clayton Street, East Fremantle, in accordance with the plans date stamped received 5 July 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 be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (5) 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.
- (6) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (7) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (8) This planning approval 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".***

***(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 7.34 pm

*I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 6 August, Minute Book reference 1. to 14. were confirmed at the meeting of the Committee on:*

3 SEPTEMBER 2019

  
\_\_\_\_\_  
Presiding Member