



MINUTES

Town Planning Committee

Tuesday, 5 November 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 7 NOVEMBER 2019

1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

The Executive Manager of Regulatory Services opened the meeting at 6.34 pm and welcomed members of the gallery.

2. ELECTION OF PRESIDING MEMBER

The Executive Manager of Regulatory Services called for nominations for the position of Presiding Member of the Town Planning Committee.

Cr Harrington nominated Cr Collinson for the position of Presiding Member. Cr Collinson accepted his nomination for this position.

Moved Cr Natale, seconded Cr Nardi

That Cr Collinson be appointed to the position of Presiding Member of the Town Planning Committee for a period of two years

(CARRIED UNANIMOUSLY)

Cr Collinson assumed the Chair.

3. 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.”

4. RECORD OF ATTENDANCE

4.1 Attendance

The following members were in attendance:

Cr C Collinson	Presiding Member
Mayor J O’Neill	
Cr T Natale	
Cr J Harrington	
Cr D Nardi	
Cr A Watkins	

The following staff were in attendance:

A Malone	Executive Manager Regulatory Services
K Culkin	Minute Secretary

4.2 Apologies

Nil

4.3 Leave of Absence

Nil

5. MEMORANDUM OF OUTSTANDING BUSINESS

Nil

6. DISCLOSURES OF INTEREST

6.1 Financial

Nil

6.2 Proximity

Nil

6.3 Impartiality

Nil

7. PUBLIC QUESTION TIME

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

Nil

7.2 Public Question Time

Nil

8. PRESENTATIONS/DEPUTATIONS

8.1 Presentations

Nil

8.2 Deputations

Nil

9. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

9.1 Town Planning Committee (1 October 2019)

9.1 OFFICER RECOMMENDATION

Moved Cr Nardi, seconded Mayor O'Neill

That the minutes of the Town Planning Committee meeting held on Tuesday 1 October 2019 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

10. ANNOUNCEMENTS BY THE PRESIDING MEMBER

Nil

11. REPORTS OF COMMITTEES

11.1 Community Design Advisory Committee

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 21 October 2019

PURPOSE

To submit the minutes of the Community Design Advisory Committee meeting held on the 21 October 2019 for receipt by the Town Planning Committee.

EXECUTIVE SUMMARY

The Committee, at its meeting held on 21 October 2019, provided comment on planning applications listed for consideration at the November 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.

11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP011119

Moved Cr Nardi, seconded Cr Natale

That the Minutes of the Community Design Advisory Committee meeting held on 21 October 2019 be received.

(CARRIED UNANIMOUSLY)

12. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

12.1 Sewell Street No 42 (Lot 315) Proposed two storey alterations and additions

Owner	Douglas and Carolyn Austin
Applicant	Douglas Austin (Brent de Pledge – designer)
File ref	P075/19; SEW42
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	5 November 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

The purpose of this report is for Council to consider a planning application for proposed two storey alterations and additions at No 42 (Lot 315) Sewell Street, East Fremantle.

Executive Summary

The applicant is seeking Council approval for a proposed two storey alterations and additions with the following variations to the Residential Design Code and the Residential Design Guidelines;

- (i) Main Dwelling Side Boundary Setback – 1m required, 0m provided;
- (ii) Studio Side Boundary Setback – only one boundary wall permitted, second boundary wall provided;
- (iii) Garage Roof Pitch – 28 to 36 degrees required, less than 28 degrees provided;
- (iv) Balcony Privacy Setback – 7.5m required, 3.6m provided;
- (v) Privacy Setback – 4.5m required – 3.6m provided; and
- (vi) Overshadowing – up to 25% permitted – 52% provided

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

Background

Zoning: Residential R20
Site area: 508m²

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

Nil

Consultation

Advertising

The application was advertised to surrounding land owners 26 September to 15 October 2019. Two submissions were received.

Submission	Applicant Response	Officer Response
<p>The current proposed property addition is diagonally opposite the rear of our property. Whilst in principal <i>we are</i> very happy to accommodate the needs of neighbours to enjoy their lives, this proposal has created a concern for us. Our concern is the 2nd storey balcony which will overlook our backyard thus creating a privacy issue. Please discuss with the owners our objection and advise a solution. Otherwise we have no issue with the plan layout and hope that the extension improves the function of their home and value of their asset.</p>	<p>I have investigated the neighbours' concerns, however, our proposed balcony is positioned well beyond the 7500mm visual truncation requirement of the R-Codes. Therefore we are not creating any privacy issue with our application.</p>	<p>The proposed design achieves the deemed to comply requirement of Clause 5.4.1 C1.1 I with regards to the rear setback of the balcony from the rear boundary ie. 7.5m required for unenclosed outdoor active habitable spaces, actual setback is greater than 7.5m.</p>
<p>I am writing in relation to the current DA application to extend and renovate the house next door to me. There are a couple of points I would like to enquire about.</p> <ol style="list-style-type: none"> 1. Does this fall within the scope of the standard zoning as it seems to be very large, especially the upstairs being so close to the boundary? 2. Being on the South Side we are particularly concerned by the potential overshadowing. Our rear skillion roof is covered by newly installed solar panels that supply our house with power, I presume that these will not be overshadowed in the winter sun? 3. We have a rear courtyard that is our primary living space. It is very light dependant and we currently pay for our neighbours' trees to be trimmed to allow light into our courtyard. I presume the 	<ol style="list-style-type: none"> 1. The proposed wall heights and lengths comply with the Council policies. The Walk in Robe Upper Floor wall could in fact be setback 1200mm from their boundary however we have increased this to 1416mm. The ground floor walls and staircase wall are positioned in the same location as the existing residence walls. If you refer to sheet 1 of 7 you can easily see the location of the existing residence. Our proposed walls are also located opposite our southern neighbour's extensive parapet walls and therefore would have no visual impact on them. 2. In relation to their overshadowing and rear yard concerns I have clearly indicated in a previous letter dated 8th October 2019 that we have no impact and in fact our design has been sympathetic to their existing residence. I will again point out that their solar panels could have been located a greater distance from their northern boundary to provide 	<ol style="list-style-type: none"> 1. The design has been assessed in accordance with Local Planning Scheme No 3, the Residential Design Codes and the Residential Design Guidelines. Although the proposed design has not achieved all the deemed to comply requirements of the Residential Design Codes or the acceptable development provisions of the Residential Design Guidelines the applicant has demonstrated achievement of design principles/performance criteria related to each and this is an acceptable approach with regards to issues such as setbacks from side boundaries and overshadowing. This is further discussed later in the report. 2. In an attempt to ensure that the rear yard was not overshadowed the development is concentrated in the forward section of the lot which means that there is some overshadowing of the lot and the solar panels. However, the applicant pointed out that at the 21 June at 12 noon 5.93m² or 15.85% of the solar panels are overshadowed by the proposed design. The existing design at 44 Sewell Street (with a parapet wall along the northern boundary) already overshadows the solar panels

<p>overshadowing has been addressed so that it does not ruin our only outdoor space?</p> <p>I understand that there are lots of planning concessions due to the lack of space in this densely populated area. 42 Sewell St house however sits on a large block and has plenty of room to develop the property without the need to press so hard up against our boundary with such a tall structure.</p>	<p>maximum protection from future development or trees being planted.</p> <p>3. In relation to their last comment I find it difficult to understand their concern about our setback from the boundary when we are positioned in the same location as the existing residence opposite their parapet walls. The height of our proposed residence clearly falls within the Council wall height policies. It should also be noted their parapet walls are very extensive occupying 30.27m of their boundary length, this being well above the 9.0m length allowed in the R Codes. Also the average height of these walls is in excess of the R-Code 3.0m average height allowance being an average height of 3.28m for the front wall, 3.972m for the middle wall and 3.6m for the rear wall. I therefore think they are being very unreasonable commenting on our proposal pressing hard up against their boundary when clearly, they have extensive parapet walls hard up against our common boundary which are visually unattractive from our side.</p>	<p>and lot to an amount of 157m² or 61.7%(given that the lot is only 6.135m wide and a total area of 255m²).</p> <p>3. As mentioned above the design has ensured that there is minimal overshadowing of the rear yard of the neighbouring property at 44 Sewell Street by ensuring that the upper storey is located forward of the area occupied by the backyard. It is noted that the open space area for 44 Sewell Street is less than the 50% required by the deemed to comply requirements of the Residential Design Codes.</p>
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Community Design Advisory Committee (CDAC)

The proposed development was referred to CDAC and the following comments were made.

(a) *The overall built form merits;*

- The Committee consider the design as sensitive and sympathetic to the character of the immediate locality.

(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 the applicant conducts a review of the current style of the dwelling and additions to confirm that the existing and proposed design are not overtly consistent and to make an attempt to

harmonise the existing design and eras of construction without attempting to introduce faux heritage e.g. finials.

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

- The Committee note the building could be set back more in the lot, however do believe the setback in this instance is warranted due to the protection to the neighbouring lot's rear outdoor area and solar panels.

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

- No further comment at this time.

(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 note that the development strongly benefits from northern light. The Committee note the building is located on the southern boundary, there are northerly front windows and overall the building attempts to maximise passive solar design.

(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

No comment received.

Officer Comment

CDAC's comments are noted. The applicant has designed a dwelling that is influenced by Hampton style architecture, but retains the existing heritage dwelling at the front. The applicant has attempted to minimise overshadowing of the back yard and solar panels on the neighbouring property, and this has meant that the upper storey development is further forward than normally considered acceptable.

External Consultation

Nil

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

Policy Implications

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

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

Risk Implications

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

Risk Matrix

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

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

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

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6m	11.75m (for new upper storey)	N/A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
North garage wall	0m	0m	A
Dining and alfresco	1.5m	3.6m	A
Alfresco - east	1.5m	15.85m	A
Alfresco - south	1m	2.4m	A
Living and staircase - south	1.5m	0.476m	D
WIR	1.2m	1.474m	A
Balcony - south	1.2m	4m	A

Balcony -east	2.8m	18.4m	A
Balcony - north	2.8m	3.636m	A
Master suite/ensuite	3m	3.6m	A
Studio - east	1m	2.085m	A
Studio - north	1.5m	5m	A
Studio	1 side boundary 0m	2 side boundaries 0m	D
Open Space	50%	59%	A
Wall height	6m	5.986m	A
Roof height	9m	8m	A
Setback of Garage	4.5m	5.95m	A
Car Parking	1-2 car bays	2 car bays	A
Site Works	Less than 0.5m	Less than 0.5m	A
Overshadowing	≤25%	52%	D
Privacy setback			
Master suite/ensuite	4.5m	3.6m	D
Balcony	7.5m	3.6m	D
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

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

This development application proposes alterations and additions to a Category B heritage listed property. The modifications to the existing dwelling include the addition of a lower storey with a new laundry, kitchen, dining, living and alfresco area. An upper storey addition includes a balcony master suite, robes and ensuite. A studio is also proposed for the rear of the backyard.

Heritage- Category B

The property is heritage listed with a Category B listing on the Town's heritage list. The proposed works compliment, rather than detract from the heritage qualities of this dwelling. The proposed changes are largely concentrated at the rear of this section of the building with the exception of the garage. The upper storey is visible from the street front but attempts to hide most of the development behind the front of the house which retains the simple roof and original front verandah. The flat roofed garage contrasts with the dwelling and is located 1.2m behind the building line and takes up only 30% of the lot frontage. Each element of the proposed additions does not detract from the heritage characteristics, but rather enhances the heritage property and the surrounding streetscape.

Main Dwelling - Southern Boundary Setback

On the southern side of the dwelling a staircase and living room is proposed that is 0.476m away from the southern boundary. The wall is 9.3m long and 5.19m high and requires a setback of 1.5m in accordance with deemed to comply clause 5.1.3 C3.1 i of the Residential Design Codes. The southern wall is close to the boundary wall of the neighbouring property to the south that extends for 23.67m. However it achieves design principles P3.1 in that it uses space effectively and does not result in a loss of privacy or amenity for the neighbouring property.

Studio – Southern Boundary Setback

The rear studio wall extends for 5.04m and has a height of 2.73m. It is located on the southern boundary. In accordance with acceptable development clause 3.7.7.3 A3 of the Residential Design Guidelines, a wall may be situated closer to an adjoining residential boundary than prescribed in R Codes if walls are not higher than 3m and 9m in length to one side boundary, walls are behind the main dwelling, the wall is consistent with character of development in the immediate locality and the wall abuts an existing wall of similar or greater dimensions. In this case it is adjacent to an existing structure in the rear yard of the neighbouring property and has minimal impact on the adjacent site. This variation because it makes more effective use of the available space, there is minimal impact of building bulk on adjoining properties, minimal impact on sunlight and ventilation to the building and open spaces on the site or adjoining properties, there is no overlooking or loss of privacy and it does not have an adverse impact on the amenity of the adjoining property, can be supported.

Roof Pitch of Garage

The carport has a flat roof pitch which does not comply with the acceptable development provisions of the Residential Design Guidelines Clause 3.7.8.3 A4.1 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 to the existing dwelling and is sympathetic to surrounding dwellings in accordance with Performance Criteria Clause 3.7.8.3 P1 & P2. The roof positively contributes to the existing dwelling & eaves complement the eaves of the existing building.

Visual Privacy

There are 2 issues with visual privacy setbacks from the balcony and the master bedroom. In accordance with the deemed to comply clause 5.4.1 C1.1 unenclosed outdoor active habitable spaces (like a balcony) are required to have a minimum privacy setback of 7.5m. Likewise a bedroom is required to have a minimum privacy setback of 4.5m. In this case the balcony has a setback of between 3.6m and 5.1m while the bedroom has a setback of between 3.6m and 4.46m. The northern neighbouring property is zoned mixed use and although currently a commercial property there is the potential for future residential development. However, as the balcony and the bedroom windows overlook the parking and loading area of a commercial property that fronts onto George Street, it is an access lane for the parking and loading zone and as such the variation can be supported (in accordance with Residential Design Codes Clause C1.2 Note: iii).

Overshadowing

The maximum shadow cast on lots in areas where the residential density coding is R20 should be less than 25% in accordance with Clause 5.4.2 of the Residential Design Codes. In this case the overshadowing is equivalent to 52% of the neighbouring site to the south. There are a number of constraints that exist as a result of this neighbouring lot being only 6.135m wide so it is difficult to achieve low levels of overshadowing from double storey dwellings to the north. It should also be noted that considerable overshadowing is caused by the building on the neighbouring lot creating overshadowing from high parapet walls located on the

southern boundary of the lot that is the subject of this report. The neighbouring lot already has overshadowing of 157.6m² or 61.7%.

The proposed upper storey has been designed to ensure that the rear yard of the neighbouring lot is protected from overshadowing.

The high level of overshadowing has a potential impact on the solar panels on the southern property, however, this has been minimised through design of the upper storey and over the course of the whole year there will still be adequate access to sunlight for the majority of solar panels as required by the Residential Design Codes Clause 5.4.2 design principles P2.2. The total overshadowing of the solar panels at 12 noon on at 21 June is 5.93m² or 15.85% of the total area of the solar panels.

Unless the upper storey addition is shifted towards the rear of the lot it is difficult to reduce overshadowing of the solar panels. If this is done then more solar panels and the rear yard of the adjoining property will be overshadowed which this design attempts to prevent. This design presents a compromise between providing adequate sunlight to the rear yard of the neighbouring property and protecting access to existing solar panels on the southern neighbour's roof. With long narrow lots it is difficult to ensure that there is no overshadowing. In this case the proposed level of overshadowing can be supported on the basis that attempts have been made to ensure the rear yard of the neighbouring property receives sunlight and the impact on solar access for the solar panels has been minimised as much as possible given that the solar panel location is very close to the subject property and already in shadow for part of the day due to the design of the dwelling and the location of the solar panels at the neighbouring property at 44 Sewell Street.

Visual Bulk from Street

Although the upper storey sections of the proposed development can be seen from the opposite side of the road, the applicant has requested that an approach is adopted similar to the assessment and approval of 43 Sewell Street, where a double storey extension can be seen from the opposite side of the road.

Although the proposed development does not meet the acceptable development requirements of clause 3.7.2.3 A1.2 ii the existing building remains the dominant element of the design when viewed from the primary street and the streetscape is maintained in accordance with performance criteria 3.7.2.3 P1.1. At the same time the proposed garage does not obscure the existing heritage dwelling in accordance with performance criteria 3.7.2.3 P1.2.

As stated earlier if the design is forced to be further to the rear of the property there is the increased likelihood that this will increase overshadowing of the rear yard and the solar panels, impacting more on the adjoining property which the applicant has attempted to minimise. Based on this and the achievement of performance criteria described above this proposed variation can be supported.

Conclusion

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 Code and the Residential Development Guidelines are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

- Mr Brent de Pledge, designer, attended the meeting on behalf of the owners, to respond to any queries.

12.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP021119:

Moved Cr Nardi , seconded Cr Watkins

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

- (i) Clause 5.1.3 – Residential Design Code – Main Dwelling Side Boundary Setback – 1m required, 0m provided;
- (ii) Clause 5.1.3 – Residential Design Code – Studio Side Boundary Setback – only one boundary wall permitted, second boundary wall provided;
- (iii) Clause 3.7.8.3 – Residential Design Guidelines – Garage Roof Pitch – 28 to 36 degrees required, less than 28 degrees provided;
- (iv) Clause 5.4.1 – Residential Design Code – Balcony Privacy Setback – 7.5m required, 3.6m provided;
- (v) Clause 5.5.1 – Residential Design Code – Bedroom Privacy Setback – 4.5m required – 3.6m to 4.46m provided;
- (vi) Clause 5.4.2 - Residential Design Codes - Overshadowing – up to 25% permitted – 52% provided;
- (vii) Clause 3.7.2.3 – Residential Design Guidelines – Visual Bulk – additions obscured by existing dwelling required , additions towards front of property provided;

for alterations and additions at No. 42 (Lot 315) Sewell Street, East Fremantle, in accordance with the plans date stamped received 8 October 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.***

(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.

12.2 Alexandra Road No 84 (Lot 10) Proposed demolition of existing dwelling and construction of new two storey residence

Owner	Ricky and Liann Cooper
Applicant	Oswald Homes
File ref	P073/19; ALE84
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	5 November 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

The purpose of this report is for Council to consider a planning application for the demolition of an existing dwelling and construction of a new two storey residence at No 84 (Lot 10) Alexander Road, 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) Maximum Wall Height – 6m required, 7m provided;
- (ii) Roof Pitch – 28 to 36 degrees required, 20 and 25 degrees provided;
- (iii) Boundary Setback- Outdoor Kitchen – 1m required, 0.5m provided; and
- (iv) Visual Privacy Setbacks – Front Porch – 7.5m required, 4m to 5m provided.

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

Background

Zoning: Residential R17.5

Site area: 807m²

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

Nil

Consultation

Advertising

The application was advertised to surrounding land owners from 25 September to 11 October 2019. No submissions were received during this period, however the applicant approached the northern neighbouring property owners later, and received signed support for acceptance of an open verandah without privacy screening facing northwards (see later comments in relation to Privacy Setbacks).

Community Design Advisory Committee (CDAC)

The proposed development was referred to CDAC and the following comments were made.

(a) The overall built form merits;

- The Committee commented that the building significantly integrates with the immediate locality and is consistent with the surrounding built form regarding the bulk and scale.

-
- Concerns were raised regarding the prominence of the garage to the front façade and streetscape (see below).
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development.*
- The committee note the design is consistent with the contemporary design form of the wider character of the area.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
- The Committee note that the garage is a prominent design element to the dwelling and front façade and a setback behind the garage behind the study would reduce the building bulk and would result in a better streetscape outcome.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- No further comment at this time.
- (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 noted the Town’s Wood Encouragement Policy and make a recommendation that preference should be given to the use of natural wood materials listed under the policy.
- (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

No comment received.

Officer Comment

CDAC’s comments are noted. The proposed garage location is in accordance with the Town’s Residential Design Guidelines. Dwellings within the Richmond precinct are permitted, under Performance Criteria Clause 3.7.15.3.3 P2, to have garages and carports that are designed to be incorporated into and compatible with the design of the dwelling.

External Consultation

Nil

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

Policy Implications

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

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

Risk Implications

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

Risk Matrix

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

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

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

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6m	6m	A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
Garage	1.0m	1.22m	A
Porch	1.1m	3.99m	A
Ensuite 2 & guest bedroom	1.1m	3.99m	A
Dining	1.5m	7.1m	A
Alfresco	1m	7.2m	A

Master bedroom	2m	10.5m	A
Master bedroom & robe	1m	1.31m	A
Robe & ensuite	1m	1.5m	A
Living	1m	1.5m	A
Kitchen	1m	3.03m	A
WIP & laundry	1.2m	1.5m	A
Upper storey ensuite 3 & bed	1.2m	1.5m	A
Upper storey bed facing rear	2.8m	21.376m	A
Toilet & staircase	1.2m	21.8m	A
Ensuite 3 to rear	1.1m	23.8m	A
Outdoor kitchen	1m	0.5m	D
Pool pump & equipment	1m	9m	A
Retaining wall	1m	1.286m	A
Open Space	50%	54%	A
Wall height	6m	7m	D
Roof height	9m	8.6m	A
Setback of Carport	4.5m	6m	A
Car Parking	2 car bays	2 car bays	A
Site Works	Less than 500mm	Less than 500mm	A
Visual Privacy	7.5m balcony and porch	Less than 7.5m	A
Overshadowing	≤25%	17%	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	A
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
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 the demolition of an existing dwelling and the construction of a new double storey residence. Three variations to the Residential Design Codes and one variation to the Residential Design Guidelines are proposed.

Maximum Wall Height

The lot slopes upwards from west to east and varies from 34.5m to 38.6m above sea level (AHD). This is a significant variation in elevation and as a result the proposed dwelling exceeds the maximum wall height in the north-western corner of the building. At the north-western corner of the building the wall is 7m where it is expected to be 6m in height. However, despite this the dwelling is still below the maximum roof height of

9m as required by Clause 3.7.15.4.1.3 A1.4 of the Residential Design Guidelines which allows the use of Category B maximum heights from Table 3 of the R Codes.

Significant water views from surrounding properties will not be affected by the proposed development, the property meets the privacy and design for climate requirements (it will have to meet the energy efficiency requirements of the building code as part of the building permit approval process) and the subject site is not a battle-axe site. For these reasons the variation to the maximum wall height can be supported.

Roof Pitch

Under the Residential Design Guidelines Clause 3.7.8.3 the roof pitch is expected to be between 28 and 36 degrees in the Richmond precinct. However, in this case the roof pitch is either 20 or 25 degrees. This variation can be supported in accordance with performance criteria 3.7.8.3 P3 and P4. The roof complements the traditional form of surrounding development in the immediate locality and the eaves are sympathetic with the immediate locality in regard to the size of overhang.

Boundary Setback

A built in barbeque and outdoor kitchen is included on the plans and located on the paved area on the northern side of the property. It is 1.7m long, 1m high and 0.5m away from the northern boundary. As such it does not comply with the minimum setback distance of 1m as required by the deemed to comply requirements of Clause 5.1.2 C2.1 i of the Residential Design Codes. However, it is able to achieve the design principles clause 5.1.2 P2.1 as it is not considered to impact on adjoining properties in terms of building bulk or privacy given it is below the height of the dividing fence. In addition it is on the southern side of the boundary in an open area, and therefore does not affect sunlight or ventilation to the neighbouring property. The proposed location of the outdoor kitchen and barbeque can thus be supported.

Privacy Setbacks

A front porch is elevated more than 0.5m above natural ground level but does not achieve the deemed to comply requirements of Clause 5.4.1 C1.1 of the Residential Design Codes. In this case a 7.5m privacy setback is required, however, only a 4m setback is achieved. The applicant received signed support from the neighbouring property owners to the north who were affected by this reduced privacy setback. The case is improved for supporting the acceptance of the design without screening devices that mitigate privacy concerns from the porch because the overlooking is over a roofed carport and a roofed outdoor area behind the carport. The porch looks out to the front and side of the property. In accordance with design principles clause 5.4.1 P1.2 there will be minimal direct overlooking of active outdoor spaces or outdoor living areas of the adjacent dwelling as a result of the view being obscured by boundary fencing and roofing. For these reasons the reduction in the privacy setback from the front porch is supported.

Conclusion

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 Rick Cooper, owner, attended the meeting to respond to any queries. Mr Cooper responded to the Chair's question, confirming that he would discuss with his builder the use of timber/wood as a building material on this project.

12.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP031119

Moved Mayor O'Neill, seconded Cr Nardi

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

- (i) Clause 5.1.3 – Residential Design Codes – Maximum Wall Height – 6m required, 7m provided;
- (ii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 to 36 degrees required, 20 and 25 degrees provided;
- (iii) Clause 5.1.2 – Residential Design Codes – Boundary Setback- Outdoor Kitchen – 1m required, 0.5m provided;
- (iv) Clause 5.4.1 – Residential Design Codes – Privacy Setback – Front Porch – 7.5m required, 4m provided

for a new double storey dwelling at No. 84 (Lot 10) Alexandra Road, East Fremantle, in accordance with the plans date stamped received 15 October 2019, subject to the following conditions:

- (1) Permanently fixed visual screening at least 1.6m high and at least 75% obscure is to be attached to the southern edge of the upper storey balcony.
- (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 the Town of East Fremantle's further approval.
- (3) The proposed works are not to be commenced until the Town of East Fremantle 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 the Town of East Fremantle.
- (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 the Town of East Fremantle'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) If requested by the Town of East Fremantle within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (7) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (8) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by the Town of East Fremantle and if approved, the total cost to be borne by the applicant. The Town of East Fremantle must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

- (9) The crossover located on the northern side of the lot is to be removed at the owner's expense and the verge and kerb is to be reinstated to the specifications and satisfaction of the Town of East Fremantle prior to the occupation of the development.
- (10) No approval is granted for a front fence or gate. If a front fence is to be constructed a separate planning approval shall be submitted for the consideration of the Town of East Fremantle.
- (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.*

(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.

12.3 36-42 Duke Street– Change of Use Application – Office to Consulting Rooms

Applicant	Manotel Pty Ltd
Owner	Manotel Pty Ltd
File ref	P/DUK 36
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone Manager Regulatory Services
Meeting date	5 November 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

The purpose of this report is for Council to consider a change of use application for the 'Brush Factory' (former Lauder & Howard building) to include consulting rooms in place of the previously approved office for one of the tenancies at 36-42 Duke Street, East Fremantle.

Executive Summary

The application proposes a change of use application for the top floor office to consulting rooms. This use is considered a "D" use within a mixed use zone. A "D" use means that *the use is not permitted unless the Council has exercised its discretion by granting planning approval.*

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

- Is the use appropriate for the zoning?
- Is there sufficient car parking for the proposed use?

It is considered there will be minimal impact on the amenity and car parking in the area and as such the change of use can be supported subject to the conditions of development approval being imposed.

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

1897	Building at 36 Duke Street starts use as a 'Brush Factory';
20 May 1983	Council approves the use of 36 Duke Street for restoration and sale of furniture;
14 June 1983	Council approves use of the building at 42 Duke Street for the manufacture of decorative glass (Freedom Glass);
21 November 1983	Council grants conditional approval for the erection of two signs at 36 Duke Street;
16 April 1984	Council advises Lauder & Howard that it has no objections to repainting the exterior of the building at 36 Duke Street;
16 July 1984	Council approves signs on the façade of 36 Duke Street;
24 April 1986	CEO advises Lauder & Howard that signage on the east wall of the building at 36 Duke Street is approved;
19 June 1995	Council endorses a proposal for an opening to the front wall of the building at 42 Duke Street;
10 July 1995	Building Permit 100/2309 approved for installation of new door frame, doors and side-lights at 42 Duke Street;
24 July 1996	Building Surveyor approves removal of a chimney and portion of a parapet wall from the building at 36 Duke Street;
19 August 1996	Council decides to advise the WAPC that it supports the subdivision and amalgamation of Lots 1, 2 & 3;
10 December 1996	WAPC grants conditional approval to the subdivision & amalgamation;
25 February 1997	Council resolves to rezone 36 Duke Street to Residential Area 2;

June 1997	Conservation Plan prepared for Main Roads Department for 36 & 42 Duke Street;
16 December 1997	WAPC endorses for final approval Diagram 94449 for the subdivision & amalgamation;
21 July 1998	Council resolves to reconsider a proposal to convert existing workshop at 42 Duke Street into 2 workshops;
18 August 1998	Council grants special approval for 2 workshops at 42 Duke Street;
5 May 1999	Building Licence 93/2833 approved for alterations to the building at 42 Duke Street to form 2 separate workshops;
25 August 1999	Storm damages building; roof ends up on Stirling Highway;
3 August 2001	Premier Gallop, MPs, Mayor and CEO & VIPs join in the reopening of Lauder & Howard's antiques;
9 December 2008	Planning Approval granted to redevelop the buildings at 36-42 Duke Street from antique furniture showrooms and workshops to 7 x 1 bedroom apartments, and 5 x 3 bedroom apartments;
15 March 2011	Planning Approval granted to redevelop the buildings at 36-42 Duke Street for a change of use, partial demolition, redevelopment and new construction to accommodate a mixed use residential/arts and entertainment venue;
12 February 2013	Planning Approval granted to amendments to a previously approved planning application, date stamped Approved on 15 March 2011 (Application (P199/10) and to extend the previous planning approval P199/10 for a further 2 years. The previously approved application was for a change of use, partial demolition, redevelopment and new construction to accommodate a mixed use residential/arts and entertainment venue;
16 July 2013	Planning Approval granted to amendments to a previously approved planning application, date stamped Approved on 15 March 2011 (Application (P199/10) for 2 storeys of commercial offices above the approved Jazz Club/ Performance space. Council refused the penthouse apartment located above the 'Brush Factory';
1 October 2013	Planning Approval for a penthouse apartment to be erected on top of the proposed performance space and existing heritage building at the 'Brush Factory (former Lauder & Howard building), 36-42 Duke Street. In addition it considers an application which has been presented to Council with regards to a review of the opening times for the Jazz Club.
7 May 2019	Planning approval for a change of use from office in basement to yoga studio.
2 July 2019	Planning approval for change of use from storage area for tenancy 1 and performing arts/music space for tenancy 4 to office space.

Consultation

Advertising

The application for the proposed change of use was advertised to surrounding properties along Duke Street from 8 to 22 October 2019. No submissions were received.

Community Design Advisory Committee (CDAC)

This application was not referred to the CDAC as this is a change of use application and there are no external changes proposed to the building.

Statutory Environment

Planning and Development Act 2005

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

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016

*Municipal Heritage Inventory - 'A' Category
Fremantle Port Buffer Zone - Area 3*

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

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

change of use resulting in a SAT appeal				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.

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

Site Inspection

26 April 2019

Comment

LPS 3 Zoning: Mixed Use

Site area: 164m²

Heritage: Category A (LPS3 Heritage List)

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3.

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

- Is the use appropriate for the zoning?
- Is there sufficient car parking for the proposed use?

Proposed Use

It is proposed to change the use of the office on the top floor of the subject building to consultancy rooms with 3 consultants and 1 receptionist. The proposed consulting rooms would be for psychiatry, psychology and occupation therapy for clients with autism. There is not considered a conflict with the existing uses in the building as consulting rooms have relatively low impacts in terms of noise and other issues around amenity. Consulting rooms would be considered an appropriate commercial use in a mixed use zone because of the minimal amenity effects. Under LPS3 consultancy rooms are a 'D' use meaning *that the use is not permitted unless the local government has exercised its discretion by granting planning approval.*

The proposed change of use was advertised to properties along Duke Street in close proximity to the subject property and there were no responses. Council has previously granted approval for a variety of uses within the complex including office space, dance studio and a yoga studio.

The consultants would operate Monday to Friday 8am to 5pm and occasional weeknight sessions 5pm to 8pm and Saturday mornings 9am to 12noon. Approximately 3 to 5 clients would be visiting the consulting rooms at any one time with appointments between 30 minutes and 90 minutes. There would be some variation dependent on the client needs and consultant availability. The consultants also works at other venues, therefore the hours and days of operation will vary. Initially it is expected that the consulting room would only operate with half the number of staff until the referral base is expanded. The hours of operation and the low intensity of use is not considered an issue as all consulting is undertaken inside the rooms. There would be few, if any amenity impacts on the businesses or residential premises that surround the consulting rooms. The increased foot traffic and business activity in proximity to the George Street would be welcome and the proposed change of use helps to activate the subject building and surrounds.

Parking Requirements

Clause 5.8.5 Car Parking and Vehicular Access of TPS3 states:

Car parking in respect of development in the Commercial Zones is to be provided in accordance with the standards set out in Schedule 11 of the Scheme and the specifications in Schedule 4 of the scheme. Where there are no standards for a particular use or development, the local government is to determine what standards are to apply. In its determination of the requirements for a particular use or development which is not listed in Schedule 11 of the Scheme, the local government is to take into consideration the likely demand for parking generated by the use or development.

Furthermore Clause 5.8.7 On-Street Parking states:

The local government may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development, provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.

In terms of parking Schedule 11 of LPS3 requires that consultancy rooms are required to provide 2 spaces for every consulting room and 1 space for every staff member. Information provided by the applicant stated that there would be 4 consulting rooms within the space and 4 staff members including a receptionist, psychiatrist,

psychologist and occupational therapist. Based on these figures there would need to be a total of 12 car bays provided.

The main Brush Factory building is currently comprised of a number of approved uses including commercial offices, residential apartments, dance studio and rehearsal space and a jazz club. A total of 30 car bays are located in publicly accessible undercroft parking on site and 28 are dedicated for commercial purposes. In this case it is stated that the lease area for the consultant rooms is 164m² and 6 car bays. A reduction in office space to 285m² is proposed which would mean that the parking previously allocated to this office space could be re-allocated to the consultant rooms (5 car bays).

Assuming that 5 car bays are made available to the consultant room this leaves a deficit of 7 car bays. However, as stated in the information provided by the applicant there are 2 car bays on Duke Street adjacent to the Brush Factory building, as well as an additional 3 bays located in front of the residential apartments. There is also more parking located on the eastern side of Stirling Highway along Silas Street with easy pedestrian access available via the George Street underpass. In addition there is Council parking available on George Street which is comprised of 10 car bays.

Additionally, all the tenancies in the building have not been filled, and as previously approved there is an ability to utilise car parking made available from the reciprocal parking arrangements that have been in place between the dance studio, yoga, office and consultants' room and the jazz bar that operates in the evenings. Because of the previous approvals relying on reciprocal parking, car parking bays cannot be specifically allocated to uses, however it is envisaged staff would utilise the tandem bays. Patrons to the jazz club at this point in time do not utilise the undercroft parking preferring to utilise the on street car parking in the evening.

A table has been created to summarise the required and available parking.

Parking at the Brush Factory

Use	Area m ²	Parking required	Parking provided- 30 bays in undercroft parking - 28 commercial bays (1 disabled) & 2 for penthouse apartment		Total Available for Each Use
Reduced area of commercial offices 1 car bay per 30m ² net lettable area	285	10 bays	Additional 5 bays available for consulting rooms	Opportunity to use other bays that are not being used from 28 commercial parking bays available within the undercroft parking due to the reciprocal parking agreement	10
Performing Arts		3 bays	3 bays		3
Dance		3 bays	3 bays		3
Yoga studio (health studio) 1 space for every 10m ² net floor area ***	103	12 bays (11 bays for yoga participants & 1 bay for instructor)	7 bays		7 ***

Consulting Room	12 bays	5 bays available 7 required	5
On street parking		5 bays adjacent to the building	
Total			28

***Note that the actual number of car bays that the yoga classes have provided is not consistent with the actual use. The yoga studio is only operating in the mornings and has small class numbers. The use does not create significant parking demand and as a result there are surplus car bays available for use by other tenants outside yoga class times.

Based on the total onsite parking bays available during the day there is a deficit of 7 car bays for the proposed consulting rooms. However, the shared parking arrangements, as well as off street parking including 5 on street car bays directly adjacent to the subject building as well as parking in Silas Street, Duke and George Street mean that there is sufficient overall parking available to support the consulting rooms. It is essential that the reciprocal parking arrangements that were previously approved are maintained and that no car bays are specifically allocated for specific businesses located within the building. The yoga is an early morning use and there is little demand for parking from this group and other tenancies are currently vacant, so there are many vacant car bays during the day. Given that the jazz club is only open from 5pm Thursday and Friday afternoon and 11am Saturday and Sunday there is no demand from the jazz club during the working week for parking, and car bays can be made available to the other businesses within the building, including the consulting rooms that are the subject of this report.

Conclusion

The proposed change of use from office to consulting rooms is considered an appropriate use for the subject property. There are few, if any amenity impacts and the use will help to activate the street and the property during the hours of operation of the proposed business.

Despite the deficit of 7 car bays on site for the consulting rooms there is sufficient additional street parking available in the surrounding area for clients that will visit the site, as well as under-croft parking that is available to other uses due to the varied opening times of other tenancies.

Given the comments above and the explanation provided the proposed change of use is recommended for approval subject to conditions.

12.3 OFFICER RECOMMENDATION /COMMITTEE RESOLUTION TP041119

Moved Cr Natale, seconded Cr Nardi

That Council grant development approval and exercise its discretion for the change of use from office space to consulting rooms at 36-42 Duke Street (The Brush Factory), East Fremantle, as described on the information and plans date stamped received 1 October 2019 subject to the following conditions:

- (1) Maximum area of the consulting rooms is not to exceed 164m² not including toilets and a maximum of 4 staff (full time equivalent).
- (2) The reciprocal car parking arrangements as previously approved are to remain in place with all car parking to be made available to all commercial uses within the building.
- (3) All other conditions as previously endorsed by Council are to be complied with unless modified by this proposal.
- (4) Works are to be constructed in conformity with the drawings and written information in relation to use 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 building is 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.
- (6) No signage is approved under this change of use application. A separate application is required for signage. All signage is to comply with the Town's Signage Design Guidelines Local Planning Policy 3.1.3.
- (7) With regard to plans submitted with respect to a building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (8) The proposed use is not to be commenced until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
- (9) 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.
- (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 licence is to conform with the approved plans unless otherwise approved by Council.*
- (iii) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (iv) 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"*
- (v) the approval does not include approval of any advertising signage. A separate development application is required for any signage proposal.*

(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.

12.4 Locke Crescent No 26 (Lot 4986) Proposed alterations and additions

Owner	Robeson Architects
Applicant	Lauren & Joel Ridley
File ref	P077/19; LOC26
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	5 November 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

The purpose of this report is to consider a planning application for proposed alterations and additions at No 26 (Lot 4986) Locke Crescent, East Fremantle.

Executive Summary

The applicant is seeking Council approval for proposed alterations and additions to an existing dwelling with the following variations to the Residential Design Codes and the Residential Design Guidelines;

- (v) Dwelling Side Boundary Setback – 1m required, 0m provided;
- (vi) Garage Width – 30% maximum width, 44% provided;
- (vii) Garage Roof Pitch – 28 to 36 degrees required, less than 28 degrees provided.

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

Background

Zoning: Residential R17.5
Site area: 1047m²

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

Nil

Consultation

Advertising

The application was advertised to surrounding land owners from 8 to 23 October 2019. No submissions were received.

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC as there were minimal streetscape impacts as development is focused on the rear of the property.

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	Possible (3)	Minor (2)	Moderate (5-9)	COMPLIANCE Minor regulatory or	Accept Officer Recommendation

the proposed development				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.

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

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

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

Legend (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	No change	A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
Bed 1/WIR	1m	0m	D
Ensuite - east	1m	1m	A
Ensuite - north	1.1m	2.303m	A
Pool wall	1m	1m	A
Open Space	50%	73%	A
Wall height	6.5m to top of external wall	<6.5m	A
Roof height	8.1m	<8.1m	A
Setback of Garage	4.5m	>4.5m	A
Car Parking	1-2 car bays	2 car bays	A
Site Works	Less than 0.5m	Less than 0.5m	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	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	N/A
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15.4.3.1 Fremantle Port Buffer Area	N/A
3.7.15.3.3 Garages and Carports	D

This development application proposes alterations and additions at 26 Locke Crescent. Two variations are requested to the requirements of the Residential Design Guidelines and one variation is requested to the requirements of the Residential Design Codes.

Side Boundary Setback

The master bedroom and walk in robe is located on the south eastern side boundary. It does not achieve the deemed to comply requirements of Clause C3.1i of the Residential Design Code that requires a minimum setback of 1m. The wall is 7.7m long and 3.5m high and although it is located on the boundary it achieves a

number of design principles. As such this variation can be supported based on design principles Clause 5.1.3.P3.1;

- (i) Makes effective use of space for enhanced privacy of occupants and outdoor living areas
- (ii) There is minimal impact of building bulk on adjoining properties
- (iii) There is adequate sun and ventilation and minimal impact on the neighbouring property
- (iv) No overlooking or loss of privacy
- (v) Does not have an adverse effect on the amenity of the adjoining property
- (vi) Positively contributes to the prevailing development in the local planning framework.

The proposed development was advertised to the affected neighbouring property, but no submissions were received. For these reasons the reduced side boundary setback for the master bedroom is supported.

Garage Width

The alterations to the dwelling include a narrowing of the existing garage from 8.5m to 6.5m. The old width represented 59% of the lot width. The new width represents 44% of the lot width which is more than the 30% required by the Residential Design Guidelines clause 3.7.17.3.3. However, this variation is considered acceptable under performance criteria 3.7.17.3.3 P3 because the garage is incorporated into existing dwelling in such a manner that there is a reduction in the visual impact on the streetscape due to its reduced width. The fact that the garage is lower than the street and the dwelling is located on an angle to the street rather than being parallel also minimises the impact of the garage width. The proposed garage width is therefore supported.

Roof Pitch

The master bedroom and ensuite 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 the eaves complement the existing dwelling in accordance with Performance Criteria Clause 3.7.8.3 P1 and P2. The proposed roof pitch is therefore supported.

Conclusion

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 Code and the Residential Development Guidelines are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

12.4 OFFICER RECOMMENDATION /COMMITTEE RESOLUTION TP051119

Moved Cr Natale , seconded Cr Watkins

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

- (i) Clause 5.1.3 – Residential Design Code – Lot Boundary Setbacks- master bedroom and ensuite – 1m required, 0m provided;**
- (ii) Clause 3.7.17.3.3 – Residential Design Guidelines -Garage width – 30% required, 44% provided;**
- (iii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 to 36 degrees required, 3 degrees provided;**

for alterations and additions at No. 26 (Lot 4986) Locke Street, East Fremantle, in accordance with the plans date stamped received 1 October 2019, subject to the following conditions:

- (1) The maximum height of the wall of bedroom 1 and walk in robe located on the boundary shall be 3.504m as shown on the plans.
- (2) The wall of bedroom 1 and the walk in robe is to be constructed in consultation with the owners of the adjoining lot in regards to the exterior wall finish and colour.
- (3) 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.
- (4) 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.
- (5) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (6) All 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.
- (7) If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (8) 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.
- (9) 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.
- (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.*

(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.

12.5 Jerrat Drive, Reserve 7800 (Lot 15722) – Proposed refurbishment works – East Fremantle Lawn Tennis Club

Applicant	East Fremantle Lawn Tennis Club Inc.
Owner	Town of East Fremantle
File ref	P069/19, R/RSB3
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone Manager Regulatory Services
Meeting date	5 November 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

This report considers an application for proposed refurbishment works to the existing East Fremantle Lawn Tennis Club located at Reserve 7800 (Lot 15722) Jerrat Drive, East Fremantle. Under the Swan and Canning Rivers Management Act, the Department of Biodiversity, Conservation and Attractions (DBCA) is the determining authority for proposed developments in areas abutting the Swan River. However, since the subject site is on land reserved for 'Parks and Recreation' and the facility operates under a lease issued by Council to the tennis club, it is necessary for Council to consider its position in respect to the application.

Executive Summary

The proposed development on this site includes a new entry canopy, widening of entry steps, a southwards extension of a roofed deck from the hall, the replacement of existing timber joinery with aluminum joinery including sliding or bi-fold doors leading to the deck, replacement of existing shade cloth with sheeted roof and lined ceiling over an existing alfresco area, as well as an increase in the size of the existing car park (although no new car bays are provided).

There are a number of issues that need to be considered in light of the proposed refurbishment of the tennis club building including;

- Connection to the sewerage;
- Future plans for the area; and
- Viability of the proposal in light of the previous 2 points

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

July 2017 - Structural condition inspection was carried out by Structerre on behalf of the East Fremantle Lawn Tennis Club – some requirement for repairs and maintenance identified and it was recognised that it has been over 20 years since the last major renovation had been undertaken on the building.

April 2018 – preliminary discussions and presentation of proposed redevelopment of EFLTC
2018 - 20 year lease between EFLTC and the Town signed

May 2019 - Hit up wall gained building approval.

Some hard courts have recently been resurfaced

Consultation

Advertising

The application for the proposed refurbishment was advertised to surrounding properties from 9 to 25 September 2019. No submissions were received.

Community Design Advisory Committee (CDAC)

This application was not referred to CDAC.

Statutory Environment

Planning and Development Act 2005

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

Metropolitan Region Scheme

Swan and Canning Rivers Management Act 2006

Policy Implications

Nil

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 refuse the proposed development	Possible (3)	Minor (2)	Moderate (5-9)	COMPLIANCE Short term non- compliance but with significant regulatory requirements imposed	Accept Officer Recommendation

Risk Matrix

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

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

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

Site Inspection

A site inspection was carried out.

Comment

LPS 3 Zoning: Reserved for parks and recreation
Site area: 2600m²
Heritage: Nil

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Planning and Development Act (2005).

The proposed refurbishment of the building involves changes that will modernise the building and allow for improved traffic flow through the carpark. The club intends to use the refurbishment as a means to attract new members and to update facilities for existing members. Sporting clubs such as the EFLTC are important elements of the community and the Town does not want to prevent the club from growing and increasing membership.

In 2018 a new 20 year lease was signed between the tennis club and the Town. Following this the tennis club formed a committee to investigate redevelopment of the site. A number of informal ideas were proposed as part of the staged redevelopment of the building and site; including refurbishing the existing building, improving the amenities available at the Club, accommodating other clubs within the site, such as the Fremantle Table Tennis Club and constructing a completely new clubroom facility to accommodate the tennis club and other clubs. The Town will assess any future developments on the individual merits of that proposal.

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

Proposed Building

There are no significant planning concerns with the proposed changes to the building. The height of the building is not being altered and nor is there a significant increase the bulk of the building. The roof is currently 3.4m from ground level and the plans do not show any increase beyond this. The entry canopy proposed to the south of the building is below the height of the existing roof and is an open structure. There is an extension proposed 3.2m northwards of the deck area, but this is concealed from Preston Point Road by the existing building. A change of roofing materials to the north east of the building (from shade cloth to Colorbond sheeting) is proposed and again this is generally concealed from Preston Point Road by the existing building. The roof is being extended to the west by 0.7m. Painting and rendering of the building walls, in a white colour is also included in the plans. These works are considered minor works which improve the aesthetics of the building. The proposed changes to the building can be supported as they will not impact on neighbouring properties.

Signage

Limited signage is also being proposed. Signage is being added to the western wall of the main building with text reading East Fremantle Tennis Centre; and Fremantle Taoist Tai Chi Centre. There is additional signage on the western edge of the entry canopy that reads Fremantle Tennis Centre. The signage is considered minimalistic and as a result can be supported.

Connection to Sewerage

Connection to the sewerage is an important consideration owing to the proximity of the club buildings to the Swan River, however, this is not being considered as part of this stage of the redevelopment process. It has been acknowledged in communication between the club, Town and the DBCA that a delay to the connection of sewerage may be considered owing to the cost of the infrastructure and broader plans for the area.

The Town is preparing a masterplan for the adjoining playing fields and community and sporting facilities including East Fremantle Yacht Club, E J Chapman Playground, Henry Jeffrey Oval, I G Handcock Playground, Preston Point Reserve/Chapman Oval, and Tricolore Community Centre. This masterplan will identify current uses and facilities, future requirements and opportunities for the area. In addition to this there is the future redevelopment of the Leeuwin Barracks, plans of which are still to be discussed, finalised and approved.

Future redevelopment of the site beyond what is proposed here should be integrated into this plan and include the installation of a reticulated sewerage connection that links with the broader sewerage and infrastructure plans for the whole area.

Given that in the short term there will be no significant increase in the number of members of the club it is considered that the redevelopment that is the subject of this report should be supported subject to the connection of the club when stage 2 of the redevelopment process goes ahead.

The redevelopment which is the subject of this report is estimated to be worth approximately \$250000. The connection of the buildings to the sewerage network including the installation of pumps to push effluent uphill would cost the Club a considerable amount of money. The proposed redevelopment is being partially funded by a grant however, if the sewerage is required to be connected then the proposal could not be completed and the costs will increase well beyond what is currently required. Given that the building is owned by the Town and there is a requirement to protect the Swan River it is proposed to impose a condition that would require the connection of sewerage as part of a stage of development where there is a potential increase in the footprint of the buildings and in turn a greater number of people visiting the tennis club and other clubs that would be part of the future expansion of facilities. It is not economically viable for a single club with limited resources to install a sewerage connection and complete this prior to other important plans being released that will provide a better picture of the infrastructure that is required for the area.

It is therefore considered prudent that the proposed development be supported, but subject to a requirement that the Town will not accept any increase in the footprint of the development beyond what is being considered here without connection to mains sewerage.

Parking Requirements

In terms of parking, the kerbing on the western edge of the existing car park is proposed to be shifted to the west, but there is not any increase in the number of car bays in the car park (currently 39 bays). It is noted that the vision for the club that was presented to the Town in 2018 showed proposals that included expanded parking that accompanied additional building on site and a greater number of groups/clubs being considered as users of the site, however, this is not part of the current proposal. It is noted that there is additional parking available to the west of the tennis club near the East Fremantle Lacrosse Club & East Fremantle Cricket Club when these car bays are not being used, as well as parking along Petra Street. One of the concerns related to parking is the fact that there are peak periods (often weekends) when the parking is in heavy use, but there are significant periods when the car parking area is empty, including periods during the week, and in the evenings outside times when the tennis club is operating. Parking can be a significant expense for community and voluntary groups when considering redevelopment of existing buildings and parking is considered the least important issue to deal with and the least valuable element of any design proposals. It is considered prudent that future expansion of the footprint of the club's facilities should require additional parking to be provided. In this case the proposed refurbishment of the existing building should not require an increase in parking bays as there is no increase in the building size and there is the same occupancy requirement.

Conclusion

The proposed redevelopment is considered appropriate for the subject property as there are few amenity impacts from the proposed redevelopment. Given the comments above and the explanation provided the proposed redevelopment is recommended for approval to the DBCA subject to conditions.

OFFICER RECOMMENDATION:

That Council recommend support for the proposal to the Department of Biodiversity, Conservation and Attractions for the redevelopment of the East Fremantle Lawn Tennis Club buildings at Reserve 7800 (Lot 15722) Jerrat Drive, East Fremantle, as described on the information and plans date stamped received 23 August 2019 subject to the following conditions:

- (1) The existing septic tank is to be serviced and certified by a qualified plumber to ensure the system is operating in accordance with the Public Health Regulations.
- (2) The applicant shall undertake discussions with the Town, Department of Biodiversity Conservation and Attractions and sewerage providers and prepare plans to the satisfaction of each party for the connection of the club buildings within 3 years of the date of this approval.
- (3) Parking shall be shared between all the clubs and uses undertaken within the subject property.
- (4) All vegetation on site is to be retained. If vegetation is required to be removed then an application shall be made for the consideration of the Town of East Fremantle.
- (5) Works are to be constructed in conformity with the drawings and written information in relation to use accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (6) The building is 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.
- (7) No additional signage is approved other than that indicated on the approved plans date stamped 26 August 2019. A separate application for additional signage is required to be made to the Town for consideration by the Town's officers. All signage is to comply with the Town's Signage Design Guidelines Local Planning Policy 3.1.2.
- (8) With regard to plans submitted with respect to a building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (9) 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.
- (10) If requested by Council within the first two years following installation, the roofing is to be treated to reduce reflectivity. The treatment is to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the East Fremantle Lawn Tennis Club.
- (11) The approval is to remain valid for a period of 24 months from date of the 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) the application for a building licence is to conform with the DBCA approved plans unless otherwise approved by Council.*
- (iii) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (iv) 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".*

12.5 ALTERNATIVE MOTION/COMMITTEE RESOLUTION TP061119

Moved Cr Nardi , seconded Cr Natale

That Council recommend support for the proposal to the Department of Biodiversity, Conservation and Attractions for the redevelopment of the East Fremantle Lawn Tennis Club buildings at Reserve 7800 (Lot 15722) Jerrat Drive, East Fremantle, as described on the information and plans date stamped received 23 August 2019 subject to the following conditions:

- (1) The existing septic tank is to be serviced and certified by a qualified plumber to ensure the system is operating in accordance with the Public Health Regulations.
- (2) The applicant shall undertake discussions with the Town, Department of Biodiversity Conservation and Attractions and sewerage providers and prepare plans to the satisfaction of each party for the connection of the club buildings within 3 years of the date of this approval.
- (3) Parking shall be shared between all the clubs and uses undertaken within the subject property.
- (4) All vegetation on site is to be retained. If vegetation is required to be removed then an application shall be made for the consideration of the Town of East Fremantle.
- (5) Works are to be constructed in conformity with the drawings and written information in relation to use accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (6) The building is 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.
- (7) No additional signage is approved other than that indicated on the approved plans date stamped 26 August 2019. A separate application for additional signage is required to be made to the Town for consideration by the Town's officers. All signage is to comply with the Town's Signage Design Guidelines Local Planning Policy 3.1.2.
- (8) With regard to plans submitted with respect to a building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (9) 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.
- (10) If requested by Council within the first two years following installation, the roofing is to be treated to reduce reflectivity. The treatment is to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the East Fremantle Lawn Tennis Club.
- (11) The approval is to remain valid for a period of 24 months from date of the 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) the application for a building licence is to conform with the DBCA approved plans unless otherwise approved by Council.*
- (iii) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

- (iv) 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”.**
- (v) that the East Fremantle Lawn Tennis Club ensures sufficient funds are available for future sewer connection**

(CARRIED UNANIMOUSLY)

The Executive Manager, Regulatory Services supported the alternative motion.

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.

12.6 Canning Highway 135 (Dovenby House) Temporary installation of a Railway Train Carriage

Owner	Town of East Fremantle
Applicant	The Perth History Association Inc.
File ref	P/CAN135
Prepared by	Andrew Malone, Executive Manager Regulatory Services
Supervised by	Gary Tuffin, Chief Executive Officer
Meeting date	5 November 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

The purpose of this report is for Council to consider a planning application for the temporary installation of a train carriage for use in association with the Victory Garden at Dovenby House, No 135 Canning Highway, East Fremantle.

Executive Summary

The applicant is seeking Council approval for the installation of a railway train carriage at the subject property. The Perth History Association Inc. has purchased the carriage, which will be moved to Thornlie for inspection and restoration prior to it being moved to the rear of Dovenby House for superficial restoration, including painting and internal fit-out. It is proposed to locate the carriage at the rear of Dovenby House for the duration of the lease between The Perth History Association Inc. and the Town.

There has been no assessment of the carriage with regards to land use or car parking requirements, as the proposal does not change the existing use of the building (Dovenby House) and is not considered to increase the car parking demand. The heritage value and character of the building has been assessed and will be discussed below.

It is considered that this proposal can be supported subject to the temporary nature of the proposal (subject to lease agreements) and the inclusion of planning conditions.

Background

The carriage is known as a 'Brake van', and would have tailed a locomotive providing a secondary lever brake to slow a train in an emergency. The Brake van was usually staffed for this purpose, and also contained high value cargo like mail. Whilst East Fremantle does not have a direct association with railways and trains in general, they do form part of the broader history of Fremantle Port and shipping.

It is proposed to locate the carriage in that location for the duration of the lease.

Consultation

Advertising

The proposal was advertised to the landowner of the Post Office and the tenant of the Police Station. No submissions were received.

Community Design Advisory Committee (CDAC)

This application was not referred to CDAC.

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.

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

Site Inspection

A site inspection was undertaken, with Mr Harley (Perth Museum) and Mr Gallagher (Operations Manager) in attendance.

Comment

Statutory Assessment

The proposal has been assessed against the provisions of Town Planning Scheme No. 3 and the Town's Local Planning Policies. The subject site is zoned 'Town Centre'. Approval is sought for location of the carriage to the rear of Dovenby House. The works include full internal and external refurbishment, with the carriage sitting on railway sleepers/ gravel base.

Offsite Restoration of the carriage will be undertaken by The Perth History Association Inc. (Perth Museum). Inspection and restoration works will take place at a commercial hard-stand in Thornlie. These works include:

- termite inspection and treatment if required;
- asbestos inspection and treatment if required;
- power washing; and
- any major carpentry or repairs.

All major works and any use of noxious chemicals will occur offsite. The works proposed to occur at the rear of Dovenby are finishing works that will entail light sanding and repainting. Works will occur during business hours and be aesthetic in nature.

The proposed carriage has been assessed as per the relevant Council planning requirements. No additional car parking other than that allocated to Dovenby House (three bays) is being provided on-site. The parking allocation is considered to comply with the Town Centre development requirements and the existing use of the building. The primary development issue regards the heritage and amenity impact to the building and Town Centre.

Compliance with LPS No.3

Council adopted the LPP Town Centre Redevelopment Guidelines to provide detailed guidance for development within the Town Centre Zone. This Policy varies the Scheme standards in respect to plot ratio, height, density and car parking. The LPP also contains additional design guidelines and requirements which complement the General Provisions of the Scheme. Notwithstanding the Policy the proposal has also been assessed against the provisions of the Scheme. The assessment also considered Deemed Provisions Clause 67 of the Planning and Development Regulations 'Matters to be considered by local government' and the proposal is considered to comply with the provisions.

Zone Objectives of the Scheme

The subject site is contained within the Town Centre Zone which has the following objectives (clause 4.2);

- *To provide for a range of commercial shopping, civic and community facilities to meet the day to day needs of the community and which will contribute towards the vibrancy of the Town.*
- *To encourage the development of a consolidated Town Centre, which will provide a focus for the community and exhibit a high standard of urban design in keeping with the historical character of the Town.*
- *To enhance pedestrian connectivity to and within the Town Centre, so as to facilitate the safe and convenient movement of local residents, and enhance the viability of Town Centre businesses.*
- *To ensure the location and design of vehicular access and parking facilities do not detract from the character or integrity of the Town Centre or the streetscapes which define the centre.*

It is considered that the proposal meets the above Zone Objectives of the Scheme and Clause 67 of the Planning and Development Regulations.

Compliance with LPP- Town Centre Redevelopment Guidelines

An assessment of the proposal has been undertaken as per the Town Centre Redevelopment Guidelines. The proposal is generally a satisfactory response to the heritage status of the existing building and is consistent with the provisions of the LPP – Town Centre Redevelopment Guidelines.

The proposal is of a height, bulk and scale that it does not constitute over development of the site. The proposal is sympathetic to the original building.

Subject to conditions the application is considered to meet all relevant statutory planning provisions of the Scheme and Local Planning Policy.

Heritage

Dovenby House is on the Town's Heritage List and categorised as Category 'A' on the Municipal Inventory. The proposed carriage is completely detached from the building and is located to the rear of the garden area. Overall, it is considered that the carriage does not significantly impact on the heritage elements of the property or the wider Town Hall precinct.

A heritage assessment by Council Officers has been undertaken. An assessment of the heritage significance of the building, as well as the potential impact the proposal will have on the property is detailed below.

The proposed location of the carriage in relation to the historic building (Dovenby House) will have minimal negative impact on the heritage values of the existing building. The proposed carriage from what can be ascertained, was constructed in Lancashire England in 1896. It entered service in Western Australia soon after, later running under the Code FA64. In 1964 it was purchased by the Midland Railway Company and was rebranded Z40816. The historic nature of the carriage will not impact on the presentation of the surrounding heritage buildings and will have a positive impact on the character and precinctual qualities of the Town Centre as an amalgamation of heritage buildings including the adjoining buildings of the Police Station and Dovenby House.

The Town Hall, Dovenby House and the Police Station have all now been either partially or full refurbished. The Old Post Office was also recently sold and will soon be refurbished and utilised as offices. The four buildings make a distinctive heritage location. The addition of the heritage train carriage will continue the heritage theme within the surrounds of the Town Hall.

In a refurbished form, the proposal will have minimal impact on the aesthetic value of Dovenby House. The additional space provided by carriage will support the proposed Victory Garden. The Victory Garden will be open to the public and will help to communicate the Town's history of productive urban gardening during WW2.

Lease

Subject to Council approval authorisation is required to alter the Licence Agreement for Dovenby House, between the Town of East Fremantle and the Perth History Association Inc. trading as "Museum of Perth". This would include the Victory Garden and the area for the carriage.

Conclusion

In conclusion the proposed installation of the train carriage is sympathetic to the character of the heritage building and consistent with the heritage character of the surrounding buildings. The proposal is recommended for approval subject to conditions.

OFFICER RECOMMENDATION:

That Council:

- (1) authorise an amendment to the current lease agreement between Council and The Perth History Association Inc for the lease area for Dovenby House to include the surrounding gardens.
- (2) grant approval for proposed railway carriage to be relocated to the rear of the heritage listed building at 135 (Dovenby House) Canning Highway, East Fremantle, as indicated on the plans and information date stamped received 18 October 2019 subject to the following conditions:
 - (a) This is a temporary planning approval which permits the railway carriage to be located as indicated in its nominated location for a period of the lease agreement between the Town and the Perth History Association Inc. At the end of this time the carriage shall be removed (within one (1) month after the termination of the lease) and relocated to another site and all costs associated with the removal and restoration of the carriage are to be borne by the applicant.
 - (b) Upon the removal of the carriage all Council infrastructure and property is to be reinstated and remediated to the satisfaction of the Chief Executive Officer.
 - (c) The applicant to lodge with the Town a five thousand dollar (\$5000) bond for the protection of Council's infrastructure and property. The bond shall be repaid upon the removal of the carriage and all remediation works have been completed to the satisfaction of the Chief Executive Officer.
 - (d) No signage is approved or permitted in regards to this application. Should the applicant wish to install signage, a signage application will be required to be submitted to Council for determination.
 - (e) 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.
 - (f) All storm water 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.
 - (g) 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.
 - (h) 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.
 - (i) 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.
 - (j) This approval does not relate to other works or uses. A development application is required to be submitted to the Town for any other proposed works or changes of use for the consideration of Council.
 - (k) 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".*

Moved Cr Watkins, Seconded Cr Nardi

The adoption of the officer's recommendation.

(LOST 2:4)

Amendment

Moved Mayor O'Neill, seconded Cr Harrington

That the following additional conditions be included:

- (l) the carriage is fully restored prior to installation at the site**
- (m) the interpretive panels are approved by the Town's Art Advisory Committee**

(CARRIED 4:2)

The substantive motion, as amended, was put.

12.6 SUBSTANTIVE MOTION/COMMITTEE RESOLUTION TP071119

Moved Cr Natale, Seconded Cr Nardi

That Council:

- (1) authorise an amendment to the current lease agreement between Council and The Perth History Association Inc for the lease area for Dovenby House to include the surrounding gardens.**
- (2) grant approval for proposed railway carriage to be relocated to the rear of the heritage listed building at 135 (Dovenby House) Canning Highway, East Fremantle, as indicated on the plans and information date stamped received 18 October 2019 subject to the following conditions:**
 - (a) This is a temporary planning approval which permits the railway carriage to be located as indicated in its nominated location for a period of the lease agreement between the Town**

- and the Perth History Association Inc. At the end of this time the carriage shall be removed (within one (1) month after the termination of the lease) and relocated to another site and all costs associated with the removal and restoration of the carriage are to be borne by the applicant.
- (b) Upon the removal of the carriage all Council infrastructure and property is to be reinstated and remediated to the satisfaction of the Chief Executive Officer.
 - (c) The applicant to lodge with the Town a five thousand dollar (\$5000) bond for the protection of Council's infrastructure and property. The bond shall be repaid upon the removal of the carriage and all remediation works have been completed to the satisfaction of the Chief Executive Officer.
 - (d) No signage is approved or permitted in regards to this application. Should the applicant wish to install signage, a signage application will be required to be submitted to Council for determination.
 - (e) 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.
 - (f) All storm water 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.
 - (g) 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.
 - (h) 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.
 - (i) 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.
 - (j) This approval does not relate to other works or uses. A development application is required to be submitted to the Town for any other proposed works or changes of use for the consideration of Council.
 - (k) This planning approval is to remain valid for a period of 24 months from date of this approval.
 - (l) The carriage is fully restored prior to installation at the site
 - (m) The interpretive panels are approved by the Town's Art Advisory Committee

Footnote:

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

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

(CARRIED 4:2)

13. REPORTS OF OFFICERS (COUNCIL DECISION)

Nil.

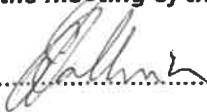
14. MATTERS BEHIND CLOSED DOORS

Nil.

15. CLOSURE OF MEETING

There being no further business, the Presiding member declared the meeting closed at 7.50 pm

I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 5 November 2019, Minute Book reference 1. to 15. were confirmed at the meeting of the Committee on:


.....

3 DECEMBER 2019
Presiding Member