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**NOTICE OF MEETING**

Elected Members

An Ordinary Meeting of the Town Planning Committee will be held on Tuesday, 5 May 2020 via electronic communication means, commencing at 5.30 pm and your attendance is requested.

GARY TUFFIN  
Chief Executive Officer

29 April 2020

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**AGENDA**

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

**2. ACKNOWLEDGEMENT OF COUNTRY**

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

**PROCEDURAL MOTION**

**The suspension of clauses 5.7, 5.9, 5.10 and 7.1 of the *Town of East Fremantle Meeting Procedures Local Law 2016* for the duration of this electronic meeting**

**3. RECORD OF ATTENDANCE**

**3.1 Attendance**

**3.2 Apologies**

**3.3 Leave of Absence**

**4. MEMORANDUM OF OUTSTANDING BUSINESS**

**5. DISCLOSURES OF INTEREST**

**5.1 Financial**

**5.2 Proximity**

**5.3 Impartiality**

**6. PUBLIC QUESTION TIME**

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

**6.2 Public Question Time**

**7. PRESENTATIONS/DEPUTATIONS**

**7.1 Presentations**

**7.2 Deputations**

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

**8.1 Town Planning Committee (7 April 2020)**

**8.1 OFFICER RECOMMENDATION**

**That the minutes of the Town Planning Committee meeting held on Tuesday 7 April 2020 be confirmed as a true and correct record of proceedings.**

**9. ANNOUNCEMENTS BY THE PRESIDING MEMBER**

**10. REPORTS OF COMMITTEES**

Nil

## 11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

### 11.1 Hillside Road No 6 (Lot 11) Proposed home business at an existing residential dwelling

<b>Owner</b>	Amanda Stonehouse
<b>Applicant</b>	Amanda Stonehouse
<b>File ref</b>	P020/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	5 May 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Location plan</li><li>2. Site photos</li><li>3. Plans date stamped 27 February 2020</li><li>4. Submission summary</li></ol>

#### **Purpose**

The purpose of this report is for Council to consider a planning application for a change of use for a proposed home business at No 6 (Lot 11) Hillside. Road, East Fremantle.

#### **Executive Summary**

The applicant is seeking Council approval for change of use for the operation of a home business from a residential dwelling. The business provides professional consulting services relating to renewable energy systems with a particular focus on energy storage. The business adheres with the requirements of the home business as defined in the Local Planning Scheme No 3.

It is considered that the additional use for the home business can be supported subject to conditions of planning approval being imposed.

#### **Background**

Zoning: Residential R12.5

Site area: 1390m<sup>2</sup>

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

- P133/13 planning approval for alterations and additions granted by the Council on 10 December 2013
- P133/13 planning approval extension issued 17 December 2015
- There have been ongoing issues between 5, 6, & 8 Hillside Road in relation to compliance matters from previous development and works undertaken around the crossover.

#### **Consultation**

##### Advertising

The application was advertised to surrounding land owners from 9 March to 23 March 2020. Upon follow up communications with the neighbour, it was discovered that the original correspondence was not received possibly due to Australia Post failing to deliver the letters. Details of advertising were then emailed to these properties for their comment. The following submissions were received.

(Attachment 4 contains a summary of submissions and responses.)

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC as it relates to a change of use and has no streetscape implications.

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**

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

**Site Inspection**

A site inspection was undertaken.

**Comment**

Statutory Assessment

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

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

<b>Criteria</b>	
Employees- 2 or less not members of the occupier's household	A
Will not cause injury to or adversely affect the amenity of the neighbourhood	A
Does not occupy an area greater than 50m <sup>2</sup>	A
Does not involve the retail sale, display or hire of goods of any nature	A
Does not result in traffic difficulties as a result of the inadequacy of parking or an increase in traffic volumes in the neighbourhood and does not involve the presence , use or calling of a vehicle more than 3.5 tonnes tare weight	A
Does not involve the use of an essential service of greater capacity than normally required in the zone	A

This development application proposes an additional use to allow for the operation of a home business from a residential dwelling located at 6 Hillside Road East Fremantle. The proposed business is a consultancy that specialises in renewable energy and energy storage systems. The proposed business is fully compliant with the requirements of the home business as required by Local Planning Scheme No 3 Schedule 1 Section 2 Land Use Definitions;

- No more than 2 people not members of the occupier's household are employees;
- The business is considered to not adversely affect the amenity of the neighbourhood;
- The business will occupy less than 50m<sup>2</sup> within the dwelling;
- There is no retail sale or hire of goods;
- There is no impact on parking or increased traffic volumes; and
- Only standard essential services are required.

A condition will be recommended that requires the applicant to re-apply for the approval to operate the home business in twelve months to ensure that there is compliance with the recommended conditions of approval and to enable Council to monitor any potential impacts to the amenity of the locality. Failure to comply may result in the approval being revoked. For these reasons the proposed change of use can be supported.

Comments have been made in a submission responding to the advertising of the proposed change of use that claims that this application is a rezoning of residential land to commercial or mixed use zoning. It has to be noted that this is not the case. There is no intention to rezone the area around Hillside Road such that it has commercial or mixed use zoning. Rather there is a clause in Local Planning Scheme No 3 that allows applicants to make a proposal for the operation of a home business within the residential zone.

This is not the only application that has been made to the Town for such operations. There are numerous examples of home businesses and home occupations across the Town of businesses operating from residential dwellings for a range of reasons. The question of whether they are permitted depends on the quality of their application and the appropriateness of the business. Typically low impact consultancies that utilise modern telecommunications infrastructure that allow businesses to operate from home with minimal impacts on the surrounding environment are well-suited to the home and are more likely to be approved rather than higher impact businesses that create significant noise, traffic and fumes or dust.

The Officer's recommendation also imposes conditions that limit the operations such that smaller home businesses can operate from residential dwellings, however, if they grow larger and become a concern in terms of becoming too large or busy for the home then consideration has to be given to not permit such businesses. The current business is considered appropriate for the area and the 12 month approval will allow Council to monitor the business to ensure continued compliance. The lot is large, with sufficient car parking located on site. Whilst Hillside Road is considered constrained with respect to vehicular access, the additional vehicular movements created by this home business is not considered such that there is a significant safety or amenity impact. A condition has also been recommended to ensure only 2 employees not members of the direct family can be employed. In this case the proposed business meets the criteria for a home business and is therefore recommended for conditional approval.

#### Conclusion

Based on the preceding assessment that has been completed for this development and the explanation provided in this report, the proposed change of use to permit the operation of a home business from a residential dwelling is recommended to be supported subject to planning conditions.

#### **11.1 OFFICER RECOMMENDATION TP010520**

**That Council approve an additional use for a home business to operate from a residential dwelling at No. 6 (Lot 11) Hillside Road, East Fremantle, in accordance with the plans date stamped received 27 February 2020, subject to the following conditions:**

- (1) All employees' vehicles are to be parked on site and are not to be parked on the verge, crossover or street.**
- (2) No signage shall be displayed that is exceeding 0.2 square metres. All other signage proposals shall require the submission of a development application for the consideration of Council.**
- (3) The hours of operation of the home business are limited to 9am to 5pm Monday to Friday. The business/consultancy is not to operate on a Saturday or Sunday.**
- (4) The home business is not to occupy any other area of the dwelling other than the rooms indicated on the submitted plans date stamped received 27 February 2020.**
- (5) All parking associated with the home occupation is to be accommodated within the subject property only and as indicated on the submitted plans date stamped received 27 February 2020. On-street parking is not permitted.**
- (6) No equipment, supplies or materials relating to the business shall be stored on site at any time.**
- (7) No goods shall be sold or hired from the subject site at any time.**
- (8) The home business shall not occupy an area in excess of 50m<sup>2</sup>.**
- (9) A maximum of 2 employees not members of the occupier's household shall be employed by the business and use the premises at any time.**
- (10) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or**

relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

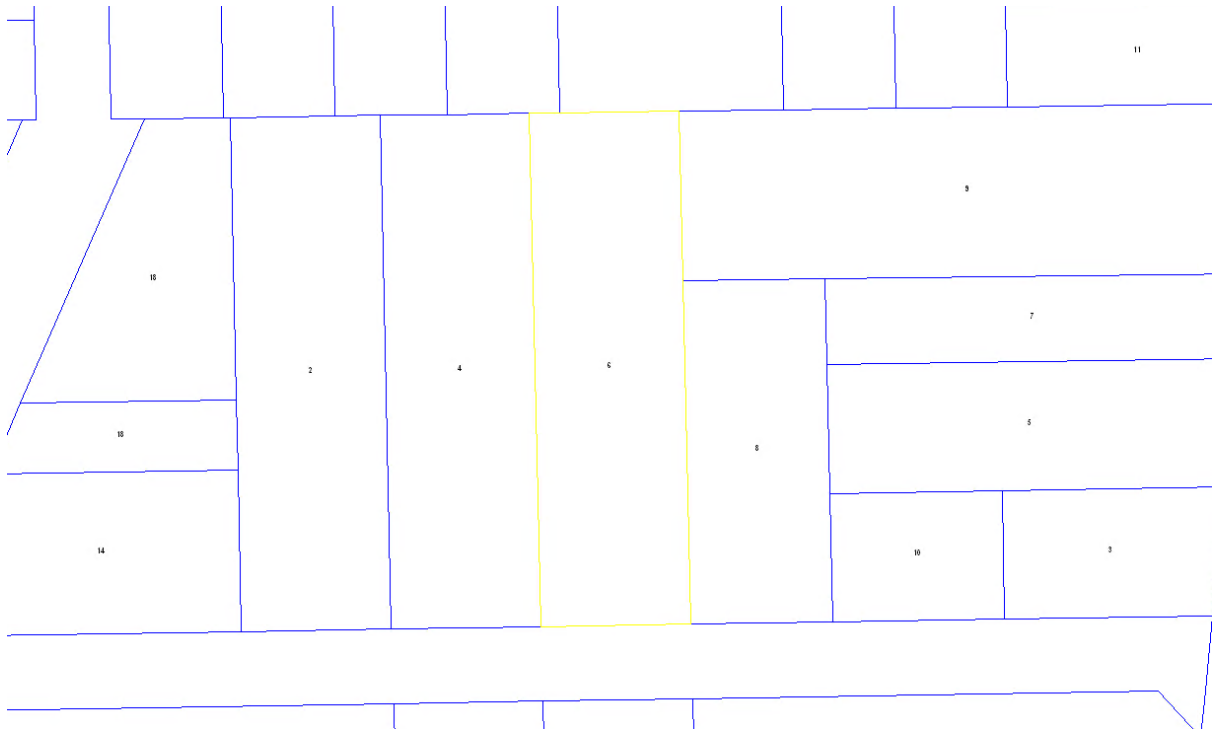
- (11) The approval may be revoked by Council, prior to the expiration of the 12 month period referred to in (12) below if there are any adverse impacts involving noise, parking, vehicle traffic and surrounding amenity which are unable to be controlled by the applicant in a timely and effective manner which is to the satisfaction of the Council.
- (12) The home business approval is valid for 12 months only from the date of the "Approval to Commence Development" and the applicant is required to seek renewals thereafter to enable continuance of the business. During the review of the renewal process, assessment of car parking, noise, and vehicle traffic to and from 6 Hillside Road will be undertaken.

**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.*
- (iii) *Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.*
- (iv) *An Annual Renewal Fee for this Home Business is required to be paid prior to the expiry date to enable continuation of the practice.*
- (v) *The applicant be advised that failure to comply with the above conditions of this approval or if the activity causes a nuisance or annoyance to owners or occupiers of land in the neighbourhood, Council may revoke its approval of the home business.*
- (vi) *If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal Act 2004 in accordance with the Planning and Development Act 2005 Part 14. An application must be made within 28 days of the determination.*

6 Hillside Road







Submission	Applicant Response	Officer Response
<p><b>Submission 1</b></p> <p>The area is not zoned for commercial use or office use it has a residential zoning and this is why we have purchased here, to enjoy peace and quiet in a family environment. My neighbour at 2 Hillside Road Mr. Matt Delroy-Carr is an architect and has taken up office space opposite the Council Building which has a dual zoning. If this proposal was to go ahead it would set a precedent for every other resident in the street to apply for a similar allowance. Many of the residents in this street do work from home, particularly in this current climate, but they do not have employees coming and going and have office space offsite.</p> <p>Mr Stonehouse does not have a history of abiding by his proposed applications. On Drawing 2 it shows the office on the ground floor, yet at present the office is on the first floor and has been for many years. If you drive past you can see all the files in the window up on the first floor. The fact that Mr. Stonehouse has been operating this business for quite some years without a permit would indicate he does not have the propensity to follow the rules.</p> <p>This current office completely looks over the street and my property. I or my family cannot enter my property with privacy particularly as Mr. Stonehouse has cameras that he monitors. I have 4 very young children who live with me. For all the years the current office has been in place, the employees have NEVER parked in the allocated lots shown on drawing 1. They either park down the road, down the driveway or on the street, or in the vacant block. Our street is a tiny street that only allows for one car to pass at a time.</p> <p>I would like to see photographic evidence that the office is actually in place where he says it will be, or at the very least a site visit. The problem</p>	<p>Response to the 2 submissions received from advertising the proposed home business:</p> <p>It is apparent that the 2 responding neighbors are frustrated with our renovation project, we are sympathetic and are doing our best. However, we do believe that both submissions include some things that are incorrect or not relevant to this application. We ask that the Council just take account of the matters in the submissions that are relevant to the home business application and we have provided responses to the key points in the "HOME BUSINESS MATTERS" section below.</p> <p>We are happy to address the other matters with the Town's planning department outside of this application and have made some further comments in the "OTHER MATTERS" section at the bottom. We had been liaising with the Town's planning department and were arranging to meet but the timing of this is impacted by the COVID-19 pandemic.</p> <p>HOME BUSINESS MATTERS Zoning</p> <p>The zoning of the area has been raised, this property is zoned residential. In the Local Planning Scheme No. 3 the operation of a home office is permitted and the operation of a home business is permitted subject to the discretion of the Town. The definitions and criteria are set out in the Planning Scheme, our application is not a precedent.</p> <p>Previous office use</p> <p>For a number of years since having the premises we have had a home office, which is permitted. Before we understood the need for the Town's approval and submitted this application, from the start of 2018 to early this year we had up to 2 employees that worked at the premises at any time. Whilst we</p>	<p>Home businesses are permitted in accordance with Local Planning Scheme No 3 provided the proposed business meets the criteria laid down in the Scheme or alternatively the Council is prepared to vary these requirements. It is not dual zoning. Decisions regarding business operations are a matter for the business. Residents without employees are permitted to operate their business from home if they have minimal amenity impacts on neighbouring properties.</p> <p>A resident can occupy any room in their house and use it as an office. It is only when an application is made for a business which is the subject of this report that there is a requirement to demonstrate where the business will operate from within a dwelling.</p> <p>The current application is referring to a home business that has been proposed to operate from the office indicated on the plans and does not relate to other workspaces utilised by the owners and residents of the dwelling. Property owners are permitted to have security cameras. I cannot make comment as to whether they are monitored or not. People are permitted to park in the street if there is room, however, it would be a condition if an approval is granted to require that employees park their vehicles on site in the car bays indicated on the plans.</p> <p>Any evidence regarding business operations will not be made publicly available. Privacy issues relating to overlooking from the rear yard are not a matter for consideration in this</p>

<p>with the proposed location on the drawing is if the employees or clients use the entrance on the west side of the building the doors there look straight into my back garden and pool area where my family swim and entertain. I would have strangers looking straight into my property. Mr. Stonehouse entertains people in his back outdoor area which may be used for clients and this looks completely into my back garden.</p> <p>I have completely lost ALL of my privacy as a result of the present renovation the Stonehouses have built. In this current proposal the plan does not show any toilet, kitchen facilities, boardroom facilities that a consultation business usually has. At the very least kitchen and toilet facilities that the employees can use, if the employees DO NOT have these facilities, my concern is they will use the Stonehouses kitchen area which overlooks my property.</p> <p>Recently when I met with Andrew Malone he said the council were considering to turn our street into an area where the road would become a pedestrian/car shared zone where we all have use of the street. This would not be suitable to people running a business out of their property with outsiders coming and going who do not know where the children live and play. We do only have 5 houses in our street.</p> <p>At present we have 6 children in the street under the age of 8 they all ride their bikes on the street as the Stonehouses have destroyed the footpath. My daughter cannot push her pram down the footpath but has to use the road outside the Stonehouses property due to the damage they have caused and not repaired. I understand this will be done with the bond you are holding, however the approval for the renovation was given over 8 years ago.</p> <p>This current situation is not conducive to adding extra employees coming</p>	<p>now know this was not approved, we believe it would have been acceptable had we applied for and received approval for a home business at that time.</p> <p>Outside of this we have had part-time interns from Curtin University that we provide work experience to for one day per week and there have been days when there were 2 interns. Presently we have no interns, and 2 employees that normally work from their home except when we ask that they visit to look after the premises while we are away. This arrangement is due to COVID-19 but also until we know the outcome of this application.</p> <p>Office location and use The area on the ground floor designated in this application for the home business is presently a home office and only recently completed to a state that it can be used. The entry is presently from the east. A proposed entry door from the west has not been fitted yet but directly faces a 2.5m concrete block parapet wall on the boundary that is part of the neighbours' garage and prevents any overlooking. The use of the office is for engineering design work for zero net carbon and clean power supplies. These projects are located remotely around Australia, no clients or suppliers visit the office.</p> <p>As indicated in the submissions, the home office has previously been on the first floor in an area that was not part of the main renovation works. This part of the house has been unchanged for more than 40 years with the outlook being only of the front yard, street and not of private areas. When this first floor area was used as a home office the windows had curtains closed to avoid glare on the computer screen, which further mitigated issues of privacy and neighbors movements. This area is now used for household storage so it would not be</p>	<p>application. Residents are permitted to entertain their guests in the rear yard of their property.</p> <p>The proposed home business appears to meet the criteria as laid down in the Local Planning Scheme No 3. People are permitted to use the kitchen in their dwelling as approved previously. How a business operates in terms of rooms and purpose of these rooms is a matter for the business.</p> <p>If there are only 5 houses in the street then there would not be significant amounts of traffic. No shared pedestrian and car space has been created as of yet. Car drivers always have to be alert to pedestrians crossing the road.</p> <p>If the road is not busy then it will be relatively safe to push a pram and allow children to ride their bikes. Operating a home business does not preclude anyone from arriving or departing from their address.</p> <p>The proposed change of use application is for a home business</p>
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<p>and going. At present they say they have 2 employees but in the past I believe there have been more. What happens if the business expands and they have more clients coming for consultation.</p> <p>I know in our conversation you said you hold a lot of business where people never come into your office, I imagine you also hold a lot of business where people do come into your office. I know I have had quite a few meetings at the council over the years and at some time I am sure Mr. Stonehouse will have clients coming and going, that is what consultation companies do, consult in person, over the phone and by mail.</p> <p>There is plenty of commercial office space around this area I do not see why a home office where employees and clients can come and go should be afforded or why is it necessary?</p> <p>If I wanted to live in a commercial area I would have purchased there. Our properties are very valuable, and we have purchased them to live in a residential zone, not a mixed zone.</p>	<p>unexpected if boxes, shelves and even files can be seen from outside.</p> <p><b>Parking</b>          Parking has been raised in the submissions but this does not seem to be a real issue. The area designated for both office and household parking is now cleared and ready for use. We have had a labourer working for a number of weeks cleaning up these and other areas. The area designated for office parking will accommodate 2 cars, still leaving reversing and turnaround space. This is separate from the household parking that is in the courtyard area and sufficient for the household cars including reversing and turnaround.</p> <p>The two employees would normally arrive in the morning and leave in the afternoon, with no need to come and go during the day. Whilst the street is narrow, the car movements are slow and few (we believe typically 51 movements per day from our research), and despite the concerns in the submissions there is no material impact from this home business application on the local traffic.</p> <p><b>OTHER MATTERS</b></p> <p>Other matters in the submissions mostly relate to our home renovation works. We don't believe they are relevant to this application and should not be considered in that context. However, we provide the following responses should it assist the Council, and to facilitate separate discussions with the Town's planning department.</p> <p><b>Renovation works</b>          The duration of our renovation works has been raised in the submissions with over 6 years being incorrectly mentioned, it may have seemed like a long time but that is not the case. The building permit was received at the start of 2016 but we did not kick-off the main construction straight away because</p>	<p>which limits employees to 2 people that are not residents of the dwelling. As the current pandemic emergency has shown much business can be operated from a home office without the need for face to face meetings. The criteria also requires that no traffic difficulties are created. If there is the occasional vehicle driving down the road as is possible on a public road then this will not create a serious traffic difficulty.</p> <p>Decisions regarding business operations and whether they locate within a commercial area or their residential dwelling are a matter for the owners of the business and the residential dwelling and subject to compliance with the Local Planning Scheme No 3.</p> <p>There is no proposal to rezone the area as a commercial zone or a mixed use zone. The applicants have made a development application in accordance with the Planning and Development Act and the Local Planning Scheme No 3.</p>
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	<p>the Town was working through a major rezoning strategy that we wanted to know the outcome of first since it was potentially very material to us.</p> <p>The main works have been only over a 20 month period split between July 2017 - June 2018 for lock-up and June 2019 - March 2020 for fitting out, which is reasonable for the complexity of the renovation. The intervening break was due to a major family health crisis that took all of our attention over mid 2018 - mid 2019. Before we purchased the house it was uninhabited for more than 5 years and was in bad condition, we also had to move out for a period of time before the renovations due to deterioration in the house, which may have added to the time-frame perception.</p> <p><b>Privacy</b>          We have been accused in the submissions and in other complaints by the owner of 4 Hillside Road of not abiding by applications but we don't accept this assertion. We believe we have followed respective requirements and are liaising with the Town's planning department to ensure this is the case.</p> <p><b>Tree removal</b>          Removal of a tree in our front yard was objected to in one submission. We consulted with the Town regarding the tree, did not wish to remove it but it was unavoidable due to major rotting in its core, spanning the boundary unsafely, damaging the boundary wall and root damage to water and power systems. We are sad having to remove it and note that a similar tree at 4 Hillside had also been removed.</p> <p><b>Renovation parking</b>          Parking during our renovation works is raised in the submissions. In our experience, during the main renovation works we would have</p>	
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	<p>had less neighbor impact from car parking than normal for similar building projects. There has been the normal deliveries of materials which have all been within our front yard and parking also in our front yard. There has been some overflow parking on the neighboring vacant lot at 8 Hillside Road, which has been with informal agreement of the owner including that we slashed the lot ahead of fire season as a repayment. Parking in the street or verge is normal for 3 out of the other 5 houses in the street (number 10, 5 and 14 Angwin St), we sometimes had to do this when trades needed access to our driveway but not normally and not any longer now that the trade work is substantially complete.</p> <p>There have been only two occasions that we know of where someone briefly parked on the opposite verge and each time we immediately explained that they can't park there and had them move.</p> <p>Driveway and sewer We have not contributed in any way to the driveway issues raised for 5 Hillside Road, namely, being a single driveway with difficult access at 5 Hillside Road or how dangerous it is. They often use our driveway for turning around and we don't object.</p> <p>We contracted a plumbing company for the sewer that was recommended by and does significant work for the owners of 5 Hillside Road. It appears their discussions between themselves has resulted in being misinformed, is improper and could have been avoided if they had spoken with us. We have no plans (let alone approval) for subdivision and we are following due process regarding the crossover, which we would like to move approximately 3 m east and cannot see how this would affect 5 Hillside Road. We have consulted with the Town regarding what is required for the crossover and then submitted an enquiry that</p>	
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	<p>incorporates the requirements that were explained to us (point 1 in email attached). We are awaiting a response before knowing how to proceed.</p> <p>Cameras There are incorrect statements in one of the submissions regarding cameras. Cameras were installed for an approximate 2 year period up to mid-2018 in response to a series of break-ins and considerable loss but were then disconnected and later removed. Over this period we spoke quite a few times with the neighbors at 4 Hillside Road who were distressed by the break-ins since the offenders had also been on their property. This was a contributing factor for us in installing the cameras and no objections were raised by the neighbors. The cameras were carefully positioned to not overlook neighboring properties and could not see any neighboring activities.</p> <p>There were 4 break-ins after the cameras were installed, we were very proactive and liaised closely with the police. In each case the offenders were found (mostly due to the camera footage). We are told there were 2 resulting imprisonments and the other offenders were warned. There have been no further break-ins.</p> <p>Verge and shared-use street We endorse the initiative of the council mentioned in one of the submissions, to turn our street into an area where the road would become a pedestrian/car shared zone where we all have use of the street as indicated in one of the submissions. This is a concept that we have proposed in communication dated 23 December 2019 (copy attached) and don't believe this presents any issues for our home business application. We have no visiting suppliers or clients and an immaterial level of traffic from 2 employees normally arriving and leaving once per day that would</p>	
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	<p>be even safer in a shared low speed zone.</p> <p>We have not had a practical impact on the amenity of the verge in front of our property. Our sewer pipe works is immediately adjacent to a light pole that impedes the verge from being passable by prams or even pedestrians irrespective of the sewer work. In addition, we have consulted with the Town regarding plans for verge remediation (in point 2 of the same email referenced above for the crossover) and are awaiting a response before we can know what action to take.</p> <p>Unrelated to our work, the verge throughout the street isn't safe or unusable by pedestrians and cannot reasonably be a footpath. Even the verge for the responding neighbor at 4 Hillside also has a large tree stump (painted yellow for safety), the driveway is uneven and is impeded for prams and pedestrians by a combination of raised square curb and overflow of garden bed.</p>	
<p><b>Submission 2</b></p> <p>We are writing to you in regards to the above mentioned application. We are the owners and residents of 5 Hillside Rd, East Fremantle which is directly opposite 6 Hillside Rd. We have viewed the plans and object to the use of this property for business purposes for reasons presented below.</p> <ul style="list-style-type: none"> <li>The land use for 6 Hillside Rd is zoned residential not commercial. This is a residential street. We did not buy in a residential street to live opposite a business. It would be unreasonable to all residents of this street for the Council to allow this exception to the use of this property and approve this application.</li> <li>Hillside Road is a narrow and short “no through” road. It is difficult for 2 cars to pass each other on the road. Hillside Rd struggles to cope with the parking needs of the existing residents and</li> </ul>		<p>There is no proposal to rezone the area as a commercial zone or a mixed use zone. The applicants have made a development application in accordance with the Planning and Development Act and the Local Planning Scheme No 3. There are currently a number of businesses across the Town that have approval to operate a home occupation or home business in accordance with Local Planning Scheme No 3.</p> <p>All parking at 6 Hillside Road will be required to park onsite and no street parking will be permitted.</p>



<p>the small number of visitors to the street. Approving this home based business and consulting services from 6 Hillside Rd will increase traffic and parking issues and be a huge inconvenience to those of us who live in this residential street.</p> <ul style="list-style-type: none"> <li>• 7 households currently access their properties from Hillside Rd. The residents include adults, 6 children under 8, a couple of teenagers and a five young adults . The young ones walk and ride to the local schools and kindy and ride their bikes and scooters in the street. The proposed homebased business and professional consulting services at 6 Hillside Rd will generate more traffic and noise, create further parking issues and have a negative impact on our neighbourly environment.</li> </ul> <p>Submitted Plan 1 shows 2 allocated parking bays for the proposed office. Are these bays intended for the employees or for people visiting the proposed business?</p> <ul style="list-style-type: none"> <li>• We take this opportunity to make the Town Planning Committee aware that Mr Stonehouse has been operating his business from 6 Hillside Rd since before July 2017. While Mr &amp; Mrs Stonehouse lived at the Leighton Apartments, the business operated from 6 Hillside Rd with at least 4 employees and Mr Stonehouse working from there from level 1.</li> <li>• The proposed parking bays highlighted in pink on Plan 1 currently exist but the employees do not use these bays for parking. Mr Stonehouse’s employees currently park on the left hand side of 6 Hillside Rd towards the front of the property. Previously there has been more than 2 employees also parking on the vacant block adjacent to number 6. The existing “proposed” bays are mainly used as a necessary turn-around area due to the steep slope of the driveway and limited area to turn</li> </ul>		<p>Home businesses that create minimal amenity issues are permitted to operate from residential dwellings in accordance with Local Planning Scheme No 3. Hillside Road is not a private road and as a result vehicles are permitted to drive up and down the road as required. The fact that there are only a few dwelling son the street means that it is relatively safe for children to use as a shared space.</p> <p>The allocated parking bays are intended to be used for the employees and if there any visitors then they can utilise the generous driveway that is located on the subject site.</p> <p>A condition will be included that requires that all employees (maximum of 2) park onsite in the marked parking bays.</p> <p>As above.</p>
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<p>a vehicle around without the reversing bay.</p> <ul style="list-style-type: none"> <li>As well as running an unauthorised business from 6 Hillside Rd, Mr &amp; Mrs Stonehouse have been renovating their home for over 6 years. It is still in progress and incomplete. Hillside Rd residents have had to contend with the inconvenience of increased traffic and the street parking of trucks, service vehicles and private vehicles belonging to the Stonehouses and their employees for a very long time. These issues are on-going and something we would like to see the end of. On several occasions visitors and trades to Mr Stonehouse’s business/renovation have parked on our verge which is an inconvenience to us. We have 3 drivers in our family, a single driveway with difficult access, people coming and going at different times and limited street parking. We need our verge free for our own use.</li> </ul> <p>Submitted Plan 2 shows a massive window on level 1 which forms part of the ensuite to the master bedroom.</p> <ul style="list-style-type: none"> <li>The use of this area as a bathroom is highly inappropriate. How did this ever get approved? Until recently viewing the plans due to this business application, we were unaware that this was going to be a bathroom. We were concerned about a living room being there with such an enormous window (30c x 4350) but now realising that it’s a bathroom, it is quite confronting as it faces directly south and we can’t avoid looking at that window every time we enter and exit our property. We hope that appropriate screening measures are in place for this area and it is definitely something the council needs to revisit. The huge peppermint tree that once existed in the front right corner as well as the olive and fig trees shown on the stamped council plans have all been removed. The peppermint tree in particular provided us with established and natural screening.</li> </ul>		<p>The verge area is owned by the local government and as such can be used temporarily by vehicles having to park. Ultimately it is not owned by the adjacent property owners. Access to a single driveway and the difficulty you have with catering for 3 drivers on your property is not relevant to this planning application unless there are parking issues in the street. It has previously been noted that a condition will be imposed that requires all parking for the home business to occur on site at 6 Hillside Road.</p> <p>This development application is for the home business and not the existing approved dwelling or the surrounding landscaping at 6 Hillside Road.</p> <p>This development application is for the home business and not the existing approved dwelling or the surrounding landscaping at 6 Hillside Road.</p> <p>Noted.</p>
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Hillside Rd residents have endured years of disruptions from the owners of this property because of their homebased business and renovation. Please see below earlier correspondence we have had with the council regarding the homebased business and parking issues. This has been an ongoing concern and we would greatly appreciate your support with this matter. We do not want the homebased business to continue operating at 6 Hillside Rd because of the impact it has on ourselves and other residents.

We urge the Town Planning Committee to reject the application ( P020/20 ) for a homebased business at 6 Hillside Rd.



Please see the attached photo above of 6 Hillside Rd taken today. With the situation of Covid 19 there are far less visitors than usual and the red car at the top normally parks at the bottom left of the property.

The following submission was made previously regarding the development at 6 Hillside Road.

I am at 5 Hillside Rd and I am concerned about the works taking place across the road at number 6.

Today, there is plumbing work taking place for number 6 to connect to the sewer main. I was advised by one of the plumbers that the road would not be bitumened today and that a new crossover was going to be established directly opposite my current crossover.

This is going to be a concern and make exiting my driveway more

Noted

Noted

<p>dangerous than it already is because of the narrowness of Hillside Road, the steepness of our driveway in relation to the road, and visibility issues.</p> <p>We have had not consultation whatsoever regarding moving the crossover at 6 Hillside Road. The neighbours have not advised us nor have the council and in this situation it would have been appreciated. One of the contractors told us.</p> <p>Please clarify the following:          Has the crossover been approved?          Has the property been subdivided?          Why have we not been advised of this at any point?          Will the driveway be 1 m away from the existing light pole? A crossover in the new location contravenes the East Fremantle Council Crossover Specifications as it will be too close to the streetlight pole.          Have you attended hillside Road to inspect the property and the situation? Please feel free to enter our driveway and reverse out.</p> <p>As there is a business run from number 6 and adult residents with friends and partners, there's already a number of people coming and going from that premises. A crossover opposite ours will make it worse for us.</p> <p>There is a perfectly good crossover on that property that can stay there and they have plenty of room to play with the driveway to the house and any future residents. They have already monopolized on views at the expense of all surrounding neighbours. It is disappointing enough that a massive old tree was already removed for these works which has changed the street, our outlook and privacy.</p> <p>Please consider my concerns seriously.</p>		
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## 11.2 Allen Street No 8 (Lot 2, 3 & 4) Proposed Three Dwelling Units

<b>Owner</b>	Caesar Holdings (WA) Pty Ltd
<b>Applicant</b>	Sidi Construction Pty Ltd
<b>File ref</b>	P024/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	5 May 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Location plan 2. Site photos 3. Plans date stamped 11 March 2020

### Purpose

The purpose of this report is for Council to consider a planning application for three (3) dwelling units that are proposed at No 8 (Lot 2, 3 & 4) Allen Street, East Fremantle.

### Executive Summary

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

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Lot 2 – deck - 1m required, 0.77m provided
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks Lot 2 - kitchen & laundry – 1m required, 0m provided
- (iii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks - Lot 4 – living – north – 1.2m required, 1.1m provided
- (iv) Clause 5.1.4 – Residential Design Codes – Wall Heights – Lot 2 - 6m maximum, greater than 6m provided
- (v) Clause 5.1.4 – Residential Design Codes – Wall Heights – Lot 3 - 6m maximum, greater than 6m provided
- (vi) Clause 5.1.4 – Residential Design Codes – Wall Heights – Lot 4 - 6m maximum, greater than 6m provided
- (vii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – Lot 2 - 28 to 36 degrees required, less than 28 degrees provided
- (viii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – Lot 3 - 28 to 36 degrees required, less than 28 degrees provided
- (ix) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – Lot 4 - 28 to 36 degrees required, less than 28 degrees provided
- (x) Clause 5.4.1 - Residential Design Codes - Visual Privacy – Lot 2- 7.5m required, less than 7.5m provided
- (xi) Clause 5.4.1 - Residential Design Codes - Visual Privacy – Lot 3- 7.5m required, less than 7.5m provided
- (xii) Clause 5.4.1 - Residential Design Codes - Visual Privacy – Lot 4- 7.5m required, less than 7.5m provided

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

### **Background**

Zoning: Residential R12.5/40

Site area: Lot 2 - 280m<sup>2</sup>, Lot 3 - 290m<sup>2</sup>, Lot 4 - 329m<sup>2</sup>

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

DA P008/18 – two storey residence

DA P059/18 – alterations and additions including second storey extension

DA P141/14 – demolition intrusive stud frame additions, trees and outbuildings

### **Consultation**

#### Advertising

The application was advertised to surrounding land owners 18 March to 2 April 2020. The following submissions were received.

<b>Submission</b>	<b>Applicant Response</b>	<b>Officer Response</b>
1. I do not oppose the development providing it meets the Building Code (as I have been advised it does by the owner/ builder)	No comment	All works on site will require the issuance of a building permit in accordance with the National Construction Code. In terms of planning approval there are multiple variations to the Residential Design Codes and the Residential Design Guidelines which are the subject of this report. All variations are considered relatively minor and are considered acceptable. A full explanation of each variation is considered later in this report.

#### Community Design Advisory Committee (CDAC)

The application was not referred to CDAC due to the COVID19 emergency.

#### 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**

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

**Site Inspection**

A site inspection was undertaken.

**Comment**

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	4m	>4m	A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Lot 2 bed 4 & ensuite	1m	2.617m	A
Lot 2 deck	1.1m	2.617m	A
Lot 2 kitchen - north	1m	6.617m	A
<b>Lot 2 deck - north</b>	<b>1m</b>	<b>0.77m</b>	<b>D</b>
<b>Lot 2 kitchen &amp; laundry - east</b>	<b>1m</b>	<b>0m</b>	<b>D</b>
Lot 2 lounge	1m	2.37m	A
Lot 2 garage -	1m	8.21m	A
Lot 2 garage	1m	0m	A
Lot 2 bed 1, WIR, ensuite, bed 2	4m	5.6m	A
Lot 2 bed 2, bath & bed 3	1.2m	1.987m	A
Lot 2 bed 3, games/living & balcony	1.9m	3.8m	A
Lot 3 garage	0m	0m	A
Lot 3 deck	1.1m	1.21m	A
Lot 3 lounge- north	1.5m	7.3m	A
Lot 3 deck - east	1.1m	2.3m	A
Lot 3 dining –east	1.5m	8.5m	A
Lot 3 lounge - east	1.5m	5.1m	A
Lot 3 ensuite - east	1m	16m	A
Lot 3 ensuite & bed	0m	0m	A
Lot 3 balcony & lounge	1.2m	1.2m	A
Lot 3 corridor & bath	1.2m	4.343m	A
Lot 3 lounge - east	1.2m	8.45m	A
Lot 3 bath	1.2m	2.29m	A
Lot 3 bath & bed 3	1.2m	8.5m	A
Lot 3 bed 3, bed 2 & WIR	1.2m	3.8m	A
Lot 3 ensuite	1.2m	2.2m	A
Lot 4 study/theatre	0m	0m	A
Lot 4 deck	1m	1m	A
Lot 4 deck & lounge	1.5m	5.6m	A
Lot 4 southern wall	1.5m	1.58m	A
<b>Lot 4 living- north</b>	<b>1.2m</b>	<b>1.1m</b>	<b>D</b>
Lot 4 passage & bed 3	1.5m	3.5m	A
Lot 4 WIR & bed 3	1.2m	5.5m	A
Lot 4 southern wall	2.2m	2.55m	A
Lot 4 bed 1	1.2m	4.32m	A
Lot 4 balcony	1.2m	2.5m	A
Lot 4 garage	0m	0m	A
Open Space	45%	Lot 2 71% Lot 3 75% Lot 4 72%	A A A
<b>Wall height</b>	<b>6m</b>	<b>Lot 2 6.5m</b> <b>Lot 3 6.4m</b> <b>Lot 4 6.8m</b>	<b>D</b> <b>D</b> <b>D</b>



Roof Height	9m	Lot 2 6.5m Lot 3 6.4m Lot 4 6.8m	A A A
Setback of Carport	4.5m	>4.5m	A
Private Street Manoeuvring	6m	6m	A
Car Parking	1-2 car bays	2 car garage for each unit	A
Site Works	<0.5m	<0.5m	A
<b>Visual Privacy</b>	<b>Lot 2 7.5m</b> <b>Lot 3 7.5m</b> <b>Lot 4 7.5m</b>	<b>&lt;7.5m</b> <b>&lt;7.5m</b> <b>&lt;7.5m</b>	<b>D</b> <b>D</b> <b>D</b>
Overshadowing	35%	Lot 2 over lot 3 26% Lot 3 over lot 4 29% Lot 4 over 18 Allen Street 11%	A A A
Drainage	All water draining from roofs, driveways and other impermeable surfaces to be retained 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	N/A
3.7.6 Construction of New Buildings	A
<b>3.7.7 Building Setbacks and Orientation</b>	<b>D</b>
<b>3.7.8 Roof Form and Pitch</b>	<b>D</b>
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/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 three (3) new dwelling units to be located on 3 strata lots with a private laneway located at No 8 Allen Street, East Fremantle. The design of the dwellings are consistent with the previous approvals issued by Council. The lots are approved through a previous subdivision of the lot and are not newly created lots. Multiple variations are requested to the requirements of the Residential Design Codes and the Residential Design Guidelines although it is across the 3 units, however these variations are considered minor and can be supported subject to conditions.

#### Lot Boundary Setbacks

There are minimal variations requested to lot boundary setbacks in accordance with deemed to comply clause 5.1.3 C3.1i of the Residential Design Codes. The unit at lot 2 has a deck that is required to be 1m from the northern boundary but is located 0.77m instead. In the same dwelling the kitchen and laundry is located on the eastern boundary where it is supposed to be 1m away. In the lot 4 unit the living area is located 1.1m from the northern boundary where a 1.2m setback is required.

For the unit on lot 1 the proposed design achieves design principles 5.1.3 P3.1 and the variation can be supported for the following reasons;

- Reduced impact from building bulk on adjoining properties;
- Adequate sunlight and ventilation to the building and open spaces; and
- Overlooking and loss of privacy is minimised

For the unit on lot 4 the proposed design achieves design principles 5.1.3P3.2 the variation can be supported for the following reasons;

- Makes effective use of the space for enhanced privacy for the occupants and outdoor living areas;
- Reduced impact from building bulk on adjoining properties;
- Adequate sunlight and ventilation to the building and open spaces;
- Overlooking and loss of privacy is minimised;
- Does not have an adverse impact on the amenity of the adjoining property;
- Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties; and
- Positively contributes to the prevailing and future development context and streetscape as outlined in the local planning framework

It is noted that of the above setback variations, the impact to adjoining neighbouring properties is minimal. The impacts from the setbacks are predominantly located to internal boundaries are therefore only impact on the individual units themselves. As previously noted the design of the dwellings is consistent with the existing new dwellings onsite. The dwellings are located to the rear of existing dwellings are have no significant streetscape impact, with the exception of glimpses of the units through the common property access leg.

#### Wall Heights

Each unit exceeds the maximum wall height in accordance with Table 3 of the Residential Design Codes. There is a requirement that walls should not exceed 6m for wall heights, however, the lot 2 unit has a maximum wall height of 6.5m, lot 3 until has a maximum wall height of 6.4m and the lot 4 unit has a maximum wall height of 6.8m.

In each case even though the deemed to comply heights are exceeded each unit achieves clause 5.1.6 P6 design principles in that there is no adverse impact on the amenity of adjoining properties or the streetscape, especially considering the lower pitch of the roof which minimises the overall bulk and scale of each unit. There is adequate access to direct sunlight into buildings and open spaces, adequate daylight to major openings into habitable rooms and no impact on views of significance. Even though the wall height is more than permitted the total roof height is significantly less than that permitted by the Residential Design Codes, and as a result the bulk of the buildings is smaller than what might be possible if unit designs were proposed that were built to the maximum roof height of 9m. The overall impact is minimal to neighbouring properties and the dwellings represent as an overall consistent height to the built form in the area.

#### Roof Pitch

According to the Residential Design Guidelines clause 3.7.8.3 A4.1 the roof pitch of dwellings is required to be between 28 and 36 degrees. However, in this case the units have roof pitches less than this. The lot 2 unit has a roof pitch of 2, 4 and 8 degrees. The unit at lot 3 has a roof pitch of 4 and 5 degrees. The unit at lot 4 has a roof pitch of 2, 3, 5 and 20 degrees. In each case the roof pitch is compatible with 16 Allen

Street and fits in with other new dwellings in the locality. It is a contemporary roof pitch that clearly demonstrates these are new dwellings and not attempting to copy or mimic heritage dwellings in the street. The proposed roof pitch of each unit are supported because they achieve performance criteria clause 3.7.8.3 P4 of the Residential Design Guidelines.

#### Visual Privacy

The balcony of lot 2 does not achieve the minimum required 7.5m visual privacy setback required by the Residential Design Codes clause 5.4.1 C1.1. The balcony overlooks the private laneway that provides access to the unit and also the rear of 6 Allen Street which is comprised of a 1.75m wide by 12m long area. This narrow area is not considered an active outdoor living area as the dwelling is oriented such that the outdoor living area is on the western and northern side of the 6 Allen Street.

The balcony of lot 3 does not achieve the minimum required 7.5m visual privacy setback required by the Residential Design Codes clause 5.4.1 C1.1. The balcony overlooks the private laneway that provides access to the unit and also the rear of 6 Allen Street which is comprised of a 1.75m wide by 12m long area. This narrow area is not considered an active outdoor living area as the dwelling is oriented such that the outdoor living area is on the western side of the 6 Allen Street.

The balcony of lot 4 does not achieve the minimum required 7.5m visual privacy setback required by the Residential Design Codes clause 5.4.1 C1.1. The balcony of lot 4 overlooks the private laneway and the rear of the dwelling at 16 Allen Street, however, this comprises a roof and a parapet wall without major openings.

In each case the balconies achieve the Residential Design Codes design principles clause 5.4.1 P1.1. There is minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings as a result of the design ensuring that on balance privacy is protected and overlooking is minimised by utilising walls that screen balconies where necessary or ensuring that the balconies look over the private laneway rather than looking directly into backyards. It is considered beneficial that the properties overlook the laneway as it increases the potential for passive surveillance within the strata development. For these reasons the proposed balcony locations 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 Codes and the Residential Development Guidelines are considered minimal with no significant adverse impact and are therefore considered acceptable. The proposed development will ensure that the current vacant lots are developed in accordance with the Local Planning Scheme No 3 and achieve the desired density increase in close proximity to Canning Highway, but at a human scale, consistent with the previously approved development on site and with the overall built form within the street. The streetscape impact is considered minimal as each property is located behind existing dwellings and are accessed via the common property access leg.

Each unit has been designed to have maximum solar access, will be liveable, maximising outdoor usable space and are sustainable, located close to both public transport and the Town Centre. Given that 3 units are being proposed on previously approved strata lots and the variations to the Residential Design Codes and Residential Design Guidelines are relatively minor, it is recommended that the proposed development be supported subject to planning conditions

**11.2 OFFICER RECOMMENDATION TP020520**

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

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Lot 2 – deck - 1m required, 0.77m provided
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks Lot 2 - kitchen & laundry – 1m required, 0m provided
- (iii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks - Lot 4 – living – north – 1.2m required, 1.1m provided
- (iv) Clause 5.1.4 – Residential Design Codes – Wall Heights – Lot 2 - 6m maximum, greater than 6m provided
- (v) Clause 5.1.4 – Residential Design Codes – Wall Heights – Lot 3 - 6m maximum, greater than 6m provided
- (vi) Clause 5.1.4 – Residential Design Codes – Wall Heights – Lot 4 - 6m maximum, greater than 6m provided
- (vii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – Lot 2 - 28 to 36 degrees required, less than 28 degrees provided
- (viii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – Lot 3 - 28 to 36 degrees required, less than 28 degrees provided
- (ix) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – Lot 4 - 28 to 36 degrees required, less than 28 degrees provided
- (x) Clause 5.4.1 - Residential Design Codes - Visual Privacy – Lot 2- 7.5m required, less than 7.5m provided
- (xi) Clause 5.4.1 - Residential Design Codes - Visual Privacy – Lot 3- 7.5m required, less than 7.5m provided
- (xii) Clause 5.4.1 - Residential Design Codes - Visual Privacy – Lot 4- 7.5m required, less than 7.5m provided

For three (3) strata units at No 8 (Lot 2, 3 & 4) Allen Street, East Fremantle, in accordance with the plans date stamped received 11 March 2020, 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 to 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 is to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.

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

8 Allen Street





**11.3 Bedford Street No 15 (Lot 407) Proposed face brick and wrought iron boundary fence**

<b>Owner</b>	Morbrae Pty Ltd
<b>Applicant</b>	Brent de Pledge
<b>File ref</b>	P033/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	5 May 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Location plan 2. Site photos 3. Place record form 4. Plans date stamped 31 March 2020

**Purpose**

The purpose of this report is for Council to consider a planning application for a proposed face brick and wrought iron boundary fence at No 15 (Lot 407) Bedford Street, East Fremantle.

**Executive Summary**

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

- (i) Clause 3.7.11.5 – Residential Design Guidelines – Height of Infill – maximum height of wall 1.2m required, greater than 1.2m provided;
- (ii) Clause 3.7.11.5 – Residential Design Guidelines – Height of Piers – maximum height of wall 1.8m required, greater than 1.8m provided;
- (iii) Clause 5.2.5 – Residential Design Codes - Sight Lines – maximum height of wall 0.75m required, greater than 0.75m provided

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

**Background**

Zoning: Residential R20/40

Site area: 588m<sup>2</sup>

Heritage: Category B

Fremantle Port Buffer: Area 3 – no requirements have to be imposed

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

P040/16 – approval given for 2 storey residence adjoining existing residence – 7 June 2016

P069/16 – subdivision clearance provided for lot subdivision – 19 August 2016

**Consultation**

Advertising

No advertising deemed necessary

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC due to the COVID19 pandemic.



#### External Consultation

The development application was referred to Main Roads Western Australia. No objections were expressed to the proposed development, but two notes of advice were required to be included in the final recommendation (Footnote items (vi) and (vii)).

#### **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

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

### Site Inspection

A site inspection was undertaken.

### Comment

#### Statutory Assessment

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

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

#### Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback			N/A
Secondary Street Setback			N/A
Lot Boundary Setbacks			N/A
Open Space			N/A
Wall Height			N/A
Roof Height			N/A
Setback of Carport			N/A
Car Parking			N/A
Sightlines	1.5m truncation or 0.75m wall height	Visually permeable fence and gate	D
Site Works			N/A
Visual Privacy			N/A
Overshadowing			N/A
Drainage			N/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	N/A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	N/A
3.7.8 Roof Form and Pitch	N/A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	N/A
<b>3.7.11 Front Fences</b>	<b>D</b>
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15.3 Garages and Carports	N/A
3.7.15.4.3 Fremantle Port Buffer Area	A

This development application proposes a front boundary wall around the eastern, northern and western boundaries of the property. The wall is comprised of face brick piers with wrought iron infill between the piers and above the solid lower section. The proposed fence does not have an impact on the existing heritage listed dwelling built circa 1910 (Category B). The style of the fence is not overly contemporary, and has a style more reminiscent of structures built in the early 20<sup>th</sup> century. The wrought iron infills and brick piers are more befitting of a Category B heritage property. One variation is requested to the requirements of the Residential Design Codes and two variations are requested to the Residential Design Guidelines. It is further noted there is a retaining wall to the front of the property and the proposed height of the fence addresses this via the additional height of the fence.

#### Height of Infill

On the Bedford Street side of the fence the infill panels vary between 0.57m and 1.223m in height. The average height is less than 1.2m and the variation is minimal, however, the infill height does not achieve the Residential Design Guidelines acceptable development clause 3.7.11.5 A3. The height of the infill should not exceed 1.2m, however, in accordance with performance criteria clause 3.7.11.5 P4.1 iii less permeable fences above 1.2m may be approved where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence. The slope of the road relative to the lot and the staggering of the fence as well as the existing height of the front yard has resulted in a section of the fence exceeding the maximum solid section of infill of 1.2m. It is a minimal variation and as such can be supported.

#### Height of Piers

There are a number of piers that exceed the 1.8m maximum height as required by the Residential Design Guidelines acceptable development clause 3.7.11.5 A2.1 iv. In accordance with the performance criteria clause 3.7.11.5 P4.1 iii less permeable fences above 1.2m may be approved where the contours of the ground or the difference in levels between one side of the fence and the other side warrant consideration of a higher fence. The slope of the road relative to the lot and the staggering of the fence as well as the existing height of the front yard has resulted in sections of the fence being higher than the maximum 1.8m. For this reason the increased pier height can be supported

#### Sight Lines

There are no truncations or reductions in wall height either side of the gate that allows vehicle access to the site in accordance with Residential Design Codes deemed to comply clause 5.2.5 C5. However, the design does achieve design principles 5.2.5 P5 which provides for fences without a height reduction or truncations because of the lack of visual obstruction. For this reason the proposed fence design can be supported. Sightlines through the infill panels is considered appropriate in this instance. The application has been referred to Main Roads, no comment has been provided with respect to the access and egress of the site, which was previously approved by Main Roads at the previous subdivision of the parent lot. It is also noted that the area is located adjoining the intersection of Bedford and Canning Highway and as such pedestrians and vehicular movement will be slower, establishing a safer egress from the lot.

#### Conclusion

Based on the preceding 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. The proposed new boundary fence is befitting of the location and assimilates well with the existing Category B heritage dwelling. It provides both security and visual surveillance to the property that abuts Canning Highway. As such it is recommended that the proposed development be supported subject to planning conditions.

### 11.3 OFFICER RECOMMENDATION TP030520

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

- (i) Clause 3.7.11.5 – Residential Design Guidelines – Height of Infill – maximum height of wall 1.2m required, greater than 1.2m provided
- (ii) Clause 3.7.11.5 – Residential Design Guidelines – Height of Piers – maximum height of wall 1.8m required, greater than 1.8m provided
- (iii) Clause 5.2.5 – Residential Design Codes - Sight Lines – maximum height of wall 0.75m required, greater than 0.75m provided

for face brick and wrought iron boundary fence at No 15 (Lot 407) Bedford Street, East Fremantle, in accordance with the plans date stamped received 31 March 2020, subject to the following conditions:

- (1) It is noted the proposal abuts Canning Highway and the applicant should undertake all necessary safety and precaution measures during the construction of the fence, including where necessary liaison with Main Roads.
- (2) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (3) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (4) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (5) The western boundary wall facing 169 Canning Highway is to be fair faced brickwork, cement rendered or as agreed to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
- (6) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (7) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (8) This planning approval is to remain valid for a period of 24 months from date of this approval.

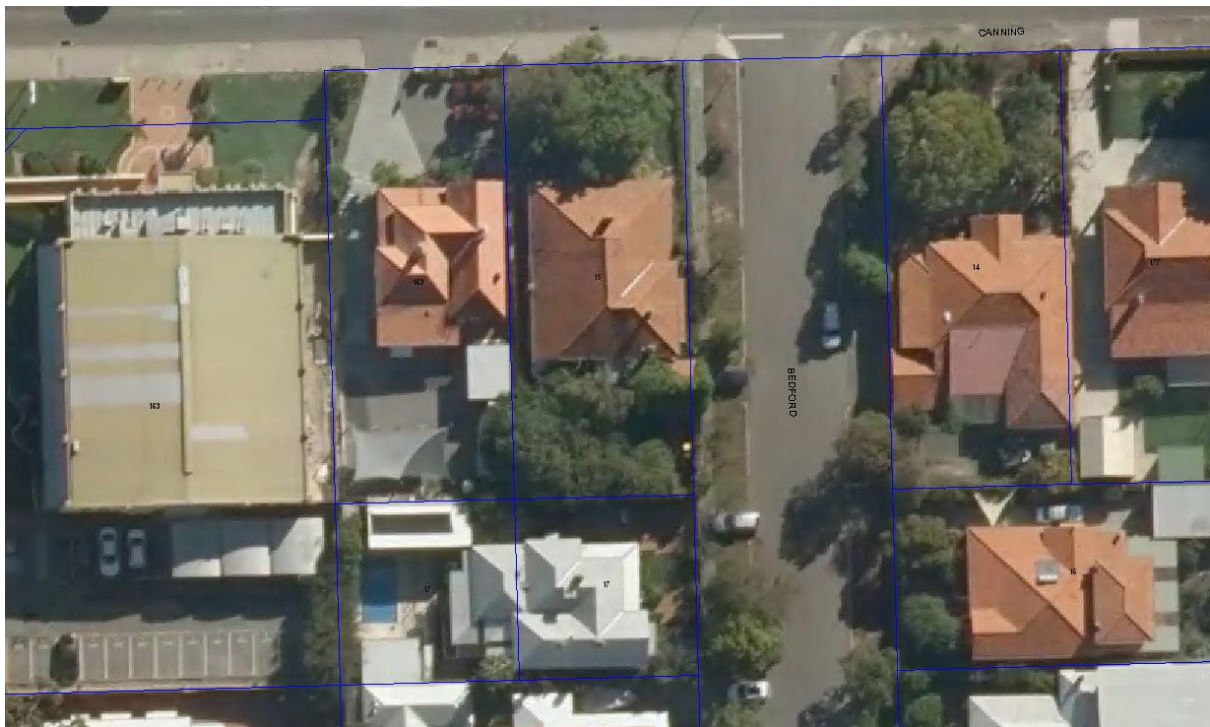
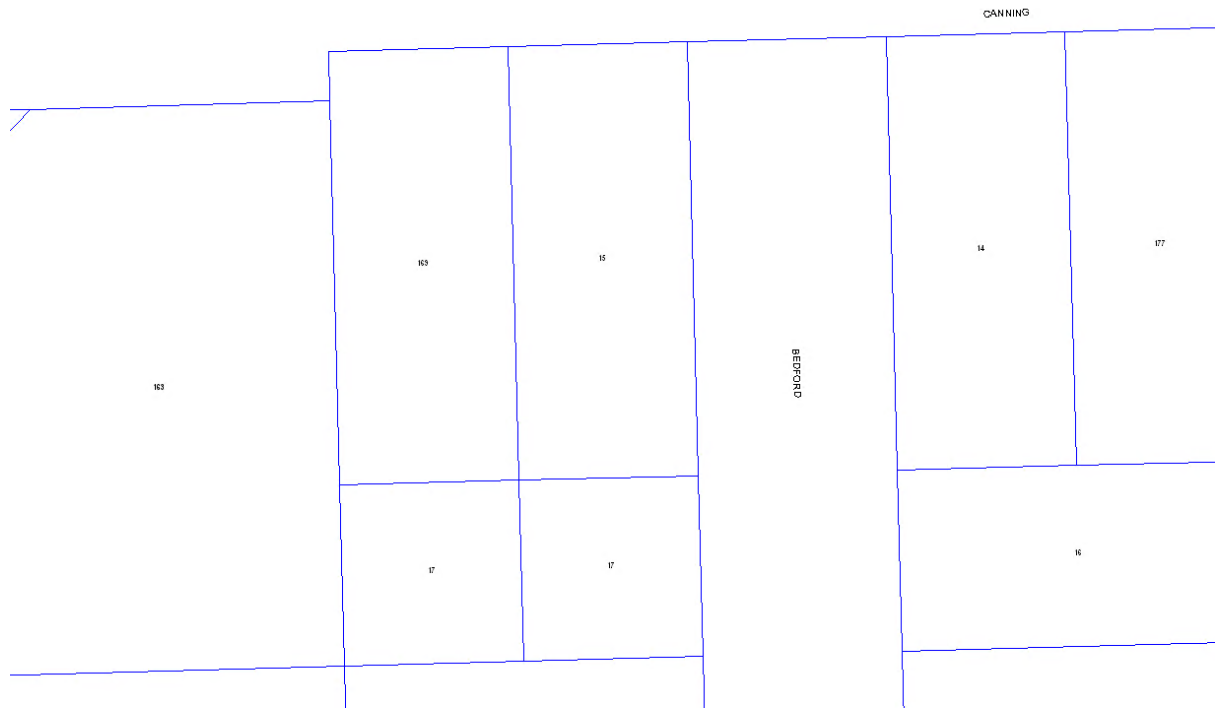
***Footnote:***

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

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*

- (ii) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (iii) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (iv) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (v) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (vi) Main Roads is considering utilising a portion of this lot for future widening. This is a part of the Land Protection Plan LPP201232-0158 for Canning Highway.*
- (vii) the project for the upgrading/widening of Canning Highway is not in Main Roads current 4 year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability for the information provided.*

15 Bedford Street





## PLACE RECORD FORM



PRECINCT	Woodside
ADDRESS	15 Bedford Street
PROPERTY NAME	N/A
LOT NO	Lot 632
PLACE TYPE	Residence
CONSTRUCTION DATE	C 1910
ARCHITECTURAL STYLE	Federation Filigree
USE/S	Original Use: Residence/ Current Use: Residence
STATE REGISTER	N/A
OTHER LISTINGS	N/A
MANAGEMENT CATEGORY	Category B
PHYSICAL DESCRIPTION	No 15 Bedford Street is a single storey house constructed in tuck pointed brick with a hipped and gable tiled roof. It is a very fine expression of the Federation Filigree style. The front elevation is asymmetrically planned with a full width return roofed verandah. The verandah is set on turned timber posts. A timber filigree frieze and vertical timber balustrade span between the posts. The entry door is on the east elevation and addresses Bedford Street. The facade features single and multi-paned casement windows and a corner window suite. Sunhoods protect the windows on the Bedford Street elevation. The roofscape features render capped chimneys, dragon finials and crestings.



	<p>The place retains its form and most details. Additions are to the rear.</p> <p>The place is consistent with the building pattern in the Precinct. The place plays an important role in the pattern of development of a middle class suburb.</p>
HISTORICAL NOTES	<p>Woodside is a relatively cohesive precinct where most of the places were constructed following the subdivision of W.D. Moore's Estate commencing in 1912. Most of the lots were sold between 1912 and 1929 and the majority of buildings were completed in this time. Residences were substantial and of various Federation period styles distinguishing the area from the small worker's cottages of Plympton. The Inter-War Bungalow style residence is also represented in Woodside.</p> <p>The Woodside Precinct remains largely intact in terms of original housing with little infill subdivision or replacement housing.</p>
OWNERS	Unknown
HISTORIC THEME	Demographic Settlements - Residential Subdivision
CONSTRUCTION MATERIALS	<p>Walls – Tuck pointed brick</p> <p>Roof – Tile</p>
PHYSICAL SETTING	The residence is situated on a gently sloping site with a lych at the Canning Highway entry. A low rendered brick wall is located at the lot boundaries.
STATEMENT OF SIGNIFICANCE	<p>No 15 Bedford Street is a single storey house constructed in tuck-pointed brick with a tiled roof. It has historic and aesthetic value for its contribution to Woodside's high concentration of predominantly Federation period houses and associated buildings. The place contributes to the local community's sense of place.</p> <p>The place has considerable heritage value for its intrinsic aesthetic value as a Federation Filigree style house. The place retains a high degree of authenticity and a high degree of integrity.</p> <p>The additions to the rear have no significance.</p>
AESTHETIC SIGNIFICANCE	No 15 Bedford Street has considerable aesthetic value as a Federation Filigree style house. It retains most of the characteristic features of a dwelling of the type and period.
HISTORIC SIGNIFICANCE	No 15 Bedford Street has some historic value. It was part of the suburban development associated with the expansion of East Fremantle and the subdivision of W. D. Moore's Woodside Estate from 1912.
SCIENTIFIC SIGNIFICANCE	N/A
SOCIAL SIGNIFICANCE	No 15 Bedford Street has some social value. It is associated with a significant area of middle class Federation and Inter-War period development which contributes to the community's sense of place.
RARITY	No 15 Bedford Street is not rare in the immediate context but Woodside has rarity value as a cohesive middle class suburb.
CONDITION	No 15 Bedford Street is in good condition.
INTEGRITY	No 15 Bedford Street retains a high degree of integrity.
AUTHENTICITY	No 15 Bedford Street retains a high degree of authenticity.
MAIN SOURCES	

#### 11.4 May Street No 22 (Lot 67) Proposed beauty therapy salon

<b>Owner</b>	David Cockburn
<b>Applicant</b>	TBS Risk Pty Ltd ATF The Sussex Trust
<b>File ref</b>	P025/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	5 May 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Location plan</li><li>2. Site photos</li><li>3. Place record form</li><li>4. Plans and information date stamped 13 March 2020</li></ol>

#### **Purpose**

The purpose of this report is for Council to consider a planning application for a proposed change of use from an office to a shop for a beauty therapy salon and the associated signage located at No 22 (Lot 67) May Street, East Fremantle.

#### **Executive Summary**

The applicant is seeking Council approval for a change of use from an office to a shop and also for the signage associated with the business. A shop is a "P" use (or permitted), however, the parking requirements for such a use are not met at the location and the signage is relatively compliant with the exception of being located below the awning fascia, but located on a Category B heritage property and as such development approval is required.

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

#### **Background**

Zoning: Town Centre

Site area: 663m<sup>2</sup>

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

P155/07 – development application and approval from Council for alterations to existing residence and the addition of 2 double storey rear dwelling units.

#### **Consultation**

##### Advertising

Nil

##### Community Design Advisory Committee (CDAC)

The application was not referred to CDAC. There are minimal streetscape impacts.

##### 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**

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

### **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 Signage Design Guidelines (LPP3.1.2) and the Town Centre Redevelopment Guidelines (LPP 3.1.3). 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

This development application proposes a change of use from office to shop and the installation of the associated signage for the respective business at the subject property. The property is currently a real estate office (Yard Property) who have vacated the property. The business is proposed to be relocated from suite 6/163 Canning Highway to 22 May Street and therefore the existing capacity for utilisation will remain consistent within the street. The current owner has operated the business in the East Fremantle area for the past 10 years. In this case the beauty therapy clinic will occupy the front four rooms of the building for treatments and employ four people. The business will service approximately 4 customers per hour in individual rooms within the building. The operation of the business is considered consistent with the existing premises.

### Parking

In accordance with Schedule 10 of Local Planning Scheme No 3 the parking requirement for a shop is a minimum of 4 car bays with 1 space for every 20m<sup>2</sup> net lettable area. There is only 1 car bay onsite for premises with a net lettable area of approximately 140m<sup>2</sup>. As such the shop should have 7 car bays and therefore has a deficit of 6 car bays. However, there is significant on street parking available along May Street. Although it may not be earmarked specifically for this business, the movement of customers means that street parking will become available as customers finish their appointments. Additionally the business has been operating on May Street for 10 years and therefore clients are familiar with the operation of car parking within the vicinity. The applicant makes the comment in his application that some clients may also opt to use the bus services located on Canning Highway or ride their bicycle. The business is located in close proximity to Canning Highway which is a high frequency bus route and therefore able to encourage customers to utilise buses as an alternative to driving cars. Additionally, due to the business operating in the area for such a lengthy time period, the business would have a local clientele base. It is also in close proximity to residential areas with a relatively safe cycling environment.

The real estate business that is currently located on site is also operating on the same basis and has significantly more workers within the office. According to the applicant there are between 15 and 20 workers within the office and there is no compensating parking provided.

Given that the subject site is in close proximity to the Town Centre, May Street is a wide street with generous street parking for its full length and is also in close proximity to public transport along Canning Highway and the area is both a relatively pedestrian and bike friendly environment it is recommended that the change of use with the reduced parking provision be supported. It is also noted that the business will have a relatively high customer turnover which means that customers will come and go and as a result parking will become available on the street while the business is operating. According to the applicant the business tends to be very busy on Saturday when demand is potentially lower from other surrounding businesses so it is considered there will be ample parking available along May Street.

Signage

It is proposed to attach signage to the fascia of the verandah of the subject building. It will be located in a similar position to the current real estate office advertising. The dimensions of the signage are proposed to be 12m long by 0.4m high and 0.05m deep. The underside of the sign will be 2.2m above the finished floor level. It will not interfere with people arriving or leaving the premises as it is located above customer entry points to the building. The graphic on the sign will read Bella’s Skin Care Centre with blue writing and a white background. The sign does not impact on the heritage character or affect the structural integrity of the Category B listed heritage building.

According to the Local Planning Policy 3.1.2 Signage Design Guidelines this sign would be defined as awning fascia signage and as such has the following criteria to be assessed against;

<b>Acceptable Solution (Permitted)</b>	<b>Alternative performance Criteria (Discretionary)</b>
Shall not project beyond the fascia line of an approved or existing awning	Shall not project beyond the fascia line of an approved or existing awning
Shall not project above or below the fascia of the awning	Maximum height of 500mm
Maximum height 450mm	

In this case the signage is 0.4m high which is less than the maximum height of 0.45m stated in the policy. It does not project beyond the existing verandah of the building in accordance with the policy, however, it does project below the verandah which means that the alternative performance criteria is required to assess the signage proposal. The proposed signage achieves both criteria from the alternative assessment criteria. It is less than the maximum height of 500mm and does not project beyond the fascia line of an approved or existing awning. As stated above the proposed signage is proposed to be like for like to the existing signage. For these reasons the signage should be supported.

Conclusion

Based on the preceding assessment that has been completed for this development and the explanation provided in this report, the proposed change of use for this Town Centre property and the associated signage are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

**11.4 OFFICER RECOMMENDATION TP040520**

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

- (i) Schedule 10 – Local Planning Scheme No 3 – 7 car bays required, 1 car bay provided**
- (ii) Attachment 1 – Local Planning Policy 3.1.2 Signage Design Guidelines – Shall not project above or below the fascia of the awning - required, projected below the fascia of the awning – provided**

**for a change of use from office to shop and signage at No. 22 (Lot 67) May Street, East Fremantle, in accordance with the plans and information date stamped received 13 March 2020, subject to the following conditions:**

- (1) This planning approval does not include approval for any other signage other than that approved in accordance with the plans and information date stamped received 13 March 2020. No other unauthorised signage is to be displayed.**

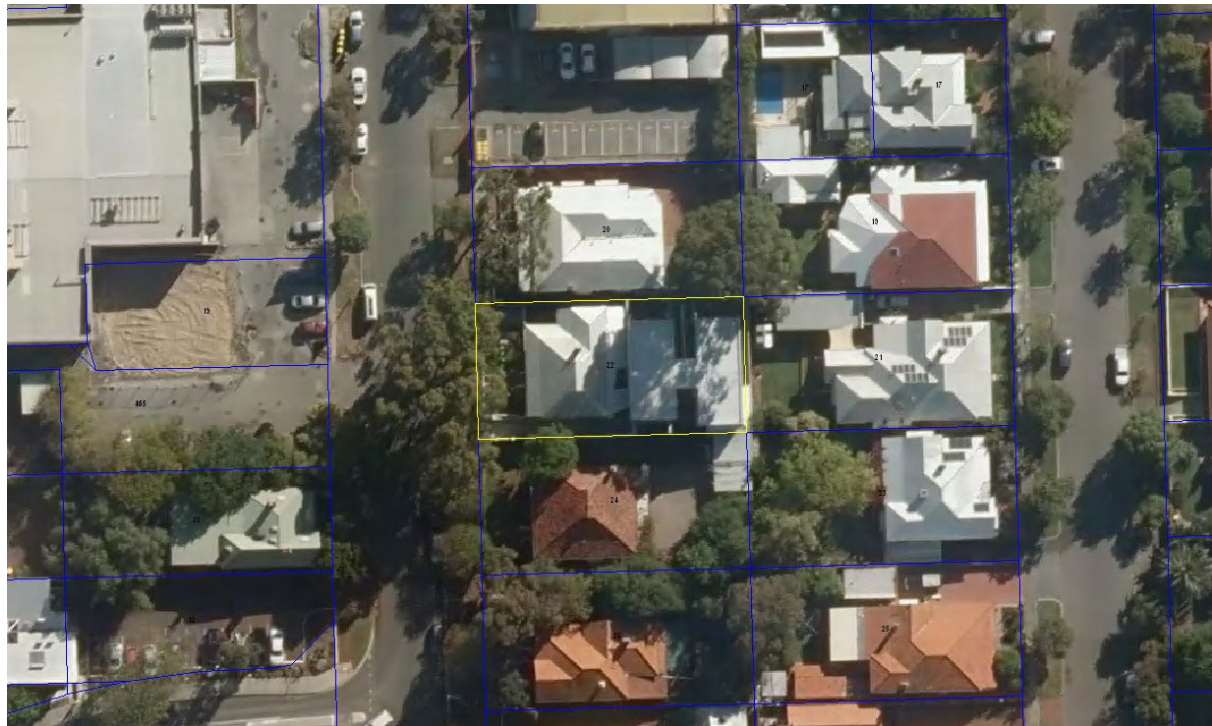
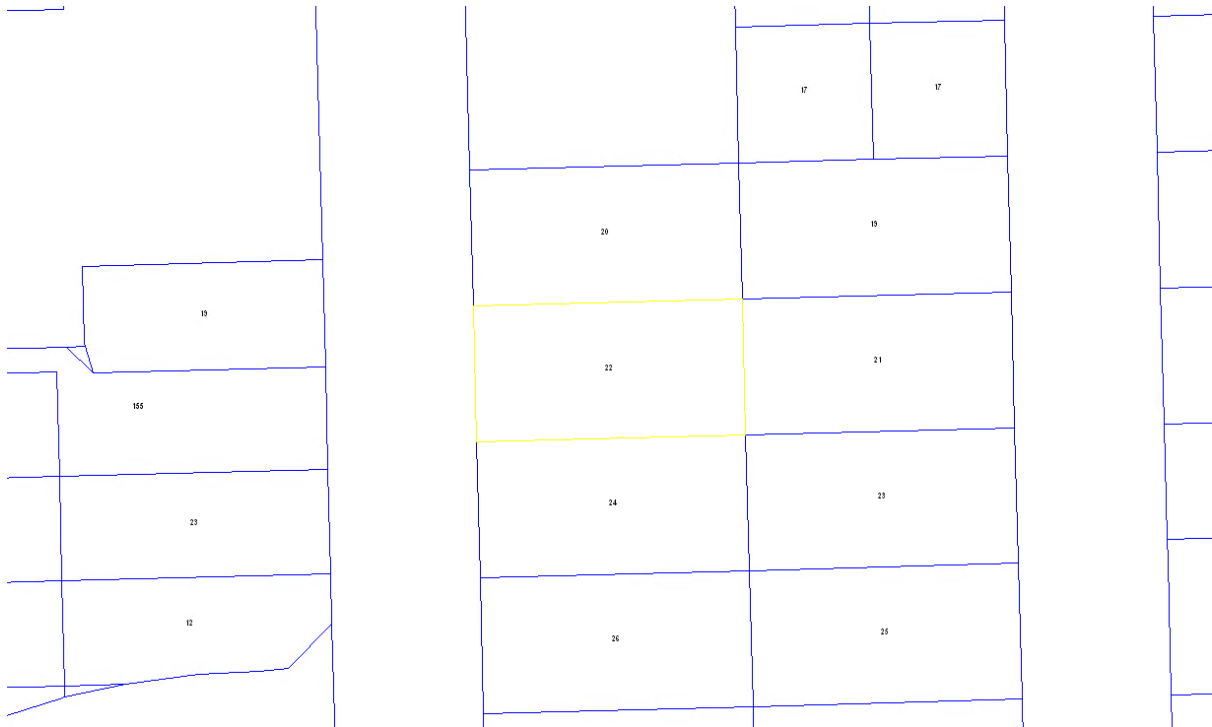
- (2) Any change to the type, design, location or illumination of signage shall be the subject of another development approval application for Council's consideration.
- (3) The change of use approval is for a shop (beauty therapy clinic) only. If any other use is proposed then a further development approval application will be required to be submitted for Council's consideration as to the suitability of the use and parking availability and requirements in the Town Centre.
- (4) With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (5) 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.
- (6) 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.
- (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) *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) *the applicant be advised that following receipt of planning approval the Town's Principal Environmental Health Officer is to be contacted to arrange for an inspection of the premises (telephone 9339 9315).*

22 May Street







**PLACE RECORD FORM**



PRECINCT	Woodside
ADDRESS	22 May Street
PROPERTY NAME	N/A
LOT NO	Lot 67
PLACE TYPE	Residence
CONSTRUCTION DATE	C 1908
ARCHITECTURAL STYLE	Federation Bungalow
USE/S	Original Use: Residence/ Current Use: Commercial
STATE REGISTER	N/A
OTHER LISTINGS	N/A
MANAGEMENT CATEGORY	Category B
PHYSICAL DESCRIPTION	<p>No 22 May Street is a single storey building constructed in timber framing and weatherboard cladding with a hipped corrugated iron roof. It is a fine expression of the Federation Bungalow style. It is symmetrically composed with a central door and hopper light flanked by sidelights and sets of casement windows. The facade features a full width skillion roofed verandah supported on turned timber posts. A vertical timber balustrade spans between the posts. A set of masonry steps leads from the verandah down to the garden. The roofscape features a rendered chimney.</p> <p>The place retains its form and most of its details. There are additions to</p>

	<p>the rear.</p> <p>The place is consistent with the building pattern in the Precinct. The place plays an important role in the pattern of development of a middle class suburb.</p>
HISTORICAL NOTES	<p>Woodside is a relatively cohesive precinct where most of the places were constructed following the subdivision of W.D. Moore's Estate commencing in 1912. Most of the lots were sold between 1912 and 1929 and the majority of buildings were completed in this time. Residences were substantial and of various Federation period styles distinguishing the area from the small worker's cottages of Plympton. The Inter-War Californian Bungalow style residence is also represented in Woodside.</p> <p>The Woodside Precinct remains largely intact in terms of original housing with little infill subdivision or replacement housing.</p> <p>The place has been converted from a residence to a commercial premise.</p>
OWNERS	Unknown
HISTORIC THEME	Demographic Settlements - Residential Subdivision
CONSTRUCTION MATERIALS	<p>Walls – Timber framed and weatherboard cladding</p> <p>Roof – Corrugated iron sheeting</p>
PHYSICAL SETTING	The place is located on a sloping site with a low masonry wall and open picket fence on the lot boundary.
STATEMENT OF SIGNIFICANCE	<p>No 22 May Street is a single storey commercial premise constructed in timber framing and weatherboard cladding with a corrugated iron roof. It has historic and aesthetic value for its contribution to Woodside's high concentration of predominantly Federation period houses and associated buildings. The place contributes to the local community's sense of place.</p> <p>The place has considerable aesthetic value as a Federation Bungalow style building. The place retains a moderate to moderate to high degree of authenticity and a moderate degree of integrity.</p> <p>The additions to the rear have no significance.</p>
AESTHETIC SIGNIFICANCE	No 22 May Street has considerable aesthetic value as a Federation Bungalow style building. It retains most of the characteristic features of a dwelling of the type and period.
HISTORIC SIGNIFICANCE	No 22 May Street has some historic value. It was part of the suburban residential development associated with the expansion of East Fremantle and the subdivision of W. D. Moore's Woodside Estate from 1912.
SCIENTIFIC SIGNIFICANCE	N/A
SOCIAL SIGNIFICANCE	No 22 May Street has some social value. It is associated with a significant area of middle class Federation and Inter-War period development which contributes to the community's sense of place.
RARITY	No 22 May Street is not rare in the immediate context but Woodside has rarity value as a cohesive middle class suburb.
CONDITION	No 22 May Street is in good condition.
INTEGRITY	No 22 May Street retains a moderate degree of integrity.
AUTHENTICITY	No 22 May Street retains a moderate to high degree of authenticity.
MAIN SOURCES	

### 11.5 May Street No 44 (Lot 76) Proposed alterations and additions

<b>Owner</b>	Marshall & Kathryn Hood
<b>Applicant</b>	Jeff Swinyard – Studio Atelier
<b>File ref</b>	P017/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	5 May 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Location plan</li><li>2. Site photos</li><li>3. Place record form</li><li>4. Plans date stamped 25 March 2020</li></ol>

#### **Purpose**

The purpose of this report is for Council to consider a planning application for proposed alterations and additions at No 44 (Lot 76) May Street, East Fremantle.

#### **Executive Summary**

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

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1m required, less than 1m provided
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1m required, less than 1m provided
- (iii) Clause 3.7.8.3 – Residential Design Guidelines – 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 R20  
Site area: 663m<sup>2</sup>

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

Nil

#### **Consultation**

##### Advertising

The application was advertised to surrounding land owners from 9 to 23 March 2020. No submissions were received.

##### Community Design Advisory Committee (CDAC)

The application was not referred to CDAC as the development is concentrated to 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**

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

### 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			N/A
Kitchen- north	1.1m	3.2m	A
<b>Alfresco- north</b>	<b>1m</b>	<b>0.932m</b>	<b>D</b>
Alfresco- east	1m	6.2m	A
Bed 2 - east	1m	6.2m	A
<b>Shed- east</b>	<b>1m</b>	<b>&lt;1m</b>	<b>D</b>
Shed- south	1m	1m	A
Laundry & bathroom - south	1m	1.18m	A
Entry	1m	2.6m	A
Open Space	50%	69.1%	A
Wall height	6m	<6m	A
Roof height	9m	<6m	A
Setback of Carport			N/A
Car Parking			N/A
Site Works			N/A
Visual Privacy			N/A
Overshadowing	25%	7.85%	A
Drainage	Retain on site	Will 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	A
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	A
<b>3.7.8 Roof Form and Pitch</b>	<b>D</b>
3.7.9 Materials and Colours	A
3.7.10 Landscaping	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	N/A

This development application proposes alterations and additions to an existing heritage dwelling (Category B). Two variations are requested to the requirements of the Residential Design Codes in regards to lot boundary setbacks, and one variation is requested to the Residential Design Guidelines with regards to roof pitch.

#### Heritage

The proposed alterations and additions do not significantly impact on the heritage characteristics of the dwelling given that it is a Category B dwelling. The majority of the new development cannot be seen from the front of the property with a wall to a side entry being the only visible section. The roof of the additions are below the existing roof of the heritage building so do not interfere with roofline and as such are in alignment with the Residential Design Guidelines which requires alterations and additions to not be readily visible from the front of the property. Likewise there should be a contrast between the older heritage building and the newer additions such that the heritage components can be readily distinguished from the newer parts of the dwelling. This proposal achieves this. For these reasons the changes to the category B heritage property are supported.

#### Lot Boundary Setback

The alfresco area wall located along the northern boundary of the dwelling is 6.89m long, 2.6m high and setback 0.932m from the boundary where it should be 1m. As such it does not achieve the deemed to comply setback requirements of clause 5.1.3 C3.1. There is a chimney that projects 0.75m within this setback area, but this is permitted under the Residential Design Codes clause 5.1.3 C3.1 iv. However, in this case the dwelling achieves design principles 5.1.3 P3.1 of the Residential Design Codes for the following reasons;

- there is a reduced impact of building bulk on adjoining property;
- adequate sunlight and ventilation is provided to the building and open spaces on the site and adjoining properties; and
- overlooking and loss of privacy is minimised.

The proposed setback variation is considered minor. For this reason the reduced setback can be supported.

#### Lot Boundary Setback

The eastern wall of the shed located along the eastern boundary is 3.2m long, 2.9m high and setback less than 1m from the boundary where it should be 1m. As such it does not achieve the deemed to comply setback requirements of clause 5.1.3 C3.1. However, in this case the dwelling achieves design principles 5.1.3 P3.1 of the Residential Design Codes because;

- there is a reduced impact of building bulk on adjoining properties;
- adequate sunlight and ventilation is provided to the building and open spaces on the site and adjoining property; and
- overlooking and loss of privacy is minimised.

The proposed setback variation is considered minor. For this reason the reduced setback can be supported.

#### Roof Pitch

The Residential Design Guidelines clause 3.7.8.3 A4.1 acceptable development requirements permit the pitch of the roof to be between 28 and 36 degrees. In this case a roof pitch of less than 28 degrees is

proposed. Although it does not achieve acceptable development clause 3.7.8.3 A4.1 it does achieve performance criteria 3.7.8.3 P4 because the proposed new roof attached to the additions complement the traditional form of surrounding development in the immediate locality. For this reason the reduced roof pitch 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 Codes and the Residential Development Guidelines are considered minor and are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

#### **11.5 OFFICER RECOMMENDATION TP050520**

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

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1m required, less than 1m provided**
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1m required, less than 1m provided**
- (iii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 to 36 degrees required, less than 28 degrees provided**

**for alterations and additions at 44 May Street, East Fremantle, in accordance with the plans date stamped received 25 March 2020, 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 is to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
- (6) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- (7) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be**

borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

- (8) This planning approval is to remain valid for a period of 24 months from date of this approval.

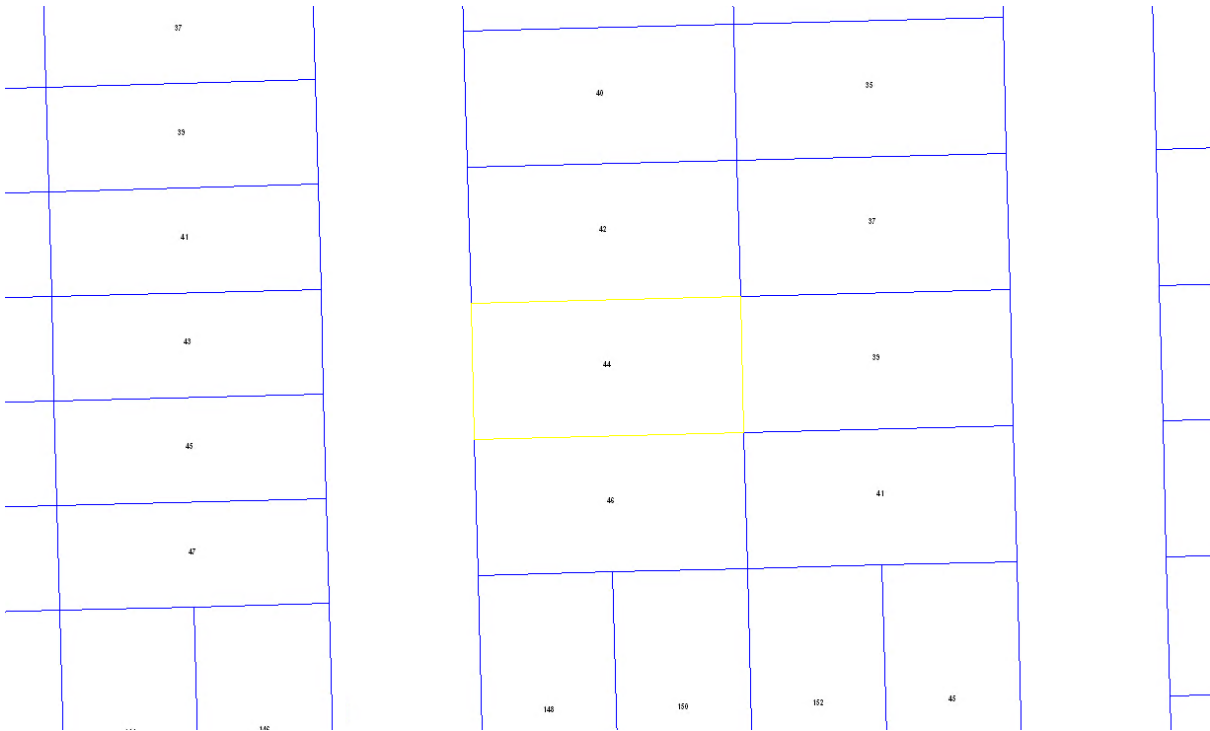
**Footnote:**

*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".*



44 May Street





## PLACE RECORD FORM



PRECINCT	Woodside
ADDRESS	44 May Street
PROPERTY NAME	N/A
LOT NO	Lot 76
PLACE TYPE	Residence
CONSTRUCTION DATE	C 1935
ARCHITECTURAL STYLE	Inter-War California Bungalow
USE/S	Original Use: Residence/ Current Use: Residence
STATE REGISTER	N/A
OTHER LISTINGS	N/A
MANAGEMENT CATEGORY	Category B
PHYSICAL DESCRIPTION	No 44 May Street is a single storey house constructed in limestone, brick and rendered brick with a hipped and gable tiled roof. It is a good expression of the Inter-War California Bungalow style. It is asymmetrically composed with a thrust gable bay and a part width hip roofed verandah. The verandah is supported on battered piers. A masonry balustrade spans between the piers. The half-timbered, gable bay features a set of casement windows under a tiled awning. There is a central door flanked by sidelights and a set of casement windows. A set of steps leads down from the verandah to the garden. The house sits on limestone foundations. The roofscape features finials.

	<p>The place retains its form and most of its details. There are additions to the rear.</p> <p>The place is consistent with the building pattern in the Precinct. The place plays an important role in the pattern of development of a middle class suburb.</p>
HISTORICAL NOTES	<p>Woodside is a relatively cohesive precinct where most of the places were constructed following the subdivision of W.D. Moore's Estate commencing in 1912. Most of the lots were sold between 1912 and 1929 and the majority of buildings were completed in this time. Residences were substantial and of various Federation period styles distinguishing the area from the small worker's cottages of Plympton. The Inter-War Californian Bungalow style residence is also represented in Woodside.</p> <p>The Woodside Precinct remains largely intact in terms of original housing with little infill subdivision or replacement housing.</p>
OWNERS	Unknown
HISTORIC THEME	Demographic Settlements - Residential Subdivision
CONSTRUCTION MATERIALS	<p>Walls – Limestone, brick and rendered brick</p> <p>Roof – Tiles</p>
PHYSICAL SETTING	The residence is situated on a sloping site with a brick wall on the lot boundary.
STATEMENT OF SIGNIFICANCE	<p>No 44 May Street is a single storey house constructed in limestone, brick and rendered brick with a tiled roof. It has historic and aesthetic value for its contribution to Woodside's high concentration of predominantly Federation period houses and associated buildings. The place contributes to the local community's sense of place.</p> <p>The place has considerable aesthetic value as an Inter-War California Bungalow. The place retains a moderate to high degree of authenticity and a high degree of integrity.</p> <p>The additions to the rear have no significance.</p>
AESTHETIC SIGNIFICANCE	No 44 May Street has considerable aesthetic value as an Inter-War California Bungalow. It retains most of the characteristic features of a dwelling of the type and period.
HISTORIC SIGNIFICANCE	No 44 May Street has some historic value. It was part of the suburban residential development associated with the expansion of East Fremantle and the subdivision of W. D. Moore's Woodside Estate from 1912.
SCIENTIFIC SIGNIFICANCE	N/A
SOCIAL SIGNIFICANCE	No 44 May Street has some social value. It is associated with a significant area of middle class Federation and Inter-War period development which contributes to the community's sense of place.
RARITY	No 44 May Street is not rare in the immediate context but Woodside has rarity value as a cohesive middle class suburb.
CONDITION	No 44 May Street is in good condition.
INTEGRITY	No 44 May Street retains a high degree of integrity.
AUTHENTICITY	No 44 May Street retains a moderate to high degree of authenticity.
MAIN SOURCES	

**11.6 East Street No 50 (Lot 1) Proposed alterations and additions**

<b>Owner</b>	Susan & Timothy Sexton
<b>Applicant</b>	Yang Yang Lee/Philip Stejskal Architecture
<b>File ref</b>	P030/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	5 May
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Location plan</li> <li>2. Site photos</li> <li>3. Place Record Form</li> <li>4. Plans date stamped 24 March 2020</li> </ol>

**Purpose**

The purpose of this report is for Council to consider a planning application for proposed alterations and additions at No 50 (Lot 1) East Street, East Fremantle.

**Executive Summary**

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

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks (Carport Wall Height) – 3m average height of carport required, 3.2m provided
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Patio – 1.5m required, 1.2m provided
- (iii) Clause 5.4.1 – Residential Design Codes – Visual Privacy Setback – Patio – 7.5m required, 1.2m 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: 683m<sup>2</sup>  
Heritage: Category C

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

Nil

**Consultation**

Advertising

The application was advertised to surrounding land owners from 2 to 16 April 2020. One submission was received.

Submission	Applicant Response	Officer Response
Proposed Alterations and Addition to existing single residential dwelling	The new development does not seek to redraw established boundary lines. Our house is currently set back from the Right of Carriageway lot line, and the side garden space	The carriageway at the side of the subject property which has an easement attached permits the owners of the neighbouring property at 52 East

<p>No. 50 (Lot 1), East Street, East Fremantle We object to the above development proposal, seeking to selectively redraw established boundary lines. Given the disproportionate size of our blocks, 758m2 and 258m2 respectively, we feel it's unnecessary for the development to encroach on the carriageway shared by our properties (see proposed 'New Side Garden'). The proposal also assumes we will relocate the boundary fence adjoining their garage, which is currently in line with the existing garage and Colourbond boundary fencing. We would like the proposed 'New Side Garden' to remain within the line of the existing residence, so the carriageway remains fully accessible, as it's the only access we have to our rear yard.</p>	<p>is to be built to this boundary. The proposed development includes setting back a portion of the southern wall further from this boundary to provide space for the garden. It is irrelevant what size the neighbours block is to our development - and we are not encroaching on the Right of Carriageway. Our understanding is that The Right of Carriageway is not 'shared' as such, we own the land and they have a right to use it as an access way only. We are assuming this recently constructed fence will be moved. It has been built outside of the lot line on our land, despite our objections, and is not in line with the neighbours' house (the house is already over the lot boundary as per survey). We raised this with the neighbours when it was built and asked why it had been built on our land and were told that they had not known where the boundary was and agreed to move the fence to align with their house before our renovation began. The new build will be set back further from the existing building line to allow space for the garden, and the garden remains entirely within our lot boundary with the Right of Carriageway. We are allowed to build a fence on our boundary. The carriageway remains fully accessible, we have no plans to build on the carriageway. Any reduction in width of the carriageway is entirely due to the works that the neighbours themselves have built on our land without our consent.</p> <p>Notes: The Right of Carriageway in question is a historic note on title that provides access to the rear of the neighbours' lot for the purposes of waste removal etc., and to our rear garage. It is our land and is clearly marked on the survey. The new southern wall will be set back further from its current position and the carriageway boundary, allowing for the fence for the proposed side garden to be outside the current wall alignment, without any encroachment on the carriageway. The purpose of the side garden is to provide an outlook, light and air to the bathrooms, without comprising privacy. The garden wall is not a solid structure, it is a privacy screen/fence. With regard to any encroachment on to the Right of Way, the neighbours' recent development is encroaching on the southern side of the ROW as follows: Encroachment:</p>	<p>Street access to their rear yard. Ownership of the land lies with the owners of 50 East Street. Development is proposed that does not impact on the carriageway or access by the neighbours at 52 East Street.</p> <p>Issues relating to the location of boundaries and dividing fences are a civil matter for the adjacent owners to settle and are not relevant to this development application.</p> <p>It is recommended that a survey be carried out before any boundary fences are installed to ensure that the fences are located on the boundary between properties.</p> <p>All drainage is required to be retained on site.</p> <p>Encroachment from existing development is not a matter relevant to this development application.</p> <p>The Town will discuss the matters raised in response to the submission with the applicant.</p>
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	<ul style="list-style-type: none"> <li>•At the front of the lot, they have built a low retaining wall in the front setback area that is entirely constructed on the ROW.</li> <li>•A new paved area has been created at the rear of the lot, and new fence that encroaches on to the carriageway. There was no fence between the two dwellings before they undertook their renovations. When they started this work we agreed on a position for this fence in relation to our garage, but it has been built so that it juts out into the carriageway (on our land) in order to provide more space for their courtyard, and they have subsequently filled and paved this area, raising the level above the level of the ROW.</li> <li>•The fence to the rear courtyard includes a large gate that swings across the front of our garage.</li> </ul> <p>Drainage: In addition, the neighbours' new development is draining on to the right of carriageway area, at both the rear and front of the lot, from garden and the roof. The gutters directing water onto the ROW with no downpipes installed. The new paved area also directs water flows towards our garage door, and we have recently had drainage installed, but it will silt up if it also has to deal with water from the neighbours' lot. We understand that this is a separate matter, but thought it should be noted.</p> <p>It appears that the neighbours believe that the existence of the right of carriageway means they can use this land as if they owned it, as opposed to the legal right to use the space only to access the rear of their lot. We have been probably unnecessarily reasonable in our negotiations with Anthony and Tiffany over these issues, and have had no success in achieving any substantial rectification issues raised. We have also discussed our intentions for our house renovation over the planning period with them, and they raised no objections at the time.</p> <p>In summary, the proposed new side garden is wholly within our lot, and as such maintains access to the Right of Carriageway for our Neighbour, and any concerns about a reduced width of the carriageway area is due to their illegal encroachments onto the carriageway.</p>	
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Community Design Advisory Committee (CDAC)

The application was not referred to CDAC due to the COVID19 pandemic.

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**

A risk assessment was undertaken and the risk to the Town was deemed to be negligible.

### **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			N/A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Carport – north boundary	0m (3m average height)	0m (3.3m average height)	D
Patio – north boundary	1.5m	1.205m	D
Patio - south	1m	2.65m	A
Open Space	50%	64%	A
Wall height	6m	4.65m	A
Roof Height	9m	6.35m	A
Setback of Carport	4.5m	5.195m	A
Car Parking	1-2 car bays	2 car bays	A
Site Works			N/A
Visual Privacy	7.5m (patio- north)	1.205m (screening to be conditioned)	D
Overshadowing	25%	25%	A
Drainage	Contain on site	To be conditioned	

### 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	A
3.7.7 Building Setbacks and Orientation	A
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.16.4.3 Fremantle Port Buffer Area	A
3.7.16.3.1 Garages and Carports	A

This development application proposes alterations and additions to the existing Category C heritage dwelling at 50 East Street East Fremantle. Three variations are requested to the requirements of the

Residential Design Codes including nil side boundary setback for the carport, reduced side boundary setback for the patio and a reduced privacy setback for the same patio. The majority of the changes with the exception of the carport are concentrated to the rear of the existing dwelling.

#### Lot Boundary Setback – Carport – North Boundary

The carport is 10.07m long and 3.3m high. It is proposed to be located on the boundary. Although it achieves part of the Residential Design Codes deemed to comply clause 5.1.3 C3.2 ii in that it is proposed to be built along the boundary for less than 1/3 of the boundary length behind the front setback line, however this assumes an average height of 3m rather than the 3.2m proposed. This is considered a minor variation and as such can be supported because it achieves design principles 5.1.3 P3.2;

- It makes more effective use of the space on the lot and utilises side access for vehicular parking;
- Provides adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties;
- Minimises the extent of overlooking and resultant loss of privacy on adjoining properties
- Does not have an adverse impact on adjoining properties;
- Ensures direct sunlight to major openings to habitable rooms and outdoor living areas for adjoining properties; and
- Positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework. The proposed carport has minimal streetscape impact and when considered as a development as a whole, the carport is consistent with the prevailing development in the area.

#### Lot Boundary Setback – Patio – North Boundary

The patio located on the northern side of the property which is 9.25m long and 3.72m high is required to have a setback of 1.5m but is only 1.205m from the boundary. As a result it does not achieve the Residential Design Codes deemed to comply clause 5.1.3 C3.1 i. However, it does achieve design principles 5.1.3 P3.2 for the following reasons;

- It makes more effective use of the space for enhanced privacy for the occupants or outdoor living areas;
- Provides adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties;
- Minimises the extent of overlooking and resultant loss of privacy on adjoining properties
- Does not have an adverse impact on adjoining properties;
- Ensures direct sunlight to major openings to habitable rooms and outdoor living areas for adjoining properties; and
- Positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework. The patio has no streetscape impact and provides quality open space to the owner providing for development that achieves a consistent built form.

For these reasons the reduced boundary setback can be supported.

#### Visual Privacy – Patio – North Boundary

The patio on the northern side of the property is elevated above 0.5m above natural ground level. It is required to be located 7.5m from the side boundary rather than the 1.205m in accordance with the Residential Design Codes deemed to comply clause 5.4.1 C1.1 i. In order to achieve the design principles of 5.4.1 P1.1 and P1.2, visually impermeable screening is to be conditioned to be installed in the final

recommendation to reduce the chance of overlooking and improve privacy between the neighbouring dwellings. The neighbour has not provided comment on any privacy implications. For this reason the reduced visual privacy setback to the boundary can be supported.

Screening is to be provided on the northern side of the patio that is at least 75% obscure, permanently fixed, made of durable material and restrict views in the direction of the overlooking into the adjoining property.

#### 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 are considered acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

#### **11.6 OFFICER RECOMMENDATION TP060520**

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

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks (Carport Wall Height) – 3m average height of carport required, 3.2m provided**
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Patio – 1.5m required, 1.2m provided**
- (iii) Clause 5.4.1 – Residential Design Codes – Visual Privacy Setback – Patio – 7.5m required, 1.2m provided**

**for alterations and additions at 50 East Street, East Fremantle, in accordance with the plans date stamped received 24 March 2020, 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) Screening is to be provided for the 9.25m length of the northern side of the patio to a minimum height of 1.6m from the finished floor level of the patio deck that is at least 75% obscure, permanently fixed, made of durable material and restrict views in the direction of the overlooking into the adjoining property.**
- (3) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- (4) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- (5) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan to 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 Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment is to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**

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

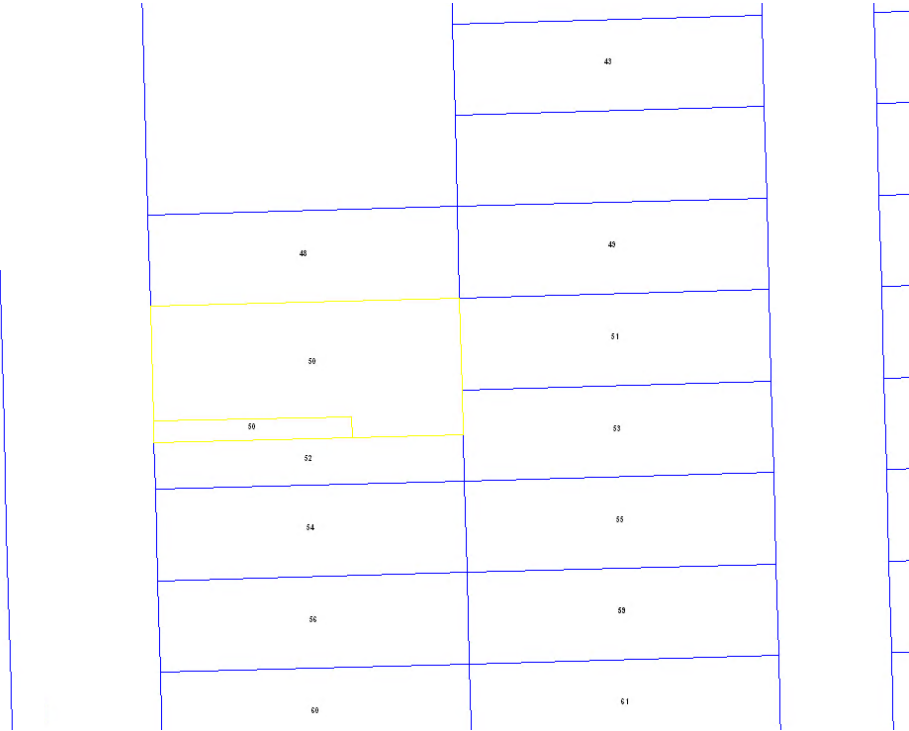
- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved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

12. MATTERS BEHIND CLOSED DOORS

Nil.

13. CLOSURE OF MEETING

50 East Street





PLACE RECORD FORM



PRECINCT	Plympton
ADDRESS	50 East Street
PROPERTY NAME	N/A
LOT NO	Lots 1 & 50
PLACE TYPE	Residence
CONSTRUCTION DATE	C 1894
ARCHITECTURAL STYLE	Federation Bungalow overlaid with Post-World War II Immigrant Nostalgia
USE/S	Original Use: Residence/ Current Use: Residence
STATE REGISTER	N/A
OTHER LISTINGS	N/A
MANAGEMENT CATEGORY	Category C
PHYSICAL DESCRIPTION	<p>No 50 East Street is a single storey house constructed in timber frame and fibro cladding with a hipped decramastic tiled roof. It is a simple expression of the Federation Bungalow style overlaid with Post-World War II Immigrant Nostalgia refurbishments. The front elevation is symmetrically planned with a central door flanked by windows. The facade features a skillion roofed verandah supported on Tuscan columns set over masonry piers resting on a concrete floor.</p> <p>There are skillion roofed additions to the rear.</p> <p>Notwithstanding the modifications the place is consistent with the pattern</p>

	of development in Plympton and plays an important role in the pattern of development of a working class suburb.
HISTORICAL NOTES	<p>Plympton is a cohesive precinct where most of the places were constructed in the late nineteenth century and the first quarter of the twentieth century. It is comprised primarily of homes for workers and their families with a high concentration of small lots with timber, brick and stone cottages.</p> <p>Houses like this one were occupied by immigrants in the Post-World War II period and remodelled to more closely reflect the styles of the period.</p>
OWNERS	Unknown
HISTORIC THEME	Demographic Settlements - Residential Subdivision
CONSTRUCTION MATERIALS	<p>Walls - Rendered masonry</p> <p>Roof - Tiles</p>
PHYSICAL SETTING	The residence is situated on a sloping site with a low brick fence at the street boundary.
STATEMENT OF SIGNIFICANCE	<p>No 50 East Street is a single storey house constructed in timber framing and fibro cladding with a decramastic tiled roof. The place has some historic and aesthetic value with its contribution to Plympton's high concentration of worker's cottages and associated buildings. It contributes to the local community's sense of place.</p> <p>The place has some heritage value for its intrinsic aesthetic value as a Federation Bungalow with Post-World War II Immigrant Nostalgia overlays. It retains a moderate degree of authenticity and a high degree of integrity.</p> <p>The rear additions have no significance.</p>
AESTHETIC SIGNIFICANCE	No 50 East Street has considerable aesthetic value as a typical Federation Bungalow with Post-World War II Immigrant Nostalgia overlays. It retains many of the characteristic features of a dwelling of the type and period.
HISTORIC SIGNIFICANCE	<p>No 50 East Street has some historic value. It was part of the suburban residential development associated with the expansion of East Fremantle during the Goldrush period of the 1880s and 1890s.</p> <p>Changes to the place reflect with Post-World War II Immigrant Nostalgia re-styling.</p>
SCIENTIFIC SIGNIFICANCE	N/A
SOCIAL SIGNIFICANCE	No 50 East Street has some social value. It is associated with a significant area of worker's cottages, which contributes to the community's sense of place.
RARITY	No 50 East Street is not rare in the immediate context, but Plympton has rarity value as a working class suburb.
CONDITION	No 50 East Street is in fair condition.
INTEGRITY	No 50 East Street retains a high degree of integrity.
AUTHENTICITY	No 50 East Street retains a moderate degree of authenticity.
MAIN SOURCES	