



# MINUTES

## Town Planning Committee

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Tuesday, 2 June 2020 at 6.30pm

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CONTENTS

1.	DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS	1
2.	ACKNOWLEDGEMENT OF COUNTRY	1
3.	RECORD OF ATTENDANCE	1
3.1	Attendance	1
3.2	Apologies	1
3.3	Leave of Absence	1
4.	MEMORANDUM OF OUTSTANDING BUSINESS	1
5.	DISCLOSURES OF INTEREST	1
5.1	Financial	1
5.2	Proximity	1
5.3	Impartiality	1
6.	PUBLIC QUESTION TIME	2
6.1	Responses to previous questions from members of the public taken on notice	2
6.2	Public Question Time	2
7.	PRESENTATIONS/DEPUTATIONS	2
7.1	Presentations	2
7.2	Deputations	2
8.	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	2
8.1	Town Planning Committee (5 May 2020)	2
9.	ANNOUNCEMENTS BY THE PRESIDING MEMBER	2
10.	REPORTS OF COMMITTEES	2
11.	REPORTS OF OFFICERS (COMMITTEE DELEGATION)	3
11.1	Bolton Street No 10 (Lot 24) Proposed loft addition	3
11.7	64A Clayton Street No (Lot 1) Proposed garage	13
11.2	May Street No 22 (Lot 67) Proposed beauty therapy salon	19
11.3	Bolton Street No 12 (Lot 2000) Proposed ground floor conversion, additional garage and balcony extension	24
11.4	Munro Street No 14 (Lot 5051) Proposed additions including alfresco and deck	30
11.5	Fraser Street No 27 (Lot 1) Proposed demolition of existing dwelling and construction of new dwelling with garage outbuilding	37
11.6	May Street No 35 (Lot 616) Proposed alterations and additions	44
11.8	Marmion Street No 122A (Lot 2) Proposed two storey dwelling	51
12.	MATTERS BEHIND CLOSED DOORS	58
13.	CLOSURE OF MEETING	58

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MINUTES OF THE ORDINARY MEETING OF THE TOWN PLANNING COMMITTEE HELD IN THE COUNCIL CHAMBER, 135 CANNING HIGHWAY, EAST FREMANTLE ON TUESDAY 2 JUNE 2020.

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

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

**2. ACKNOWLEDGEMENT OF COUNTRY**

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

**3. RECORD OF ATTENDANCE**

**3.1 Attendance**

The following members were in attendance:

Cr Collinson *Presiding Member*  
Mayor O'Neill  
Cr Harrington  
Cr Watkins  
Cr Nardi  
Cr Natale

The following staff were in attendance:

Mr Malone *Executive Manager Regulatory Services*  
Ms Culkin *Minute Secretary*

There were 5 members of the public in attendance.

**3.2 Apologies**

Nil

**3.3 Leave of Absence**

Nil

**4. MEMORANDUM OF OUTSTANDING BUSINESS**

Nil.

**5. DISCLOSURES OF INTEREST**

**5.1 Financial**

Nil.

**5.2 Proximity**

**5.2.1 Cr Nardi - Item 11.8 Marmion Street #122A (Lot 2)**

Cr Nardi declared a proximity interest in Item 11.8 as he resides adjacent to the subject lot.

**5.3 Impartiality**

Nil.

**6. PUBLIC QUESTION TIME**

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

**6.2 Public Question Time**  
Nil.

**7. PRESENTATIONS/DEPUTATIONS**

**7.1 Presentations**  
Nil.

**7.2 Deputations**  
Nil.

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

**8.1 Town Planning Committee (5 May 2020)**

**8.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION**

Moved Cr Nardi, seconded Cr Watkins

That the minutes of the Town Planning Committee meeting held on Tuesday 5 May 2020 be confirmed as a true and correct record of proceedings.

(CARRIED UNANIMOUSLY)

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

**10. REPORTS OF COMMITTEES**  
Nil.

**PROCEDURAL MOTION**

Moved Cr Nardi, second Mayor Cr Harrington

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

(CARRIED UNANIMOUSLY)

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

**11.1 Bolton Street No 10 (Lot 24) Proposed loft addition**

<b>Owner</b>	Mark & Tanya Duncan-Smith
<b>Applicant</b>	Angella Moffat
<b>File ref</b>	P087/18
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	2 June 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Appendix (Summary of Submissions)

**Purpose**

The purpose of this report is for Council to consider a planning application for a proposed loft addition at No 10 (Lot 24) Bolton 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 Setback - Western Boundary – 4.7m required, 3.2m provided
- (ii) Clause 5.4.1 – Residential Design Codes – Visual Privacy Setback - 4.5m required, 4.3m provided
- (iii) Clause 3.7.18.4.1.3 – Residential Design Guidelines – Wall Height – 5.6m required, 6.9m provided
- (iv) Clause 3.7.8.3– Residential Design Guidelines – Roof Form & Pitch – original pitch required, curved (variable) roof pitch provided
- (v) Clause 3.7.2.3 – Residential Design Guidelines – Additions and Alterations to Existing Building – Loft Windows, Roof Geometry, Visibility from Street–horizontally proportioned windows provided, no significant change to roof geometry, minimal visibility from street

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

**Background**

Zoning: Residential R12.5

Site area: 678m<sup>2</sup>

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

There have been previous sets of plans presented to the Town in an effort to have the proposed development approved, however, an application was not presented to Council.

**Consultation**

Advertising

The application was advertised to surrounding land owners from 18 March to 3 April 2020 with an additional week given for submitters to complete their submissions. Two submissions were received. The Town also undertook additional meetings with a submitter to discuss the application in detail. These submissions are included in the appendix at the end of this report due to the length of the submissions. The applicant response and officer response are also included in the appendix.

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	7.5m	11m	A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Eastern wall loft	11.1m long, 5.5m to 6m high 1.6m setback required	3.4m	A
Western wall loft	11.1m long, 7.6m to 8.5m high 4.7m setback required	3.2m	D
Southern wall loft	6m setback required	20.9m	A
Open Space		No change in open space from existing as loft is being built within existing footprint	N/A
Wall height	5.6m	6.9m	D
Roof height	8.1m	7.1m	A
Setback of Garage/Carport			N/A
Car Parking			N/A

Site Works			N/A
<b>Visual Privacy</b>	<b>4.5m</b>	<b>4.3m</b>	<b>D</b>
Overshadowing			N/A
Drainage			To be conditioned

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
<b>3.7.2 Additions and Alterations to Existing Buildings</b>	<b>D</b>
<b>3.7.3 Development of Existing Buildings</b>	<b>D</b>
3.7.4 Site Works	N/A
3.7.5 Demolition	D
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	N/A
<b>3.7.8 Roof Form and Pitch</b>	<b>D</b>
<b>3.7.9 Materials and Colours</b>	<b>D</b>
3.7.10 Landscaping	N/A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.18.3 Garages and Carports	N/A
<b>3.7.18.4 Building Design Requirements</b>	<b>D</b>
3.7.18.4.3 Fremantle Port Buffer Requirements	N/A

This development application proposes a loft addition as well as internal works at the subject property. The property is on the Town of East Fremantle's heritage list as a Category A property. Additions and alterations to such dwellings can be proposed by applicants.

The loft will house a master bedroom, lift, ensuite and toilet, walk-in robe and entry door onto the belvedere. Additional changes are proposed to the ground floor. Internal walls to 2 rooms and a hallway at the front of the house will be removed allowing the amalgamation of the area into a single open plan living, dining and kitchen area. New metal roof sheeting will be installed utilising the existing roof framing and approximately 50% of the guttering and downpipes will be replaced. New weather sealed windows in the same style as the existing windows will be installed. The existing belvedere and double chimney will remain in place. The existing footprint of the dwelling will remain unchanged and there is no increase in site coverage by the building nor reduction in the current open space on site.

The loft that is being proposed will be located 11m from the front boundary of the property and inserted in the valley and between the ridges of the existing roof. An attempt has been made to ensure that the loft has minimal impact on the neighbouring property owners' views of the river or ocean as the overall height complies with the Deemed to Comply provisions of the Residential Design Guidelines. The loft will alter the external appearance of the dwelling and will be discussed later in the report. The internal works that are proposed have no impact on the external appearance of the dwelling, but do improve the functionality and liveability of the dwelling by increasing the size of the rooms and allow the living area to become an open plan living space more in keeping with contemporary living.

It is noted that this proposal represents a significantly lower and more minimalistic proposal compared to the original proposal and the applicants claim that the proposal is closer to the aims of the Burra Charter. It is also noted that the Burra Charter can influence decisions taken by the Town with regards to



the development of heritage properties but there is no legal requirement to do so. The Burra Charter ultimately provides guidance with regards to heritage protection and conservation only. Ultimately it is up to the Council to make the final decision as to whether the proposed development will be supported or not.

The following variations are proposed to the Residential Design Codes and the Residential Design Guidelines.

#### Setback – Western Side Boundary

The western wall of the loft is located approximately 3.2m from the western side boundary where it is required to be 4.7m in accordance with the deemed to comply requirements of Table 2b and Clause 5.1.3 C3.1 i of the Residential Design Codes. The 1.5m variation can be supported in accordance with design principles 5.1.3 P3.1. The proposed loft design is setback from the side boundary such that;

- there is minimal impacts from building bulk on the western boundary due to the proposed locations of the loft and because the slope of the area results in minimal impact from a visual or building bulk perspective;
- it has negligible impact on access to sunlight or ventilation to the building and open spaces on site and on the adjoining property; and
- there is minimal impact from overlooking or loss of privacy on adjoining properties.

The loft is setback from the western boundary where the dwelling is effectively hidden from the subject site due to the slope of the area and the fact that 12 Bolton Street has a dwelling that is built towards the rear of the lot and at a lower site level with the roof of the dwelling facing the subject property.

#### Visual Privacy

Four Velux skylights are proposed to be located on the western roof space above the loft area. These windows are located such that they are less than 1.6m from the finished floor level of the loft and have the potential to allow the western property to be overlooked. The visual privacy setback required for a bedroom is 4.5m in accordance with the deemed to comply requirements of clause 5.4.1 C1.1 i of the Residential Design Codes. In this case a setback of 4.3m is achieved. This minor variation can be supported because the windows overlook a narrow garden area and the roof on the adjacent property at 12 Bolton Street. Due to the height of the loft, the area principally looks over the adjoining roof towards Fremantle Port and has minimal privacy impacts. There is minimal direct overlooking of the active habitable spaces and outdoor living areas on adjacent properties in accordance with design principles clause 5.4.1 P1.1 of the Residential Design Codes.

An objection has been received from the eastern neighbour relating to the clerestory windows and privacy concerns. The clerestory windows are highlight windows to the subject property, therefore from the requirements of the R-Codes, the proposal is considered to comply with the Deemed provisions. The adjoining eastern property is elevated above the subject site and as such the highlight windows may be perceived to allow sight lines into the adjoining property. Plans have been provided to indicate privacy corridors are significantly protected. No condition has been added to require screening to the windows as the windows comply with the Deemed to Comply Provisions.

#### Demolition

A development impact statement has not been provided by the applicant specifically for these plans as required by acceptable development clause 3.7.5.3 A2 of the Residential Design Guidelines, however, a statement was received from the owner and applicant that outlined the proposal and the issues that they have attempted to mitigate through the proposed design. The proposal is the third iteration of plans that

have been presented to the Town for assessment and previous heritage/ design impact statements have been provided to these plans. Whilst the current design does have a different external design, the overall intent of the modifications to this heritage dwelling are considered to be consistent. The Town has considered all documentation submitted throughout this development application, including previous heritage impact statements. The owners have reached the stage where they want a final decision to be made by the Town in relation to the proposed development.

The interior walls of the dwelling that are proposed to be demolished are clearly demonstrated on the plans that were provided as part of the development application. There are no planning issues created by the demolition of these walls as it is intended not to demolish the whole wall, but to facilitate openings in the walls to ensure the alterations can be readily interpreted. Features of the interior of the heritage dwelling are retained with the exception of the creation of a large and more contemporary open plan living and kitchen area. Structurally, any internal changes will have to be approved through the building permit process to ensure the changes are safe and structurally sound.

#### Wall Height

In accordance with the Residential Design Guidelines acceptable development provisions 3.7.18.4.1.3 A2.4 those areas with views which are considered to be an important part of the amenity of the area and neighbours existing views are affected then reduced wall and roof heights are required. At 6.9m the wall height is higher than the 5.6m required by the Residential Design Guidelines, as the subject site is considered to be located in an area sensitive to views. The design has attempted to respond to the adjacent developments and the established character of the area. The walls of the loft are above maximum height, but the overall height of the development is still below the maximum allowable roof height as explained in the next section.

#### Roof Height

The roof is proposed to be a maximum of 7.1m above natural ground level compared to the maximum allowable height of 8.1m as required by the Residential Design Guidelines clause 3.7.18.4.1.3 A2.4. By doing this the design does not eliminate all views of the ocean and river from the neighbouring properties including the property immediately to the east, 8 Bolton Street.

#### Roof Form and Pitch

The pitch of the roof of the proposed loft is curved with a pitch of approximately 2 degrees. Although this does not achieve the acceptable development requirements of clause 3.7.8.3 A1 of the Residential Design Guidelines, the roof form has been designed to sit inside the existing roof cavity, therefore the original roof form can be readily interpreted, whilst the new roof element to the loft is differentiated from the existing heritage element. The proposed additions do achieve the performance criteria clause 3.7.8.3 P1 in that the roof forms of additions and alterations positively contribute to the existing dwelling.

The area that the loft is built between in the roof of the existing dwelling is currently the top of 2 ridgelines of the roof and within the existing roof valley. This will lessen the likelihood of issues associated with drainage from the roof by ensuring that stormwater is drained away from the centre of the building towards the sides and as a result positively contributes to the longevity of the building as was highlighted in documentation provided by the owner and applicant relating to issues relating to stormwater drainage off the roof.

The eastern neighbour has raised concern regarding the roof material from the new roof. It is proposed the new roof is made from zincalume. As such the material is consistent with the existing roof and the heritage building. Whilst zincalume can be reflective, it is also considered to be the material that

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effectively dulls the quickest, resulting in a patina on the material reducing glare. A condition is included in the Officer's Recommendation which enables Council to take action if the glare of the roof causes amenity impacts, that in the opinion of Council warrant further modifications to the roof.

#### Additions and Alterations to Existing Buildings

As with all residential design, compromises often have to be made with design and trade-offs between what is possible and what is permissible. This matter is complicated by the heritage status of the dwelling.

#### Loft Windows

In this case the subject property is proposed to have windows at the top of the loft that are aligned horizontally, rather than vertically. Acceptable development clause 3.7.2.3 A2 of the Residential Design Guidelines requires that windows have a vertical profile. Similarly the performance criteria 3.7.2.3 P2 states that alterations to openings or new openings, facing the street are to have a vertical profile or to be composed of vertical modules. The proposed new openings on the primary street façade are of a horizontal proportion to ensure that the design is not higher which would in turn create issues relating to the loss of views from neighbouring properties. The loft design is such that it is lower than if it had vertically proportioned windows. It is recommended that despite not achieving the requirement for vertically proportioned windows the proposed window format should be supported as by not doing so would potentially create other issues relating to the proposed loft being above the acceptable roof height and then in turn impacting on neighbouring property views of the river and ocean.

Additionally, the vertical windows cause a break in the design between the existing heritage of the current roof form and the proposed addition of the flat roof. The vertical windows act to visually establish old and new in the proposal. For the above reasons the proposed loft windows with horizontally proportioned windows are supported. Please note above, the eastern neighbours have raised concerns regarding these windows, however the windows are considered to be compliant from a visual privacy assessment.

#### Change in Roof Geometry

According to the Residential Design Guidelines acceptable development clause 3.7.2.3.A1.2 second storey additions are required to be accommodated within the existing roof (without changes to the roof geometry) and built behind the existing building and not visible from the opposite side of the street.

In this case the loft addition is built in the valley between the two ridge lines and no change occurs to the geometry of the eastern and western roof panels of the ridgelines of the dwelling, only the valley roof panels. The loft utilises the area in between the ridgelines, and although the loft roof is slightly higher it is done in a way that is integrated into the existing roof, but still interpreted as a new addition. The design and detail of the loft also has been designed to maintain the neighbours view corridors where possible. The valley cannot be seen from the street front so the loft addition is utilising vacant roof space. Despite creating a large room inside the roof cavity there is only minimal interference with the existing roof line.

The belvedere and the western chimney are not modified by the proposed development. The loft is below the belvedere and the chimney is retained. There is no requirement to ensure that the chimneys or belvedere can be seen from locations outside the Town of East Fremantle.

#### Visibility from Opposite Side of Street

Although the additions may be seen from the opposite side of the street a minor variation to this may be permitted on the basis of its impact on the streetscape. It is not a dominant feature of the dwelling and is in a different style to the existing heritage dwelling. This is in alignment with clause 3.7.2.2 Desired

Development Outcomes of the Residential Design Guidelines which requires that additions and alterations;

- Should take into account the significance and character of the existing building and its contribution to the character of the precinct,
- Should be well designed with minimal interference to the existing building,
- Second storey additions shall be supported but are required to:
  - Be constructed within the existing roof space or towards the rear of the dwelling and must not impact upon significant fabric of the dwelling
  - Not be dominant from the primary street
- Should visually contrast to the contributory building, with differentiation being major or subtle,
- Not be dominant from the primary street.
- Should always respect scale, bulk and proportions of the existing dwelling.

The Category A heritage listing is being respected while at the same time allowing some development in an area of the roof that is currently not visible from the street and the loft addition has minimal impact on the existing dwelling. Whilst there may be visibility from the street, the eye line would have to be drawn to the addition, which is based higher than the level of the street. Although it can be seen it is not dominant from the street, as the heritage building and significant retention of existing roof form will remain the dominant feature to the street. The loft addition also contrasts with the heritage component of the building and is not out of proportion with the rest of the dwelling. As photos from the applicant show, the change in the look of the building from numerous points around the surrounding street and area is minimal. An additional 0.6m height is added to the building height which, compared to its overall height of the front section of the house (not including the belvedere) of 7.1m which is under the permissible 8.1m set by the Residential Design Guidelines, represents an increase of 8% in height. This increase is not excessive and as a result of utilising different materials and shapes to the heritage component of the dwelling, a clear distinction is made between the old and new parts of the building.

#### Conclusion

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. An assessment has been completed of the proposed development and the variations are considered relatively minor. Submissions have been received and these have been considered by the assessing officer. The development application has been assessed on its merits. This report therefore recommends that the proposed development be supported subject to planning conditions.

#### **OFFICER RECOMMENDATION**

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

- (i) Clause 5.1.3– Residential Design Codes – Lot Boundary Setback - Western Boundary – 4.7m required, 3.2m provided;
- (ii) Clause 5.4.1 – Residential Design Codes – Visual Privacy - 4.5m required, 4.3m provided;
- (iii) Clause 3.7.18.4.1.3 – Residential Design Guidelines – Wall Height – 5.6m required, 6.9m provided;
- (iv) Clause 3.7.8.3– Residential Design Guidelines – Roof Form & Pitch – original pitch required, curved roof pitch provided;
- (v) Clause 3.7.2.3 – Residential Design Guidelines – Additions and Alterations to Existing Building – Loft Windows, Roof Geometry, Visibility from Street–horizontally proportioned windows provided, no significant change to roof geometry, minimal visibility from street

for loft additions at No. 10 (Lot 24) Bolton Street, East Fremantle, in accordance with the plans date stamped received 9 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 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).*
- (vi) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

- Mark and Rebecca Sofield (neighbours) expressed concern with regard to Heritage, bulk and scale, reflectivity, obstruction of view and privacy.
- Angella Moffatt (architect, 10 Bolton) spoke in support of the proposed design and structure of the building that included modifications incorporated to address neighbours' concerns.
- Mark Duncan Smith (owner, 10 Bolton) spoke in support of the proposal, acknowledging the concerns raised by the neighbours and subsequent changes incorporated into recent re-design to address these. Mr Duncan Smith also referred to a recent re-assessment of the development plan that resulted in items (i) and (ii) now being determined as compliant.

**11.1 PROCEDURAL MOTION/COMMITTEE RESOLUTION TP010620**

**Moved Cr Harrington, seconded Cr Natale**

**That the application be deferred to the next ordinary Council Meeting to allow the preparation of an amended report which provides inclusion of amendments recommended at this meeting, and to allow further discussions between the owner and objecting neighbour, where practical.**

**(CARRIED 5:1)**

In accordance with s.5.21(4)(a) of the *Local Government Act 1995*, Cr Watkins requested that his vote against the motion be recorded.

### 11.7 64A Clayton Street No (Lot 1) Proposed garage

<b>Owner</b>	Jasmin Karwacki
<b>Applicant</b>	Urbanista Town Planning
<b>File ref</b>	P023/20; P/CLA64A
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	2 June 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

#### **Purpose**

The purpose of this report is for Council to consider a planning application for a proposed garage at No 64A (Lot 1) Clayton 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 – 1.5m required, 1m provided;
- (ii) Clause 5.1.4 – Residential Design Codes – Open Space – 50% required, 47% provided
- (iii) Clause 3.7.14 – Residential Design Guidelines – Crossover Width – 30% maximum width required to maximum width of 5m, greater than 47% width provided
- (iv) Clause 3.7.17.3.3 A3 – Residential Design Guidelines – Garage Setback - 1.2m setback behind building line required, 2.5m from street and 4.3m in front of existing dwelling;
- (v) Clause 3.7.17. 3.3 A3 – Residential Design Guidelines – Garage Width – 30% maximum width required, 48% provided.

It is considered that the above variations cannot be supported and it is recommended that the development application be refused by Council.

#### **Background**

Zoning: Residential R17.5

Site area: 422m<sup>2</sup>

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

P185/08 – development application for below ground swimming pool – issued 8 October 2008

#### **Consultation**

##### Advertising

The application was advertised to surrounding land owners 19 March to 2 April 2020. No submissions were received.

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

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

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External Consultation

Nil

**Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

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

**Policy Implications**

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

**Financial Implications**

Nil

**Strategic Implications**

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

*Built Environment*

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

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

*Natural Environment*

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

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

**Risk Implications**

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			
<b>Southern boundary – garage wall</b>	<b>1.5m</b>	<b>1m</b>	<b>D</b>
<b>Open Space</b>	<b>50%</b>	<b>47%</b>	<b>D</b>
Wall height	6m	2.4m	A
Roof Height	9m	<9m	A
<b>Setback of Garage</b>	<b>4.5m</b>	<b>2.5m</b>	<b>D</b>
Car Parking	1-2 car bays	2 car bays	A
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	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	N/A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
<b>3.7.7 Building Setbacks and Orientation</b>	<b>D</b>
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	N/A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
<b>3.7.14 Footpaths and Crossovers</b>	<b>D</b>
3.7.17.4.3.2 Fremantle Port Buffer Area	N/A
<b>3.7.15.3.3 Garages and Carports</b>	<b>D</b>

This development application proposes a new garage to be constructed in place of an existing carport at a front strata lot, but at a much reduced front street setback and of a size that is well beyond what is

normally permitted and with an excessively wide crossover. The property is not heritage listed. Four variations are requested to the requirements of the Residential Design Codes and one variation is requested to the Residential Design Guidelines.

#### Side Boundary Setback

The garage wall is 6.84m long and 2.4m high. However, the full length of the garage and dwelling is required to be measured as part of the assessment of the lot boundary setback. The full length of the garage wall and the rest of the dwelling is 17.52m along the southern boundary. As such it is required to be setback 1.5m according to the deemed to comply clause 5.1.3 C3.1 i. In this case it is setback 1m from the boundary. The reduced setback cannot be supported in this instance because;

- There is an associated impact when assessed with the reduced front setback variance. The overall bulk of the garage when assessed against the prevailing streetscape form is considered to be overbearing.
- Whilst the existing carport is located in the front setback area, the footprint and size of the garage is larger and is enclosed, creating a more imposing structure to the street and therefore is recommended to be refused.

#### Open Space

The overall level of development as a result of the inclusion of a new garage will see site coverage rise to 53% of the site and open space fall to 47% of the site. This is below the level required of Table 1 and clause 5.1.4 C4 of the Residential Design Codes that requires areas with a density coding of R17.5 to have an open space area equivalent to 50% of the lot area. To have a significantly higher level of site coverage in an area with R17.5 density coding cannot be supported as the design points to overdevelopment on the site, particularly in a low density area. None of the design principles outlined in clause 5.1.4 P4 are achieved.

#### Crossover Width

The Residential Design Guidelines require that crossovers be a maximum of 30% of the lot width up to a maximum width of 5m in accordance with clause 3.7.14.3 A2.2. In this case the crossover appears to be at least 6.7m wide or approximately 48% of the width of the lot which is well in excess of the maximum of 30% of the width of the lot that is permissible. The Town takes the view that motor vehicles and associated infrastructure should not be the dominant feature of dwelling design, however in this case the crossover width is considered excessive and as such cannot be supported.

#### Garage – Front Setback

The proposed garage is located 2.5m from the primary street boundary and 4.3m in front of the existing dwelling where it is required to be located 1.2m behind the existing dwelling building line in accordance with deemed to comply clause 3.7.17.3.3 of the Residential Design Guidelines. Whilst the carport is currently located to the front of the dwelling, the proposed garage is not permeable, is larger and is located closer to the street, therefore the garage will add bulk close to the streetscape. The garage will alter the prevailing setback and bulk as seen from the street and therefore the proposed garage forward of the dwelling cannot be supported.

#### Garage Width

The proposed garage is 6.7m wide which is approximately 48% of the lot width (14m). This exceeds the maximum 30% width required by acceptable development provision 3.7.17.3.3 A3 ii from the Residential Design Guidelines. The proposed garage is far in excess of what is permissible under the Residential Design Guidelines. The garage would become a dominant feature of the dwelling which is the Town does not

support; the view is taken that cars and carports and garages should not be the dominant feature of dwelling design. Garages should be built into dwellings and hidden or become a less dominant feature. For this reason the proposed garage width cannot be supported.

#### Conclusion

The variations (from both the Residential Design Codes and the Residential Design Guidelines) requested are not considered acceptable and cannot be supported. The Residential Design Guidelines have been prepared by the Town to ensure that development within the Town is reflective of characteristics of streetscapes that the Town wishes to promote. There is a desire that garages do not dominate streetscapes, either through their width or proximity to the primary street boundary. In this case a garage is being proposed that is too wide and too close to the street front and with the addition of an extremely wide crossover produces an outcome which is unacceptable to the Town.

The property currently has a double carport which is open and setback 3.5m from the front street boundary. Although not ideal, the current design is better than the reduction in the street front setback that is proposed. Although the applicant has stated that the proposed garage is in a similar location a reduction in the setback combined with the size of the structure close to the front boundary is considered unacceptable. By allowing the proposed design in its current form would set a precedent that would result in the very aims of the Residential Design Guidelines being undermined and orderly and proper planning would not be able to be achieved.

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 Development Guidelines are considered unacceptable. As such it is recommended that the proposed development be refused.

#### **OFFICER RECOMMENDATION**

That Council refuse development approval for a garage at No 64A (Lot 1) Clayton Street, East Fremantle, in accordance with the plans date stamped received 10 March 2020, as the proposed development conflicts with the provisions of the Town of East Fremantle Local Planning Scheme No 3 and Deemed Provision for Local Planning Schemes Clause 67 due to incompatibility with:

1. s67 (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;
2. s67 (g) Any local planning policy for the Scheme area;
3. s67 (m) the compatibility of the development with its setting including the relationship of the development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development.

*Moved Collinson, seconded Cr Harrington*

*The adoption of the officer's recommendation.*

**11.7 ALTERNATIVE RECOMMENDATION/COMMITTEE RESOLUTION TP020620**

**Moved Mayor O'Neill, seconded Cr Natale**

**That the item be deferred and the applicant be asked to consider the comments made by the Town Planning Committee regarding**

- 1. the size and location of the garage**
- 2. increase in the front setback**
- 3. the resulting width of the crossover required.**

**(CARRIED 4:2)**

**PROCEDURAL MOTION**

**Moved Cr Nardi, seconded Cr Harrington**

**That the following items be approved en bloc - 11.2, 11.3, 11.4, 11.5 and 11.6.**

**(CARRIED UNANIMOUSLY)**

**11.2 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>	6 June 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

**Purpose**

The purpose of this report is for Council to reconsider 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.

The proposal was previously presented to the Town Planning Committee but was deferred on the basis that advertising had not been undertaken in the surrounding area. Advertising was subsequently undertaken in the surrounding area and the proposal is being re-presented.

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

The development application was advertised to 9 surrounding properties from 8 to 22 May 2020. No submissions were received. Administration advertised to surrounding businesses and residential properties, past St Peters Road, which is considered an extensive advertising area.

### 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.

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. The applicant will relocate the business from suite 6/163 Canning Highway to 22 May 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.

#### 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. 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. 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 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 ground. 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. 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 and the associated signage are considered acceptable. No submissions were received during the advertising period. As such it is recommended that the proposed development be supported subject to planning conditions.

#### **11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP030620**

**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).*

(ADOPTED BY EN BLOC RESOLUTION)

**Note:**

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

**11.3 Bolton Street No 12 (Lot 2000) Proposed ground floor conversion, additional garage and balcony extension**

<b>Owner</b>	Leona & Christopher Vivian
<b>Applicant</b>	Studio M1 – Mike Dobson
<b>File ref</b>	P042/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	2 June 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

**Purpose**

The purpose of this report is for Council to consider a planning application for a proposed ground floor conversion, additional garage and balcony extension at No 12 (Lot 2000) Bolton Street, East Fremantle.

**Executive Summary**

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

- (i) Clause 3.7.18.4.1.3 - Residential Design Guidelines – Wall Height – 5.6m required, 6.75m provided;
- (ii) Clause 3.7.18.3.3 – Residential Design Guidelines – Primary Street Setback – Garage – 1.2m behind dwelling required, 4.6m from street boundary provided;
- (iii) Clause 3.7.18.3.3 – Residential Design Guidelines - Garage Width – 30% required, 32% provided and;
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – to match existing dwelling, 10 degrees for verandah and 0 degrees for garage.

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

**Background**

Zoning: Residential R12.5  
Site area: 650m<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 23 April to 8 May 2020. No submissions were received.

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 (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			
Balcony southern boundary	1.2m	2.2m	A
Open Space	55%	56%	A
Setback of Garage	4.5m	4.6m	A
Car Parking	2 car bays	2 car bays	A
Site Works			N/A
Visual Privacy			N/A
Overshadowing	<25%	9.6%	A
Drainage			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	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	N/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	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
<b>3.7.14 Footpaths and Crossovers</b>	<b>D</b>
3.7.15.4.3.1 Fremantle Port Buffer Area	A
<b>3.7.18.3.3 Garage Width</b>	<b>D</b>
<b>3.7.18.4.1.3 Building and Roof Height</b>	<b>D</b>

This development application proposes a ground floor conversion, additional garage and balcony extension. Four variations are requested to the requirements of the Residential Design Guidelines. These are discussed below. It is noted that the dwelling is not heritage listed and the proposed development will result in the property being substantially renovated as part of the works. The large tree in the front yard and the existing front garden and picket fence will be retained. Limestone will be used for the garage walls and similar materials to the existing building will be utilised for the extended balcony and verandah roof. No submissions were received as a result of advertising to surrounding properties.

#### Wall Height

The maximum wall height as required by the Residential Design Guidelines clause 3.7.18.4.1.3 A2.4 of 5.6m is not achieved however the proposal does meet performance criteria 3.7.18.4.1.3 P1. Although it is 6.75m to the top of the southern wall of the verandah from the natural ground level the additions and alterations are of a compatible form, bulk and scale to the traditional development in the immediate locality. The additions have been designed to be integrated into the existing dwelling and it is also noted that the lot slopes significantly from the eastern boundary down to the western boundary. The slope of the lot also contributes to the additional wall height. There is not view corridor impediments as a result of the additional wall height. The overall height of the verandah is less than the permissible 8.1m in this area. For these reasons the additional height can be supported.

#### Primary Street Setback- Garage

The primary street setback of the garage is required to be 1.2m behind dwelling in accordance with clause 3.7.18.3.3 A2 i of the Residential Design Guidelines. It partially achieves performance criteria 3.7.18.3.3 P2. In this case the garage is located 4.6m from the front boundary (and therefore complies with the minimum required setback of 4.5m in accordance with the Residential Design Codes clause 5.2.1 C1.1) and the property is not heritage listed. The proposed design utilises the topography of the site without removing the large tree in the front yard. The garage is set into the bottom level of the lot and as a result does not dominate the front of the property. For this reason the location of the garage can be supported.

#### Garage Width

The garage was originally proposed to be 7.72m or 38% of the lot width. However after discussions with the applicant it was agreed to modify the garage width to reduce it to 6.525m or 32% of the lot width. Although this does not comply with acceptable development provision 3.7.18.3.3 A2 ii the reduction in the width of the garage would ensure that the garage does not dominate the dwelling design and its location at the bottom of the lot on a sloped site minimises detrimental streetscape and visual impacts to the surrounding properties. The variation is considered minor and achieves performance criteria 3.7.18.3.3 P2 i; the garage does not visually dominate the streetscape or the buildings to which it belongs. For this reason the increased garage width can be supported.

#### Roof Pitch

The roof pitch of the proposed design does not meet the acceptable development provisions 3.7.8.3 A1 that require the alterations and additions to match the original roof pitch. In this case the garage roof is flat roofed and the verandah is angled at 10 degrees. In both cases the roof pitches positively contribute to the existing dwelling.

Ocean and River Views

It is noted that the applicant has attempted to minimise the visual impacts of the proposed development on the surrounding properties by having a flat roofed garage without any other structures being attached to the top of the roof. Conditions will be imposed that prevent the addition of any structure or permanent fixtures to the top of the garage roof or the north facing or west facing verandahs to ensure that the views of properties to the east and south of the subject site are not reduced any further.

Conclusion

Based on the assessment that has been completed for this development and the explanation provided in this report, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered acceptable. The addition of the verandah and the garage (as well as internal changes to the dwelling) with the retention of the large tree, existing garden and picket fence will create a liveable dwelling that is not substantially changed, but at the same time nestles into its iconic position. As such it is recommended that the proposed development be supported subject to planning conditions.

**11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP040620**

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

- (i) Clause 3.7.18.4.1.3 - Residential Design Guidelines – Wall Height – 5.6m required, 6.75m provided;**
- (ii) Clause 3.7.18.3.3 – Residential Design Guidelines – Primary Street Setback – Garage – 1.2m behind dwelling required, 4.6m from street boundary provided;**
- (iii) Clause 3.7.18.3.3 – Residential Design Guidelines - Garage Width – 30% required, 32% provided and;**
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – to match existing dwelling, 10 degrees for verandah and 0 degrees for garage;**

**for a ground floor conversion, additional garage and balcony extension at No 12 (Lot 2000) Bolton Street, East Fremantle, in accordance with the plans date stamped received 21 April & 5 May 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) No fixed structures including patios, pergolas, verandahs, wind or sun shelters, privacy screens or visually impermeable fences are permitted to be located or constructed on the garage roof.**
- (5) No wind or sun shelters, privacy screens or visually impermeable fences are permitted to be located or constructed along the edge or within the north and west facing verandahs of the dwelling.**
- (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) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (8) If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (9) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (10) This planning approval is to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (iii) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (iv) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (v) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

(ADOPTED BY EN BLOC RESOLUTION)

**Note:**

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

#### 11.4 Munro Street No 14 (Lot 5051) Proposed additions including alfresco and deck

<b>Owner</b>	Abeni & Julie Craig
<b>Applicant</b>	Infinity Design
<b>File ref</b>	P043/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	2 June 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

#### **Purpose**

The purpose of this report is for Council to consider a planning application for proposed additions including alfresco and deck at the rear of the dwelling at No 14 (Lot 5051) Munro 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 – 4.8m required, 1.5m provided
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 4.8m required, 1.5m provided
- (iii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1.5m required, 0.75m provided
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – To match existing dwelling, 3 degrees provided
- (v) Clause 5.4.1 – Residential Design Codes – Visual Privacy – Rear Alfresco– 7.5m required, less than 7.5m provided
- (vi) Clause 5.4.1 – Residential Design Codes – Visual Privacy – Deck Ancillary Dwelling– 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 R17.5

Site area: 736m<sup>2</sup>

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

P078/08 – development application – rear verandah – granted 7 May 2008

#### **Consultation**

##### Advertising

The application was advertised to surrounding land owners 30 April to 15 May 2020. One submission with a statement of support for the proposal was received.

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

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



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External Consultation

Nil

**Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

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

**Policy Implications**

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

**Financial Implications**

Nil

**Strategic Implications**

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

Built Environment

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

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

Natural Environment

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

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

**Risk Implications**

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	6m	6.609m	A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Bathroom – north east boundary	4.8m	1.5m	D
Living & alfresco – north east boundary	4.8m	1.5m	D
Alfresco – rear boundary	1.1m	8.222m	A
Deck – ancillary dwelling – rear boundary	1m	8.5m	A
Deck – ancillary dwelling – north west boundary	1.5m	0.75m	D
Open Space	50%	68%	A
Setback of Carport/Garage			N/A
Car Parking	3 car bays	3 car bays	A
Site Works	<0.5m	>0.5m	A
Visual Privacy	7.5m	<7.5m (screening added along boundary)	A
Overshadowing	<25%	<15%	A
Drainage			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	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	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 additions including an alfresco area at the rear of the lot and a deck added to the ancillary accommodation. Five variations are requested to the requirements of the Residential Design Codes and one variation is requested to the Residential Design Guidelines. The variations are discussed below. It is noted that the dwelling is not heritage listed and there are no significant issues on site. A condition will be added in the recommendation that written approval be given for the proposed development from the Water Corporation to ensure there are no issues with the sewer line or connections to the rear of the subject lot.

Lot Boundary Setback – Front Bathroom – North East Boundary

The bathroom against the north east boundary is part of a 21.85m long wall that is 4.4m high with one major opening. Although it is only a small part of the wall and has an existing major opening it has to be assessed on the total length of a wall with a major opening. As a result a 4.8m setback is required where there is only a 1.5m setback. It does not comply with the Residential Design Codes deemed to comply clause 5.1.3 C3.1 but does achieve design principles clause 5.1.3 P3.1 for the following reasons;

- There are minimal impacts from building bulk on adjoining properties;
- There is minimal impact on sunlight or ventilation to the building and open spaces on the site and for adjoining properties and;
- Minimal overlooking or loss of privacy from the reduced setback.

For these reasons the reduced lot boundary setback can be supported.

Lot Boundary Setback – Living Area and Alfresco – North East Boundary

The living area and alfresco on the north eastern side of the property is also a part of a 21.85m long wall that is 4.4m high and has a major opening. It is required to be 4.8m from the boundary but is setback 1.5m. It does not comply with the Residential Design Codes deemed to comply clause 5.1.3 C3.1 but does achieve design principles clause 5.1.3 P3.1 for the following reasons;

- There are minimal impacts from building bulk on adjoining properties;
- There is minimal impact on sunlight or ventilation to the building and open spaces on the site and for adjoining properties and;
- Minimal overlooking or loss of privacy from the reduced setback.

For these reasons the reduced lot boundary setback can be supported.

Lot Boundary Setback – Alfresco from Ancillary Dwelling – North West Boundary

The ancillary dwelling comprises a 12.2m long and 3m high wall with a major opening. The additional deck is required to be setback 1.5m as part of this, although the existing building setback is 0.75m. It does not comply with Residential Design Codes deemed to comply clause 5.1.3 C3.1 but does achieve design principles clause 5.1.3 P3.1 for the following reasons;

- There are minimal impacts from building bulk on adjoining properties;
- There is minimal impact on sunlight or ventilation to the building and open spaces on the site and for adjoining properties and;
- Minimal overlooking or loss of privacy from the reduced setback.

For these reasons the reduced lot boundary setback can be supported.

Roof Pitch of Main Dwelling

Additions and alterations are to match the roof pitch of the original building. In this case the roof profile has been changed such that it has been reduced to 3 degrees. It does not achieve the acceptable development clause 3.7.8.3 A1 but does achieve performance criteria 3.7.8.3 P1. The roof forms of the proposed additions and alterations positively contribute to the existing dwelling.

Visual Privacy - Alfresco

The alfresco is elevated above 0.5m from natural ground level. For this reason a 7.5m privacy setback is required in accordance with clause 5.4.1 C1.1 of the Residential Design Codes. This is not achieved. Through the addition of screening along to the side boundary closest to the alfresco area design principles clause 5.4.1 P1.1 can be achieved and in turn reduce overlooking and improve privacy. The screen will have to be a minimum of 1.6m above the finished floor level of the alfresco area, at least 75% obscure, permanently fixed, made of durable material and restrict view in the direction of overlooking. This will be conditioned in the recommendation.

Visual Privacy – Deck of Ancillary Dwelling

The deck is elevated above 0.5m from natural ground level. For this reason a 7.5m privacy setback is required in accordance with clause 5.4.1 C1.1 of the Residential Design Codes. Through the addition of a privacy screen to the rear of the deck design principles clause 5.4.1 P1.1 can be achieved and in turn reduce overlooking and improve privacy. The screen will have to be between 0.3m and 0.5m above the side boundary fence closest to the alfresco area, at least 75% obscure, permanently fixed, made of durable material and restrict view in the direction of overlooking. This will be conditioned in the recommendation.

Conclusion

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

**11.4 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP050620**

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

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 4.8m required, 1.5m provided;**

- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 4.8m required, 1.5m provided;
- (iii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1.5m required, 0.75m provided;
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – To match existing dwelling, 3 degrees provided;

for additions including alfresco and deck, at 14 Munro Street East Fremantle, in accordance with the plans date stamped received 22 April 2020, subject to the following conditions:

- (1) The screening shown on the plans at the rear and side of the ancillary dwelling deck is to be a minimum of 1.6m above the finished floor level of the alfresco area, at least 75% obscure, permanently fixed, made of durable material and restrict views in the direction of overlooking.
- (2) The screening shown on the plans along the boundary fence closest to the rear alfresco area is to be between 0.3m and 0.5m in height above the side boundary fence, at least 75% obscure, permanently fixed, made of durable material and restrict views in the direction of overlooking.
- (3) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (4) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (5) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (6) Prior to the submission of a building permit written approval is to be received from the Water Corporation in regards to works in proximity to the sewerage line to the rear of the property.
- (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) 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.
- (9) If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (10) The verge tree on Munro Street is to be protected during construction works to the satisfaction of the Chief Executive Officer and no pruning or removal of branches of the tree is to be undertaken during or at the completion of construction works.
- (11) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without

limitation any works associated with the proposal) which are required by another statutory or public authority.

(12) 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.*

(ADOPTED BY EN BLOC RESOLUTION)

**Note:**

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

**11.5 Fraser Street No 27 (Lot 1) Proposed demolition of existing dwelling and construction of new dwelling with garage outbuilding**

<b>Owner</b>	Matthew Berden
<b>Applicant</b>	Gerard McCann Architect
<b>File ref</b>	P036/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	2 June 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

**Purpose**

The purpose of this report is for Council to consider a planning application for the proposed demolition of the existing strata dwelling and construction of a new strata dwelling with garage outbuilding at No 27 (Lot 1) Fraser 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 – Garage Wall - 1m required, 0m provided;
- (ii) Clause 5.1.4 – Residential Design Codes - Open Space – 50% required, 47.7% provided

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

**Background**

Zoning: Residential R12.5  
Site area: 415m<sup>2</sup>

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

DA P20/14 - amendment to carport extension – approved 3 April 2014  
DA P126/13 - carport extension – approved 25 October 2013

**Consultation**

Advertising

The application was advertised to surrounding properties from 23 April 2020 to 8 May 2020. No submissions were received.

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	2.6m	2.7m	A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Bed 3	1.5m	1.6m	A
Laundry, scullery, pantry	0m	0m	A
Sitting	1.5m	1.6m	A
Garage	1.5m	5.2m	A
<b>Garage – parapet wall</b>	<b>1m</b>	<b>0m</b>	<b>D</b>
Bed 1	1.5m	4.9m	A
Ensuite – parapet wall	1m	3.9m	A
Bed 2	1.5m	4.9m	A
Bed 4 upper storey north	2.8m	14m	A
Bed 4 upper storey east	2.5m	9.3m	A
<b>Open Space</b>	<b>50%</b>	<b>47.7%</b>	<b>D</b>
Wall height	6m	5.58m	A
Roof Height	9m	7.01m	A
Car Parking	1-2 car bays	2 car bays	A
Site Works	Maximum 0.5m	<0.5m	A
Visual Privacy	4.5m	>4.5m	A
Overshadowing			N/A
Drainage			To be conditioned

Local Planning Policies Assessment

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

This development application proposes the demolition of the existing dwelling on the front strata lot of the property and the construction of a new dwelling and garage. Two variations to the Residential Design Codes are requested. Considering the overall design compliance of the development and the two minor variations, it is considered the proposal can be supported.

It is noted that there is a reduced front setback, but this reduction complies with the acceptable development clause 3.7.7.3 A1.3 i which allows front setbacks to match the front setbacks of adjoining residences. In this case the adjoining dwelling to the east has a front setback of 2.6m and the property to the west is 3.6 metres, where this property is proposing a front setback of 2.7m, significantly consistent with the prevailing two adjoining properties. There are a number of residences in the street that have a front setback of between 2.6m and 3m. Whilst this does not comply with the Deemed to Comply provisions, the high quality of the design and single storey residential dwelling (loft living) provides for a development that is consistent with the streetscape, prevailing built form and does not attempt to overdevelop the lot (a two storey development would be inconsistent with primarily single storey development in the area).

The lot was previously subdivided as an R20 lot and as such the R20 requirements could be used in accordance with Local Planning Scheme No 3 clause 5.3.3 (a) and (b) which requires a setback of 6m. The applicant has chosen to have a reduced front setback in accordance with the Residential Design Guidelines.

To the west is an 8.6m long parapet wall that is 2.77m high (incorporating the laundry, scullery and pantry). This complies with the deemed to comply clause 5.1.3 C3.2 ii that allows development with a density coding of R20 to have walls built to the boundary not higher than 3.5m and no more than 9m in length.

#### Lot Boundary Setback - Garage Parapet Wall

There is a parapet wall proposed for the garage that is 8.2m long and 3.11m in height and borders on the neighbouring strata property. There are no major openings in the wall. This does not achieve the Residential Design Codes deemed to comply clause 5.1.3 C3.1 i that requires a 1m setback from the side boundary, however, it does meet the design principles clause 5.1.3 P3.2. The wall built to the boundary meets the following requirements;

- Makes effective use of the space for enhanced privacy for the occupants or the outdoor living areas;
- There is reduced impact from building bulk on adjoining properties;
- Does not limit sunlight and ventilation to the buildings and open spaces on site or on adjoining properties;
- Minimises overlooking and any loss of privacy to adjoining properties;
- Does not have an adverse effect on the amenity of adjoining properties;
- Does not limit sunlight to major openings of habitable rooms or outdoor areas to adjoining properties; and
- Positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework

For these reasons the proposed reduced lot boundary setback can be supported. It is noted that it is also built adjacent to a parapet wall on the neighbouring strata property for over half its length.

#### Open Space

The proposed development is required to have 50% of the site area dedicated to open space in accordance with the Residential Design Codes deemed to comply clause 5.1.4 C4 and clause 5.3.3 of Local

Planning Scheme No 3 which allows lots that have existing authorised development that exceeds the prescribed density coding to have new development at the same density. In this case 48% is dedicated to open space. This is considered a minor variation and achieves design principles 5.1.4 P4. Development has suitable open space for its context to;

- Reflect the existing and desired streetscape character presenting as single storey;
- Provides access to sunlight for the dwelling and those of adjoining dwellings;
- Reduces building bulk on site consistent with the local planning framework;
- Provides an attractive setting for the building, landscape, vegetation and streetscape;
- Provides opportunities for residents to use space external to the dwelling for outdoor pursuits and access within and around the site; and
- Provides space for external fixtures and essential facilities.

For these reasons the proposed reduction in open space 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 acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

#### **OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP060620**

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

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – Garage Wall - 1m required, 0m provided;**
- (ii) Clause 5.1.4 – Residential Design Codes - Open Space – 50% required, 47.7% provided**

**for the demolition of an existing dwelling and construction of a new dwelling at No 27 (Lot 1) Fraser Street, East Fremantle, in accordance with the plans date stamped received 7 April 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 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.**

- (5) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (6) If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (7) All parapet walls are 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.
- (8) Any changes to the front fence will require the submission of a development application for the consideration of Council. Front fencing is to comply with the requirements of the Residential Design Guidelines and Council requirements.
- (9) The verge tree on Fraser Street is to be protected during construction works to the satisfaction of the Chief Executive Officer and no pruning or removal of branches of the tree is to be undertaken during or at the completion of construction works.
- (10) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (11) This planning approval is to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

(ADOPTED BY EN BLOC RESOLUTION)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

### 11.6 May Street No 35 (Lot 616) Proposed alterations and additions

<b>Owner</b>	Nicholas Hogan
<b>Applicant</b>	KTR Creations
<b>File ref</b>	P032/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	2 June 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

#### **Purpose**

The purpose of this report is for Council to consider a planning application for proposed alterations and additions at No 35 (Lot 616) 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 – 1.7m required, 1.229m provided
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 3.4m required, 3.251m provided
- (iii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 to 36 degrees required, 5 degrees provided
- (iv) Clause 5.3.7 – Residential Design Codes – Site Works – 0.5m required, greater than 0.5m provided
- (v) Clause 5.3.8 – Residential Design Codes – Retaining Walls – 0.5m required, greater than 0.5m within 1m of side boundary provided
- (vi) Clause 5.4.1 – Residential Design Codes – Visual Privacy – Alfresco (South) – 7.5m required, 2.7m provided
- (vii) Clause 5.4.1 – Residential Design Codes – Visual Privacy – Alfresco (North) - 7.5m required, 4.6m 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: 511m<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 7 to 22 April and no submissions were received.

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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			
<b>Southern wall</b>	<b>1.7m</b>	<b>1.229m</b>	<b>D</b>
Northern wall	1.6m	3.251m	A
Alfresco – rear boundary	3m	9.455m	A
Open Space	50%	71%	A
Wall height	6m	5.094m	A
Roof height	9m	7.009m	A
Setback of Garage/Carport			N/A
Car Parking			N/A
<b>Site Works</b>	<b>0.5m maximum</b>	<b>&gt;0.5m</b>	<b>D</b>
<b>Retaining Walls</b>	<b>0.5m maximum</b>	<b>&gt;0.5m</b>	<b>D</b>
<b>Visual Privacy</b>	<b>7.5m</b>	<b>&lt;7.5m</b>	<b>D</b>
Overshadowing	<25%	20%	A
Drainage			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
<b>3.7.4 Site Works</b>	<b>D</b>
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	A
<b>3.7.8 Roof Form and Pitch</b>	<b>D</b>
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A



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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 multiple variations to both the Residential Design Codes and the Residential Design Guidelines. The property is a Category C heritage dwelling and the proposed alterations to the dwelling retain the heritage front of the dwelling. Given that it is Category C retention of the dwelling with additions and alterations is favoured over full demolition of the dwelling and is welcomed by the Town. The demolition works include the removal of the old outbuilding located at the rear of the property, as well as the existing rear deck, sleep-out, laundry and toilet. Existing asbestos materials on the building will be removed and replaced with safer cladding materials. The proposed changes create a more contemporary home that is more liveable and sustainable.

#### Lot Boundary Setback – Southern Wall

The southern wall of the dwelling is 20.08m long and 3.9715m high (average). It is located 1.229m from the boundary, although it is required to be setback 1.7m from the boundary. It does not achieve the Residential Design Codes deemed to comply setback requirements in accordance with clause 5.1.3 C3.1 but does achieve design principles 5.1.3 P3.1 for the following reasons;

- Reduces impact of building bulk on adjoining properties;
- It makes more effective use of the space for enhanced privacy for the occupants or outdoor living areas;
- Provide 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; and
- Does not have an adverse impact on adjoining properties

The setback variation of less than 0.5 metres is considered minor and has minimal impact. For these reasons the reduced side boundary setback can be supported.

#### Roof Pitch and Materials

The property is located within the Plympton precinct and as such is required to have a roof pitch of between 28 and 36 degrees in accordance with the Residential Design Guidelines acceptable development provisions 3.7.8.3 A4.1. However, it has a roof pitch of 25 degrees 38 minutes on the existing part of the dwelling and the roof of the new addition is 5 degrees. The proposed additions and alterations achieve performance criteria 3.7.8.3 P1 as the roof form positively contributes to the existing dwelling. As such the proposed roof pitch can be supported.

#### Site Works

The proposed development does not achieve the maximum of 0.5m of fill behind the front setback area and within 1m of the side boundary in accordance with the Residential Design Codes deemed to comply clause 5.3.7 C7.3. There are planter boxes that are approximately 0.7m high that are built to the side boundary. The planter boxes achieve design principles 5.3.7 P7.1 in that development considers and responds to the natural features of the site and requires minimal excavation and fill and as such can be supported. The site works has no impacts on the finished floor levels of the dwelling and therefore the development is consistent with the prevailing built form in the area.

### Retaining Walls

There are retaining walls up to or within 1.0 metre of a lot boundary for landscaping that are approximately 0.7m rather than the 0.5m required. As such it does not achieve Residential Design Codes deemed to comply clause 5.3.8 C8. However, it does achieve design principles 5.3.8 P8 as the retaining walls result in land that can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 (Site Works) and 5.4.1 (Visual Privacy). As such the planter boxes and their role as retaining walls can be supported.

### Visual Privacy

There are two areas from the proposed dwelling where visual privacy setbacks are less than required.

The alfresco area on the south side of the property requires a 7.5m privacy setback, however, a setback of only 2.7m is provided. It does not achieve the Residential Design Codes Deemed to Comply provisions 5.4.1 C1.1. The additions and alterations have reduced the overlooking compared to the existing structures on site. Photos provided by the applicant demonstrate that the proposed design will provide a reasonable level of additional privacy and overlooking is minimised by the solid wall with a small opening at the top of the alfresco area and the existing design on the southern neighbouring property which includes a screened outdoor living area and shrubs located along the boundary of this property which provides some privacy screening.

The alfresco area on the north side of the property requires a 7.5m privacy setback, however, a 4.6m setback is provided. It does not achieve the Residential Design Codes Deemed to Comply 5.4.1 C1.1. The northern property overlooks only a small section of this property according to cone of privacy calculations and permanent screening will be fitted to the northern side of the alfresco area to improve privacy.

In both cases the overlooking is a relatively small area of the neighbouring properties and the views are oblique. As such the proposed reduced visual privacy setbacks on the northern and southern sides of the property can be supported in accordance with design principles clause 5.4.1 P1.1 which requires that minimal direct overlooking is achieved through:

- Building layout and location;
- Design of major openings;
- Landscape screening of outdoor active habitable spaces; and
- Location of screening devices

It is noted that there have been no objections to the proposed design from the northern or southern neighbouring properties and as stated by the applicant the demolition of the existing deck and other structures on site and replacement with the proposed structures will increase the level of visual privacy from current levels. The proposed development significantly improves the existing dwelling with the removal of asbestos and renovation of the Category C heritage building and minimal negative impacts on the existing streetscape. For these reasons the proposed development is supported.

### Conclusion

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

**11.6 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP070620**

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 – 1.7m required, 1.229m provided;
- (ii) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 3.4m required, 3.251m provided;
- (iii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 to 36 degrees required, 5 degrees provided;
- (iv) Clause 5.3.7 – Residential Design Codes – Site Works – 0.5m required, greater than 0.5m provided;
- (v) Clause 5.3.8 – Residential Design Codes – Retaining Walls – 0.5m required, greater than 0.5m within 1m of side boundary provided;
- (vi) Clause 5.4.1 – Residential Design Codes – Visual Privacy – Alfresco (South) – 7.5m required, 2.7m provided;
- (vii) Clause 5.4.1 – Residential Design Codes – Visual Privacy – Alfresco (North) - 7.5m required, 4.6m provided;

for proposed alterations and additions at 35 May Street, East Fremantle, in accordance with the plans date stamped received 14 May 2020, subject to the following conditions:

- (1) The proposed works are not to be commenced until written approval has been received from the Water Corporation in regards to works in proximity to the sewerage connection to the rear of the property.
- (2) The crossover widths are not to exceed the width of the crossovers indicated on the plans date stamped received 14 May 2020 and to be in accordance with Council's crossover policy as set out in the Residential Design Guidelines (2016).
- (3) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (4) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (5) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (6) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (7) If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (8) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

- (9) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (10) This planning approval is to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (iii) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (iv) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (v) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

(ADOPTED BY EN BLOC RESOLUTION)

**Note:**

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

*Cr Nardi declared a proximity interest in the following item and left the meeting at 8.10pm*

### 11.8 Marmion Street No 122A (Lot 2) Proposed two storey dwelling

<b>Owner</b>	Jack & Sarah Dart
<b>Applicant</b>	Red Ink Homes
<b>File ref</b>	P041/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	2 June 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Nil

#### **Purpose**

The purpose of this report is for Council to consider a planning application for a proposed two storey dwelling at No 122A (Lot 2) Marmion 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 Code – Lot Boundary Setbacks – Garage - 1m required, 0.3m provided
- (ii) Clause 5.1.3 – Residential Design Code – Lot Boundary Setbacks – Kitchen - 6m required, 5.5m provided
- (iii) Clause 5.1.3 – Residential Design Code – Lot Boundary Setbacks – Living & alfresco 6m required, 2.3m provided
- (iv) Clause 5.1.4 – Residential Design Codes – Open Space – 55% required, 52% provided
- (v) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 28 to 36 degrees required, 18 and 25 degrees provided
- (vi) Clause 5.3.7 – Residential Design Codes – Fill – up to 0.5m required, 0.57 provided
- (vii) Clause 5.3.8 – Residential Design Codes - Retaining Walls - up to 0.5m required, 0.57m provided

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

#### **Background**

Zoning: Residential R12.5

Site area: 422m<sup>2</sup>

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

Strata lot created 6 September 2019

#### **Consultation**

##### Advertising

The application was advertised to surrounding land owners 23 April to 8 May 2020. One submission was received that was supportive of the proposal with no conditions or explanatory comments. Strata approval was received from both owners of 122 Marmion Street.

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Community Design Advisory Committee (CDAC)

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

External Consultation

A condition was imposed that requires the applicant to submit written approval from the Water Corporation prior to the submission of a building permit.

**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	7.5m	>7.5m	A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
<b>Garage - south</b>	<b>1m</b>	<b>0.3m</b>	<b>D</b>
Bed 4 - south	1.5m	1.5m	A
Bed 4, bathroom, toilet, bed 3 - east	1.5m	1.5m	A
Laundry, scullery - east	1.0m	1.02m	A
Family - east	1.5m	7.5m	A
<b>Kitchen, scullery - north</b>	<b>6m</b>	<b>5.598m</b>	<b>D</b>
<b>Family, alfresco - north</b>	<b>6m</b>	<b>2.358m</b>	<b>D</b>
Alfresco, theatre - west	1.0m	1.099m	A
Double garage - west	1m	6.619m	A
Upper storey - east	1.2m	4.26m	A
Upper storey - north	1.2m	9.99m	A
Upper storey - west	1.2m	7.139m	A
Upper storey - south	1.2m	3.5m	A
<b>Open Space</b>	<b>55%</b>	<b>52%</b>	<b>D</b>
Wall Height	6m	5.442m	A
Roof Height	9m	7.28m	A
Car Parking	1-2 car bays	2 car bays	A
<b>Site Works</b>	<b>Maximum of 0.5m fill</b>	<b>0.57m</b>	<b>D</b>
Visual Privacy			N/A
Overshadowing	25%	25%	A
Drainage			To be conditioned

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
3.7.7 Building Setbacks and Orientation	N/A
<b>3.7.8 Roof Form and Pitch</b>	<b>D</b>
3.7.9 Materials and Colours	A
3.7.10 Landscaping	N/A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15.4.3.1 Fremantle Port Buffer Area	N/A

This development application proposes a new double storey dwelling located on the vacant rear strata property at 122A Marmion Street. Six variations are requested to the requirements of the Residential Design Codes and one variation is requested to the Residential Design Codes. These variations are explained further below. The majority of the variations result from a previous subdivision, permitted because of the heritage listing of 122 Marmion Street (the parent lot) as a Category C listing, at a density of R20, when the current zoning is R12.5.

Lot Boundary Setbacks – Garage Wall – Southern Boundary

The garage has a 9.23m long and 3.12m high wall located 0.3m from the boundary where it is supposed to be 1m from the boundary in accordance with the Residential Design Codes Table 2. Although it does not achieve the deemed to comply clause 5.1.3 C3.1 i it does achieve the design principles clause 5.1.3 P3.2 for the following reasons;

- The reduced setback makes effective use of the space for enhanced privacy for the occupants;
- Reduces the impacts of building bulk on adjoining properties;
- Adequate sunlight and ventilation is provided to the building and open spaces on the site and adjoining properties;
- There is minimal overlooking or loss of privacy;
- Does not have an adverse impact on the amenity of the adjoining property;
- Direct sunlight to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and
- Positively contributes to the prevailing and future development context and streetscape in the local planning framework.

For these reason the reduced boundary setback for the garage wall can be supported.

Lot Boundary Setback – Kitchen and Scullery – Northern Boundary

The kitchen and scullery located to the north of the dwelling comprises a wall 6.48m long and 2.607m high and is located 5.598m from the northern boundary. It does not achieve the deemed to comply clause 5.1.3 C3.1 i of the Residential Design Codes which requires a setback of 6m in accordance with Table 1 and a residential density coding of R12.5. However, it does achieve design principles clause 5.1.3 P3.1 for the following reasons;



- Reduces the impacts of building bulk on adjoining properties;
- Adequate sunlight and ventilation is provided to the building and open spaces on the site and adjoining properties; and
- There is minimal overlooking or loss of privacy.

It is also noted that the subject lot has been subdivided at a R20 density subject to the heritage listing of the front property (122 Marmion Street) and is closer to meeting the requirements of a density coding of R20 rather than the R12.5 that it currently has. There are considerable constraints on a smaller lot that is still expected to achieve the rear boundary setback of 6m. For these reasons the reduced boundary setback for the kitchen and scullery wall can be supported.

#### Lot Boundary Setback - Family Room – Northern Boundary

The family room located to the north of the dwelling comprises a wall 11.03m long and 2.607m high and is located 2.358m from the northern boundary. It does not achieve deemed to comply clause 5.1.3 C3.1 i of the Residential Design Codes which requires a setback of 6m in accordance with Table 1 and a residential density coding of R12.5. However, it does achieve design principles clause 5.1.3 P3.1 for the following reasons;

- Reduces the impacts of building bulk on adjoining properties;
- Adequate sunlight and ventilation is provided to the building and open spaces on the site and adjoining properties; and
- There is minimal overlooking or loss of privacy.

As stated previously the subject lot has been subdivided and is closer to meeting the requirements of a density coding of R20 rather than the R12.5 that it currently has. There are considerable constraints on a smaller lot that is still expected to achieve the rear boundary setback of 6m. For these reasons the reduced boundary setback for the family room wall can be supported.

#### Open Space

Site coverage for this proposed development is equivalent to 48% of the lot which means that open space provided equates to 52% (including half of the 111m<sup>2</sup> common property shared with the front strata property). As a result it does not achieve deemed to comply clause 5.1.4 C4 of the Residential Design Codes that requires open space of 55%. However, it does achieve design principles clause 5.1.4 P4 in that development incorporates suitable open space for its context that:

- Reflects existing and desired streetscape character;
- Provides access to natural sunlight for the dwelling;
- Reduces building bulk on the site consistent with the expectations of the applicable density code;
- Provides an attractive setting for buildings, landscape, vegetation and streetscape;
- Provides opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and
- Provides space for external fixtures and essential facilities.

As the subject lot has been subdivided it is closer to meeting the requirements of a density coding of R20 rather than the R12.5 that it currently has. There are considerable constraints on a smaller lot that is still expected to achieve the open space requirements of a density coding of R12.5 of 55%. If it was coded R20

it would only require 50% open space therefore the development complies with a R20 density coding, the density at which the lot was subdivided at. For these reasons the reduced open space provision can be supported.

#### Roof Pitch

In the Woodside precinct there is a requirement that roof pitch is between 28 and 36 degrees in accordance with acceptable development provisions 3.7.8.3 A4.1. The roof has a pitch of 18 and 25 degrees which achieves performance criteria clause 3.7.8.3 P4 which requires that roof forms of new buildings complement the traditional form of surrounding development in the immediate locality. For this reason the roof pitch less than 28 degrees can be supported.

#### Fill

Some fill is proposed to be introduced to the site such that it is 0.57m above natural ground level at that point. Although it does not achieve the deemed to comply clause 5.3.7 of the Residential Design Codes, it does achieve design principles clause 5.3.7 P7.2; where fill is necessary all finished levels respect the natural ground level at the lot boundary of the site and as viewed from the street. There is minimal impact to adjoining properties. For this reason the use of fill can be supported.

#### Retaining Walls

Retaining walls up to 0.57m high are proposed which is above the 0.5m maximum height permitted by the Residential Design Codes deemed to comply clause 5.3.8 C8 provisions. It does achieve design principles clause 5.3.8 P8 which allows retaining walls to be used that allow the land to be effectively used for the benefit of residents and not detrimentally affect adjoining properties and designed, engineered and landscaped having due regard to the requirements around fill and privacy. For this reason the retaining wall can be supported.

#### Conclusion

Based on the assessment that has been completed for this development and the explanation provided in this report, particularly the subdivision of the lot at R20 and the assessment of the proposal at R12.5, the variations that have been proposed to the Residential Design Codes and the Residential Development Guidelines are considered to have minimal adverse impacts and are acceptable. As such it is recommended that the proposed development be supported subject to planning conditions.

### **11.7 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP080620**

**Moved Mayor O'Neill, seconded Cr Harrington**

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

- (i) Clause 5.1.3 – Residential Design Code – Lot Boundary Setbacks – Garage - 1m required, 0.3m provided**
- (ii) Clause 5.1.3 – Residential Design Code – Lot Boundary Setbacks – Kitchen - 6m required, 5.5m provided**
- (iii) Clause 5.1.3 – Residential Design Code – Lot Boundary Setbacks – Living & Alfresco - 1m required, 2.3m provided**
- (iv) Clause 5.1.4 – Residential Design Codes – Open Space – 55% required, 45.5% provided**
- (v) Clause 3.7.8.3 – Residential design Guidelines – Roof Pitch – 28 to 36 degrees required, 18 and 25 degrees provided**

- (vi) Clause 5.3.7 – Residential Design Codes – Fill – up to 0.5m permitted, 0.57m provided
- (vii) Clause 5.3.8 – Residential Design Codes - Retaining Walls - up to 0.5m permitted, 0.57m provided

for a double storey dwelling at 122A Marmion Street, East Fremantle, in accordance with the plans date stamped received 20 April 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) Prior to the submission of a building permit written approval is to be received from the Water Corporation in regards to works in proximity to the sewerage easement.
- (5) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (6) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (7) If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (8) Any changes to the front fence will require the submission of a development application for the consideration of Council. Front fencing is to comply with the requirements of the Residential Design Guidelines and Council requirements.
- (9) The verge tree on Marmion Street is to be protected during construction works to the satisfaction of the Chief Executive Officer and no pruning or removal of branches of the tree is to be undertaken during or at the completion of construction works.
- (10) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (11) This planning approval is to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 19 May 2020 this application deemed determined, on behalf of Council, under delegated authority.

*Cr Nardi returned to the meeting at 8.14pm and it was noted he did not speak or vote on the previous motion.*

**12. MATTERS BEHIND CLOSED DOORS**

Nil.

**13. CLOSURE OF MEETING**

There being no further business, the Presiding Member declared the meeting closed at 8.15 pm.

*I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 2 June 2020, Minute Book reference 1. to 13 were confirmed at the meeting of the Committee on:*

..... 7/7/20 .....

  
Presiding Member

**Submission 1**

***Objection to Proposed Development- 10 Bolton Street, East Fremantle***

We refer to the above proposed development application.

We also note the numerous previous applications for developments lodged by the Applicant on the said property which have not proceeded due to not being able to comply with the town planning provisions.

The sole reason for the recent applications is that the Applicant wishes to have an additional bedroom/bathroom without views when the house already has 5 bedrooms and 2 bathrooms.

**Plot Ratio/Site Cover/Open Space**

While we understand that there is no clear plot ratio relating to the area, it is worthy of note that the buildings at 10 Bolton Street occupy all but a relatively modest portion of the land area. The useable area of 10 Bolton Street continues to expand with excavations completed in recent years beneath the existing residence to provide undercroft parking.

Almost the entire land area contained within the property at 10 Bolton Street is developed, and it is doubtful that it would comply with the open space requirements specified in the R-Codes for an R12.5 coded property. We consider that the proposed additions will exacerbate this situation.

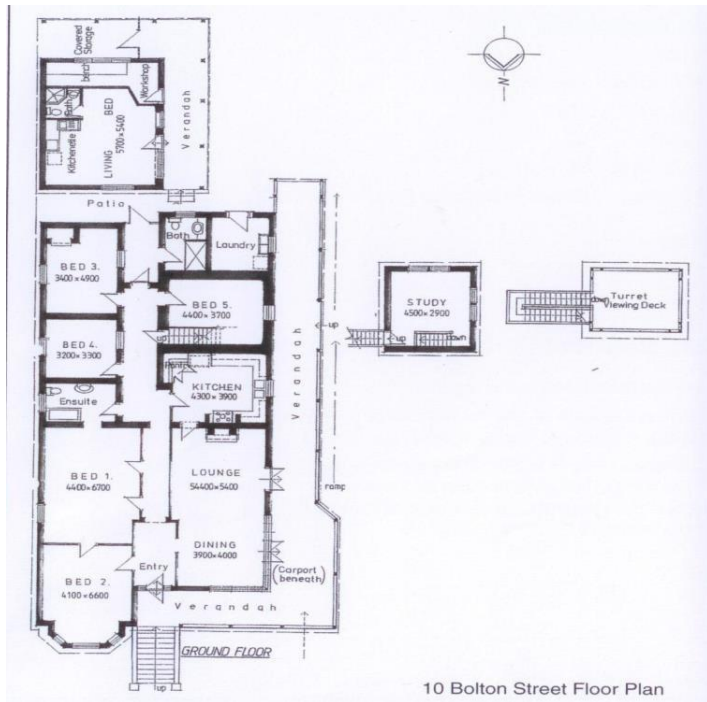


**Bulk and Scale of Proposed Development**

The existing buildings are substantial in both height and volume. Inclusive of the recently excavated undercroft and turret, the house is currently 3 storeys high, with 5 bedrooms and 2 bathrooms plus a study on a block size of approximately 660 square metres. Such houses are normally built on larger (1,012m<sup>2</sup>) blocks in East Fremantle, which have a backyard.

We also note that there remains on the property an existing studio which is currently not approved for

current use as a second dwelling, but rather were approved many years ago as a carport, which has subsequently been converted into a studio/habitable rooms (see below).



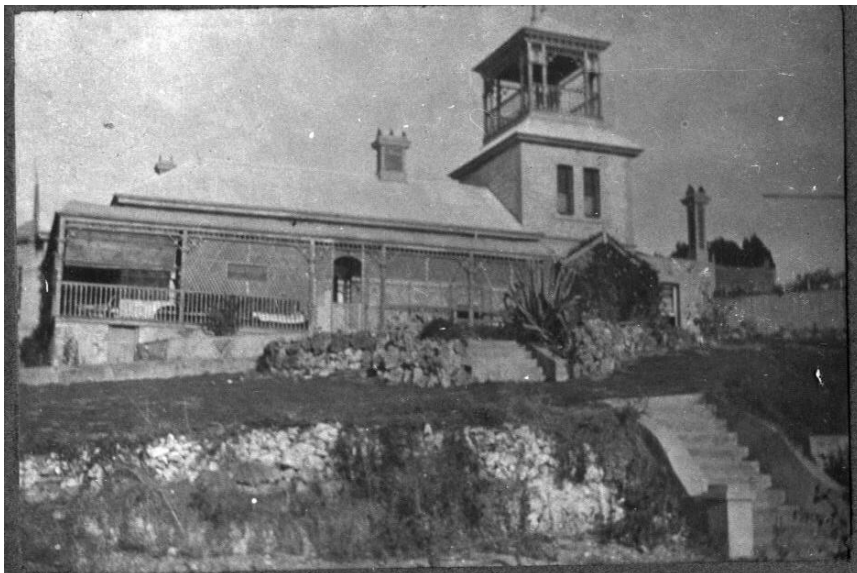
Should the proposed development be approved, the buildings will become 4 stories high and house 6 bedrooms and 3 bathrooms, making it one of the largest homes in East Fremantle on an average size block.

This application proposes additions that will substantially increase the existing bulk of development on the property, further obscuring views of adjoining residences.

### **General Design/Heritage**

We note the heritage significance of 10 Bolton Street as an important part of the Surbiton precinct.

It is a stately building which is prominently positioned and sits as a clearly identifiable landmark from the west to the north, showcasing the Federation design which is now becoming a rare find in the Surbiton Precinct and riverside areas of East Fremantle.



The current Captains Study and Turret is extremely prominent when viewed from other areas of East Fremantle, the river, the bridge, North Fremantle and even parts of Mosman Park and is a well-known landmark. Any new addition of this height, design and scale built in front of and obscuring the Tower will severely diminish its prominence and, in turn the heritage significance of this building.

It is important to note that the Turret was designed to be read independently from the existing roof structure, sitting prominently above the roof peak. Diminishing its stature by raising the roof to compete with its prominence would be a mistake, undermining the identity of the building from its current grandeur.

Similarly, the prominent chimney also suffers a similar fate with the proposed design.

In terms of design, if Council saw fit to approve the design (which we do not support), we believe it should be brought into line with the Council Policy on Design Precinct No. 5. The Town Of East Fremantle Residential Design Guidelines clearly state that additions:

*“Be constructed within the existing roof space, or towards the rear of the dwelling and must not impact upon the significant fabric of the dwelling”.*

On every account, this application does not comply. That is, the proposed development:

- substantially protrudes through the roof of the existing building;
- is located at the front of the building;
- undermines the significance of the Turret, one of the most prominent architectural features of any building in the area.

The Surbiton Precinct Plan also states:

1. *It is essential that all windows have a vertical profile, that is, the height of the window is visibly greater than its width.*

The proposed new clerestory windows are contrary to this policy.

2. *Additions to existing residences must also be designed so as to conserve existing views from other properties*

The proposed development significantly obscures views from the eastern neighbours of Bolton Street. The sole reason for this is that the Applicant wishes to have an additional bedroom/bathroom without views when the house already has 5 bedrooms and 2 bathrooms.

3. *In the case of extensions to an existing residence, the pitch and covering of the roof should be the same as the existing dwelling.*

The pitch of the roof has changed substantially by adding a vertical component to house the clerestory windows, significantly detracting from the Federation style of the building. In fact, nowhere in Australian Federation architecture were Clerestory windows used, thereby further distancing this important Federation home from its roots.

Granting of approval for a design so contrary to the Surbiton Precinct Guidelines and Residential Design Guidelines and in the process destroying the Federation Design of this important local landmark will create a precedent for all heritage homes in the area to adulterate the aesthetic which has remained unchanged for over 100 years. And for what.... another bedroom and bathroom.

## **Submission 2**

### Proposed Loft Addition and Renovation at 10 Bolton East Fremantle, 6158

We write in connection to the above referenced planning application. We have examined the revised plans, justification, and available reference material and are familiar with the site. We object to the development as proposed with specific reference to the following points:

- Heritage
- Bulk & associated issues
- Obstruction of View

The addition of the loft as proposed, will significantly alter the appearance and intrinsic value of the existing building which is deemed by the East Fremantle Council as having aesthetic and historical significance to such an extent that it has received an **A Category Heritage listing**. There are also the issues of bulk, reflected solar glare and obstruction of view which we believe will negatively impact our property.

Following the withdrawal of the previously submitted plans (July/August 2019) we see no attempt has been made to address the original concerns and in fact believe the current proposal to be a further deviation from the Town of East Fremantle Local Planning Scheme and directives of the Residential Design Guidelines and therefore should therefore be rejected in its current form.

### Heritage

As stated in *Town of East Fremantle Local Planning Scheme No. 3*, the aims of the scheme are:

- a) To recognise the historical development of East Fremantle and to preserve the existing character of the Town;
- b) To enhance the character and amenity of the Town, and to promote a sense of place and community identity within each of the precincts of the Town;
- c) To promote the conservation of buildings and places of heritage significance, and to protect and enhance the existing heritage values of the Town;

We are of the belief that the current proposal is in direct contradiction to all aims of the scheme and in particular aim c).

As stated on the State Governments inherit website the residence at 10 Bolton St is a Category "A" Heritage listed building deemed to be of exceptional aesthetic significance, and to have considerable historic and social value. Furthermore No 10 Bolton Street has some rarity value as one of the finest and largest historic houses in East Fremantle.

As a property of high heritage significance (Category A) the Town of East Fremantle should as stated on the Inherit website, provide *"strong encouragement to the owner under the Town of East Fremantle Planning Scheme to conserve the significance of the place. Incentives to promote heritage conservation should be considered where necessary to achieve desirable conservation outcomes in context of permissible development."*

As part of our ongoing review we also sought the opinion of a qualified Architect Mr Carl Payne who has stated the *"original roofline will be completely compromised and as the traditional pitched/hipped roof form is a major visual element in the heritage status of this building, it's not something that Council should consider."* With specific reference to the new design Mr Payne went further stating *"From a heritage perspective, the clerestory windows are a disaster. They will destroy the integrity of the house."* This view has been echoed by John Dowson, President of the Fremantle Heritage Society who has stated *"It is the view of the Fremantle Society that a level 1A heritage listing has identified that the property is of exceptional significance to the community and should only have minimal alterations" and, "the property is highly visible from all angles and any changes will affect the integrity of the original design and the authenticity of that design".*



Within the proposal justification, it is stated that the proposed design is *“an elegant solution that aligns on an aesthetic, styling, structural and material foundation, whilst retaining the essence of the soul of the character of the original building and rejuvenating various elements that need urgent restorative attention.”*

While we agree that the property is in need of restorative attention, we are of the view that both of the proposed designs which have been submitted to date do nothing to retain the primary heritage attributes of the property and in fact detract from them.

Support for the proposed design, repeatedly sites the Burra Charter, however the current design seems to contravene those guidelines rather than follow them. In an independent Heritage report, commissioned at our own cost, qualified architect Mr Gerard McCann makes this clear:

*“The principle of keeping upper floor additions well behind the streetscape view of the original roof form is an integral part of the Burra Charter and the guiding principle, universally recognized, in the heritage guidelines of most councils and particularly the East Fremantle Council. In the case of No. 10 Bolton St, the original roof form, back to and including the belvedere, is intact and this in fact carries the greater part of the house maintaining its heritage integrity and thus a significant contributor to the heritage integrity of the streetscape.”*

Somewhat strangely this view seems to be reiterated in the actual proposal, where reference is made to Mr Alex Willis’s heritage impact statement when he states *“essentially the insert is not to distract the existing heritage i.e. the roof form & materiality”*.

The suggestion that the proposed (ref: 24 of 28):

- *Aligns with the Burra concept of an insert rising up with no alteration to the Buildings existing ridgeline or hipped roof’*
- *Aligns with the Burra statement that ' the insert is not to distract the existing heritage i.e. the roof form & materiality.*
- *Aligns with the Burra charter requirement that 'The architectural respect of the period is maintained.'*

would seem at best misguided.

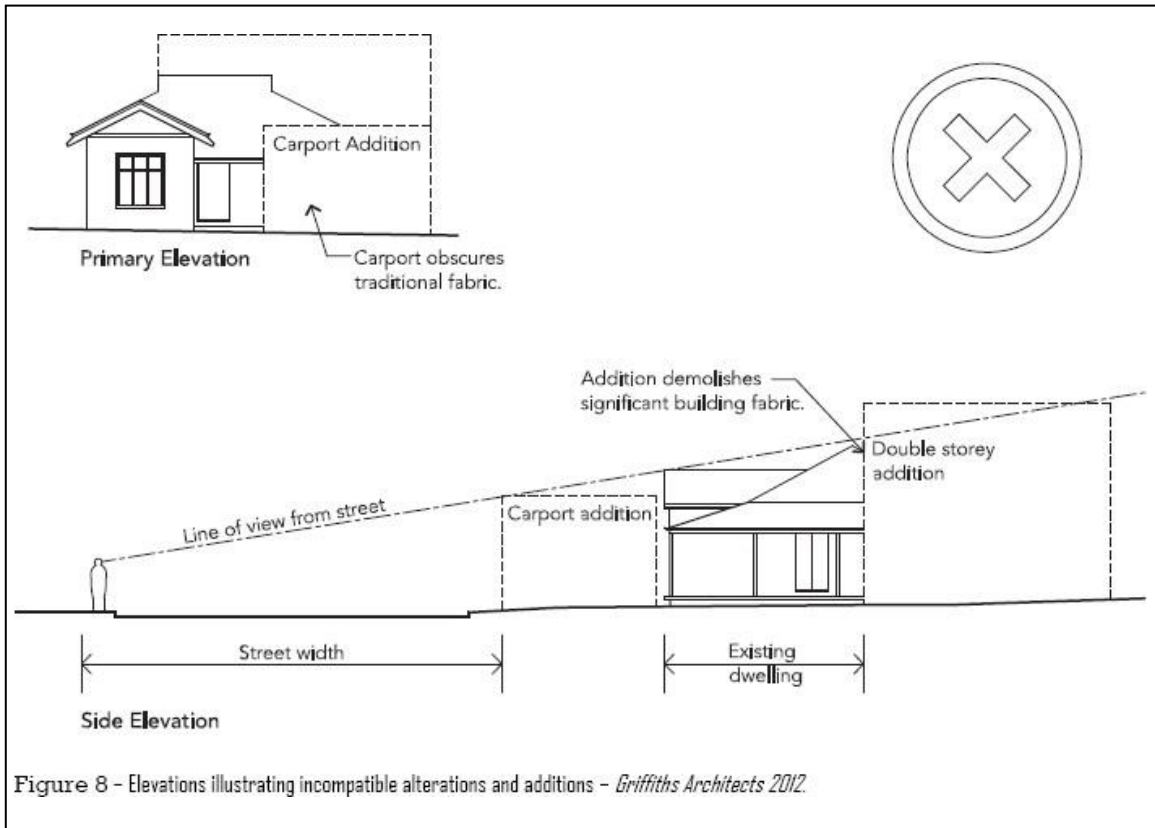
### **Bulk & Scale**

The Loft addition, as currently proposed, requires significant alteration to the outside of the building which appears to contravene the Towns own *Residential Design Guidelines*. As detailed on the submitted plans and supporting statements, the Loft addition requires an increase in roof height of 900m, a change to the angles of the existing roof line, the installation of some 25 clerestory windows on the perimeter of the “box insert” as well as modern Velux skylights on the western side of the loft.

As per 3.7.2 “Additions and Alterations to Existing Buildings” of the *Residential Design Guidelines*:

#### *3.7.2.1 Statement*

***“Second storey additions are acceptable within the Policy Area. For traditional contributory buildings additions must either be accommodated within the existing roof space or not be dominant from the primary street.”***



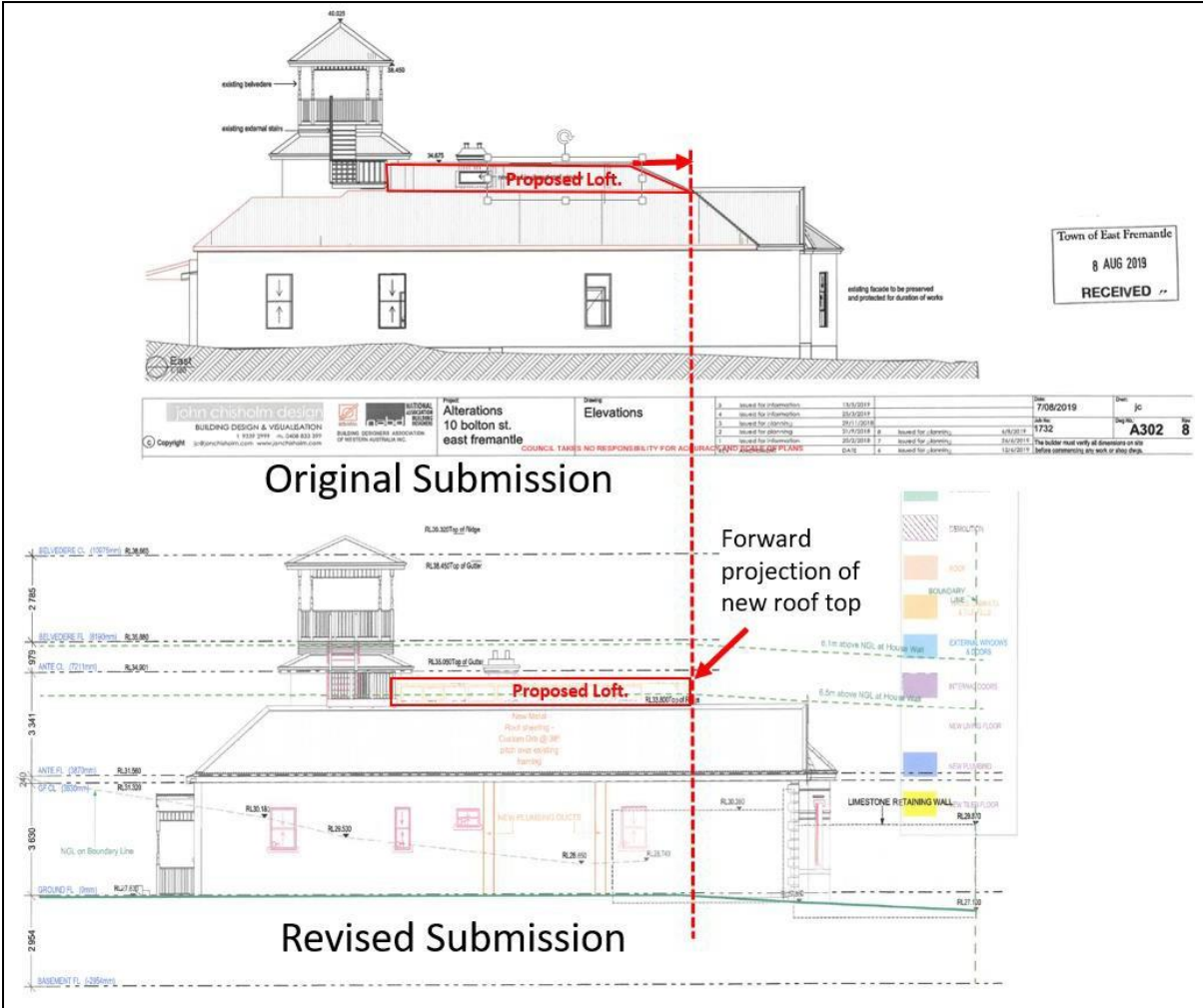
Source: Town Of East Fremantle Local Planning Policy Residential Design Guidelines Page 12

And

### 3.7.2.2 Desired Development Outcomes

- i. Additions and alteration should take into account the significance and character of the existing building and its contribution to the character of the Precinct;
- ii. Additions and alterations should be well designed with minimal interference to the existing building;
- iii. Single storey additions and second storey additions and alterations to existing dwellings are acceptable. Second storey additions shall be supported but are required to:
  - a. Be constructed within the existing roof space, or towards the rear of the dwelling and must not impact upon significant fabric of the dwelling; and,
  - b. Not be dominant from the primary street. (also see 3.7.18.4.1.3)

Importantly and with regard to points “a” and “b” above the revised design has actually brought the visible loft space forward via its box design and now has more prominence than the previous design as is demonstrated in the figures below.



Comparison of previous and current proposal

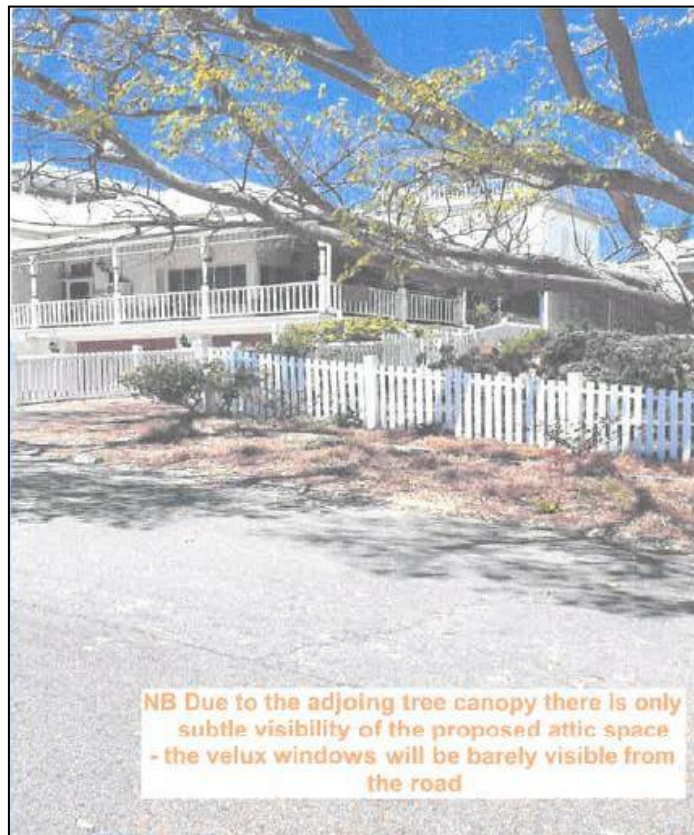


Loft extension clearly visible from the street front, contrary to design guidelines.

Furthermore to suggest (ref 24 of 28):

- The roof height has been increased (within 8.1m height limits) to accommodate a comfortable habitable ceiling space within an nominated area of the loft, however the extension is purely at the ridgeline and has 'not' changed the pitch or overall style of the house form the street
- The revised proposed roof design also enables the belvedere and chimney to remain as is from the

*west, whilst being only 'nominally' obscured in part from the east.*  
Appears deliberately misleading, as would the image below submitted as part of the proposal.



*Source: Sheet 22 of 28 of proposal*

In reference to the new design, Mr Payne stated a “*crucial issue is the bulk of the new bedroom*”. He describes the current heritage rooftop as “*a typical double ridge design, with both internal roof sections falling to the central gutter. This is a recessive volume*” And comments that “*while it would be a reflection challenge at times, it has slope variations, which reduce outright glare.*”

He goes further to state “*The new volume is a dominant shape, pushing the recess outwards. (Literally into your face). This not only presents you with a greater visual bulk, it also presents to you – on the west-side of your house (in reference to 8 Bolton St.) - a flat roof which will create reflected glare all afternoon, even on sunny winter days*”

The latter will have direct impact on us, as the room most impacted at our property is the study from which I conduct a significant amount of my work.

### **Obstruction of View**

The proposal, in an attempt to infer minimal impact on views, suggests the addition is:

- *'under' the line of sight from the Eastern neighbours upper floor Balcony (24 of 28)*

While this may be the case when positioned on the very edge of the upper floor balcony, the proposed addition most certainly impacts the river view from prominent habitable spaces within our property at 8 Bolton Street, including the study and master bedroom.

The proposal clearly fails to meet the applicable standards of the ToEF Design codes:

**A2.3** *Category 'B' provisions as set out within Table 3 – Maximum Building Heights of the Residential Design Codes are applicable as the 'Acceptable Development' standards where:*

*1. significant water views from neighbouring properties will not be affected;*



View from study

Study - Red line indicates height of proposed addition, which effectively blocks all river views east of Stirling bridge and also detracts from the feature chimney.



View from master bedroom

Master bedroom - Red line indicates height of proposed addition, which effectively blocks all river views east of Stirling bridge and also detracts from the feature chimney.

### **Concluding Remarks**

We understand that multiple submissions have been lodged by the owners of 10 Bolton St, and no doubt at some expense. We assume Council has also dedicated significant resources dealing with the owners

and concerns of residents, and we to have spent time and money presenting our concerns.

Although the points of discussion between the owners of 10 Bolton and ToEF Council are unknown, we can only assume that the decision to resubmit revised plans was the result of deficiencies in the original proposal or breaches with regard to the town planning scheme and design guidelines. We feel that continued re-submission of proposal that aren't in line with the guidelines are a significant waste of time and resources and should be strongly discouraged.

In the concluding summary statement of the proposal, the author somewhat incredulously, suggests changes could be easily reversed and that the only way to protect the building is to build a loft extension:

- *The proposed addition furthermore is a light-weight construction that could be easily reversed if that was ever so desired. Reversal or removal of the Velux windows would only require their removal and replacement with matching roof sheet.*
- *The proposed works will better protect the building from the elements overall and thereby better preserve the physical building.*

10 Bolton Street is a Category A listed property, which under the rules and regulations of the Town of East Fremantle should be protected as it has historical, aesthetic and social significance.

The property has an iconic place on the Riverside Present skyline, the belvedere and chimneys can be clearly viewed from Bolton Street, both sides of the river and both the Sterling and Fremantle traffic bridges. Altering the current roof line and the addition of significant bulk and clerestory windows will take away from the prominence of these features and will clearly impact the integrity of the property as it currently stands.

We are not opposed to alterations to this property but object to the current submission being approved. A design which falls within the Residential Design Guidelines and is more sympathetic to the importance of the A Category listing would be welcomed.

A more detailed list of specific concerns and rebuttals is provided at the conclusion of this letter in Appendix 1.

Finally, please note that our submission is in respect of the proposed development. While we have taken every effort to present accurate information for your consideration, as we are not a decision maker or statutory consultee, we cannot accept any responsibility for unintentional errors or omissions and you should satisfy yourselves on any facts before reaching your decision.

### **Appendix 1**

The supporting text (pages 24-28) which accompanies the plans put forward a number of claims which we believe to be incorrect, inconsequential or misleading. These are detailed below, with counter arguments:

#### **Justification for the Proposed (pg 24 of 28)**

- *Aligns with the Burra concept of an insert rising up with no alteration to the Buildings existing ridgeline or hipped roof (pg. 24 of 28)*
  - Roofline to be significantly altered, including box insert with a 900m height increase and clerestory windows.
- *Aligns with the Burra statement that ' the insert is not to distract the existing heritage i.e. the roof form & materiality.(pg. 24 of 28)*
  - As above
- *The proposed loft conversion is congruent with the myriad of roof styles that can be referenced*

*within buildings defined as Federation filigree.*

- No examples provided, so just hearsay at this time
- *The roof height has been increased (within 8.1m height limits) to accommodate a comfortable habitable ceiling space within an nominated area of the loft, however the extension is purely at the ridgeline and has 'not' changed the pitch or overall style of the house form the street*
  - False claim – pitch and style changed significantly. Addition not within current roof-line.
- *Is 'under' the line of sight from the Eastern neighbours upper floor Balcony and 'Nominally' impacts the water vista of the neighbours to the East*
  - Significantly impacts Eastern neighbours, removes large section of river vista from habitable spaces and will have solar reflective issues given flat roof design.
- *The revised proposed roof design also enables the belvedere and chimney to remain as is from the west, whilst being only 'nominally' obscured in part from the east.*
  - Significantly obscures prominent chimneys from the east and belvedere from the front, reducing the prominence of both. In the supporting example provided in the submission, the property at 37 John St the roof pitch remains original and chimneys remain a prominent feature.
- *Re sheeting and insulating the existing roof sheets, gutters and downpipes, will be carried out at the time, so that all presents with some contextual continuity and enables the building to be more robust going forward. (as it currently stands there are several different non matching old and mismatched profiled roof sheets) which will also present well for the neighbours at 8 Bolton Street.*
  - Agree property is need of maintenance and repair but does not require alteration to achieve this outcome. Conservation not alteration is more in line with council guidelines.

#### **Justification with regard to Heritage Listing (pg 24 of 28)**

- *In this case you do not need to convince us of the value in retaining the heritage, we need your support and approval to confirm the validity of the proposal in alignment with the heritage so that we can commence works as soon as possible and before the building falls into further disrepair and discomfort.*
  - Maintenance and repair does not justify alteration and loss of integrity. The purchase of Heritage property comes with certain responsibilities which include upkeep.

Despite claiming to fall with the guidelines and being in line with desired outcomes, the design as submitted, falls well short, failing to meet any of the outcomes as listed in the proposal (24- 28)

- a. *Additions and alteration should take into account the significance and character of the existing building and its contribution to the character of the Precinct;*
- b. *Additions and alterations should be well designed with minimal interference to the existing building;*
- c. *Single storey additions and second storey additions and alterations to existing dwellings are acceptable, Second storey additions shall be supported but are required to:*
- d. *Be constructed within the existing roof space, or towards the rear of the dwelling and must not impact upon significant fabric of the dwelling; and,*
- e. *Not be dominant from the primary street.*

10 Bolton St was A Category listed in 1997, and was purchased by the current owner in 2008. Development restrictions relating to Heritage listing should be clear at time of purchase. 10 Bolton St is a substantial property and when last sold was described as a 5 beds 2 bathroom home, plus self-contained studio (bedroom, bathroom and kitchenette) – plans attached Appendix Image 1. The need for further space, involving the addition of a loft which extends beyond the current roof line seems unjustified. There are many examples within the precinct where tasteful renovation have been undertaken, clearly within council guidelines that have resulted in an improvement rather than to the

detriment of Heritage Value.

The proposed alterations are an addition to the current roof form and will impact aesthetic value of the residence, a view reinforced by the opinion of the Fremantle Heritage Society and multiple qualified Architects.

Despite the revision, we maintain the view that the current plans do not meet the required level of detail and fail to meet the guidelines of the East Fremantle Council. An example from the guidelines is provided below (Fig 1.).

A selection of images and descriptions are provided to support our objections to the proposed plans.

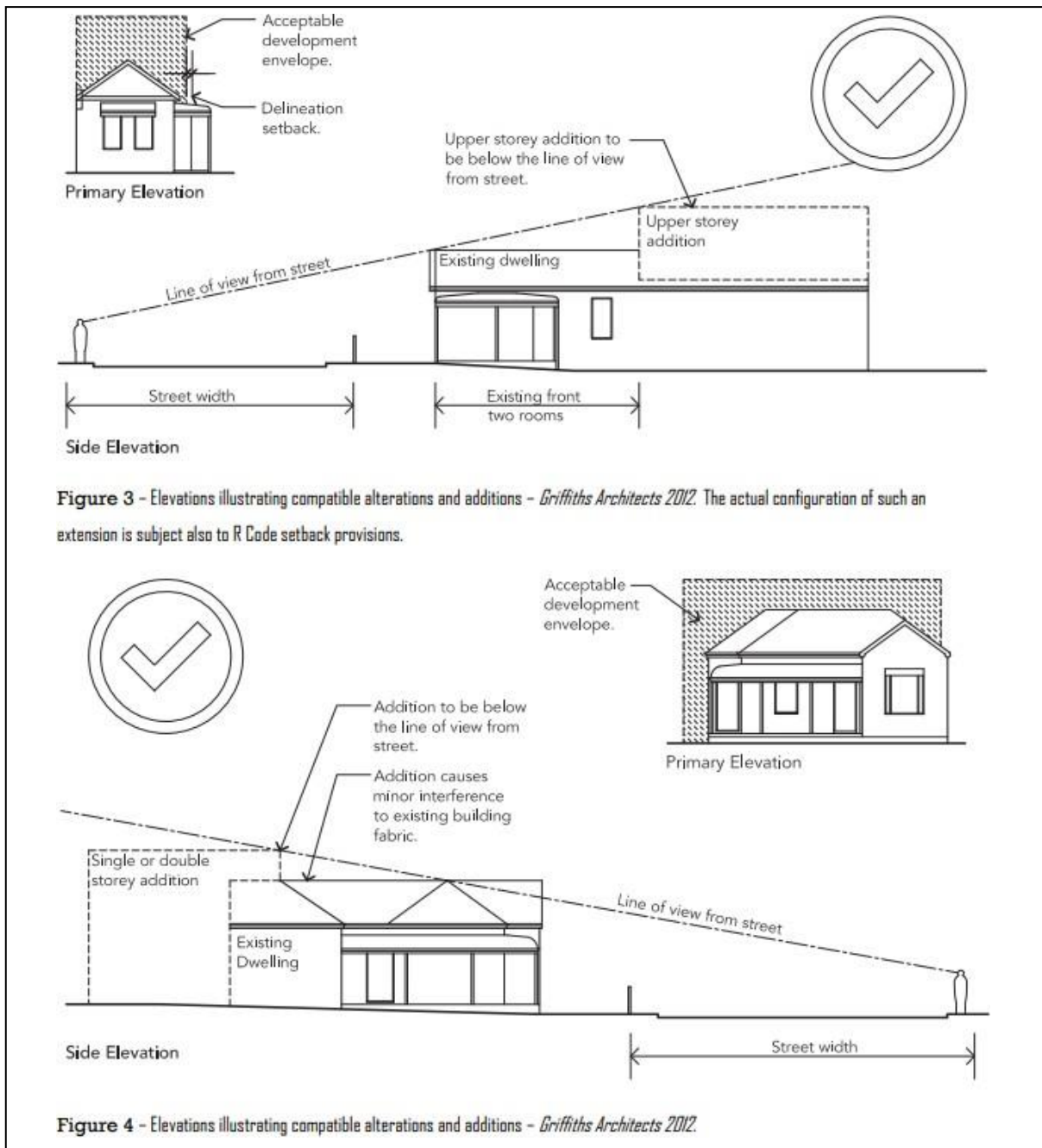
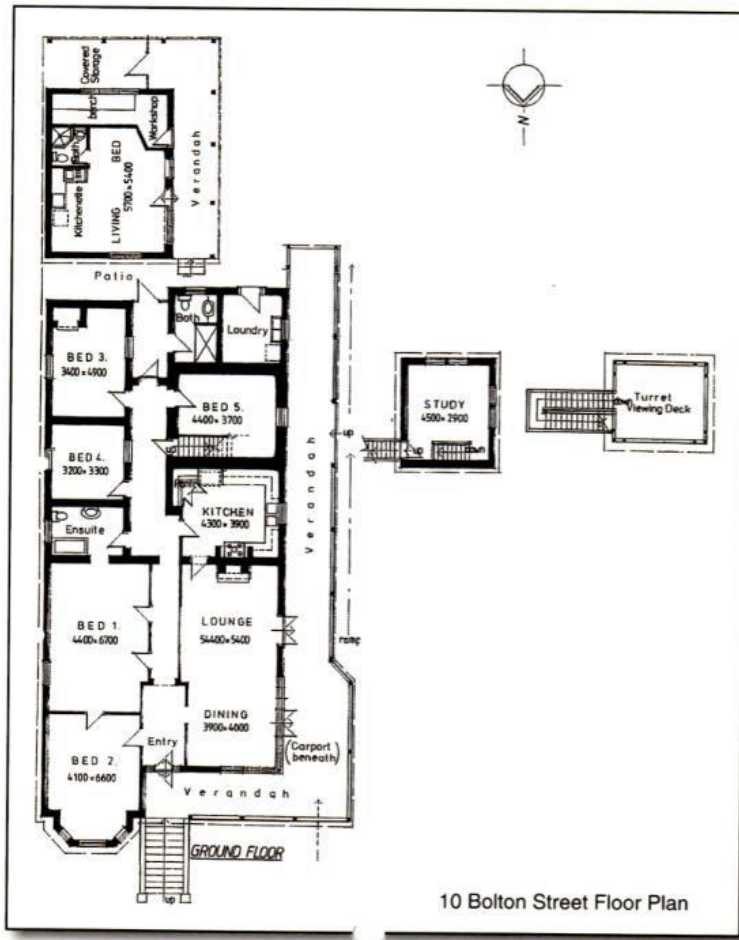


Figure 1. Image from Town of East Fremantle Design Guidelines – pg 10.

The use of the correct line of view, would clearly illustrate that the clerestory windows are visible, a significant portion of the belvedere is obscured and changes the to the roof line are very apparent.





**Title Particulars**

- Lot: 24
- Diagram: 78631
- Vol: 1887
- Folio: 56
- Lot size: 660sqm
- Zoning: Single residential R12

**Rates**

- Council: \$1745.67
- Water: \$920.85

**Particulars and Conditions of**

Auctioneer: Jonathan Keys  
 Terms: Deposit of 5% on fall of the Balance 30 days from acceptance  
 Contract: The R.E.I.W.A. Particulars General Conditions of Sale of Free Property. The 2002 Joint Form of Conditions of Sale of Land.

Particulars of this brochure are supplied for information and shall not be taken as a representation in any behalf of the seller or his agent.

Figure 2. Plans from 2008 sale campaign



Figure 3. Roof line of 3 & 5 Bolton Street. Both show clear prominence of decorative chimneys and in the case of No. 5 significant renovation has taken place without diminishing traditional design.

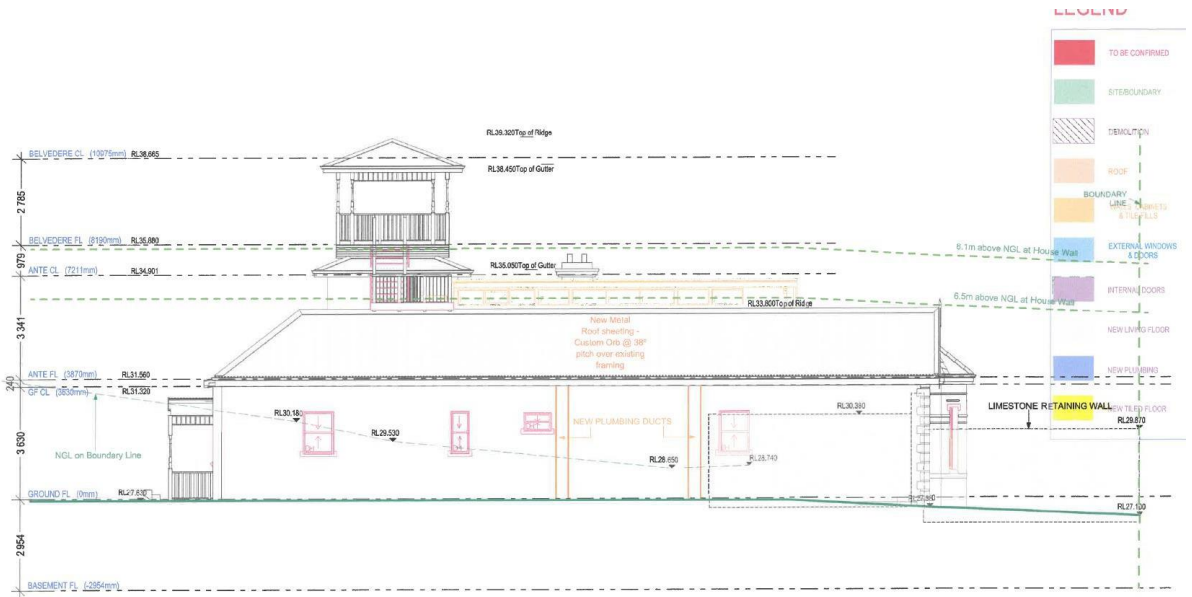


Figure 4. Note Chimney substantially less prominent



Figure 5. Roofline 10 Bolton Street.

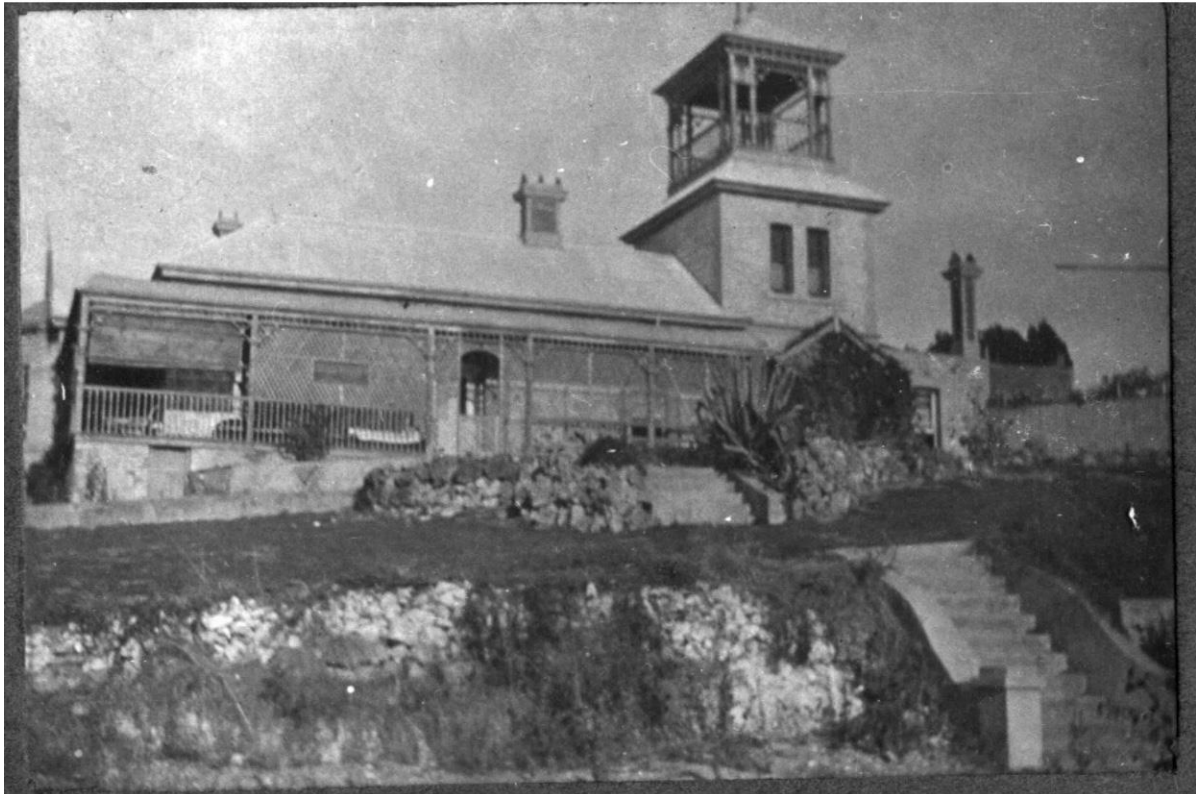


Figure 5. Photo of original property where prominence of belvedere and chimneys are clear.

Information was received from Submitter 2 on 27 May 2020 requesting the following additions be made to the original submission:

- The clerestory windows be removed from the eastern perimeter of the loft addition to ensure privacy; and
- Low reflectivity roofing be included to reduce potential glare from the roof.

## **Applicant Response**

It is difficult for us to receive another letter from the TOEF, relaying the need for us to further justify our plans but are happy to do so in the interest of fairness of process.

This has been our consistent approach to the project despite designation errors by our architect and TOEF (reason for second advertisement); and development of a 'preferred' design to appease the objection of a single submission, that suggested as a main theme that the 'original' application was not adequately Burra Charter compliant (reason for third advertisement). They had as a main theme that the 'original' application was not adequately Burra Charter compliant and therefore not respecting the heritage of the building.

The current application was finalised in close discussion with TOEF and aligns with the goals and compliance – and is respectful to the neighbors, whether they believe it or not.

It is our strongly held belief that the current proposal respects the property and allows the modernization of the living space, whilst simultaneously protecting the heritage value of the property both physically and architecturally. The proposal also includes extensive restoration and preservation work.

## EXECUTIVE SUMMARY

1. The current (preferred) application respects the principles of the Burra Charter and was in recognition of the neighbors at 8 Bolton Street who argued that our original design was not adequately compliant.
2. The current application design concept was made by an architect who is an ICOMOS member and has post-graduate degrees in heritage architecture. Mr. Alex Willis' credentials have been referenced in our prior substantive response. It should be noted that ICOMOS administer the Burra Charter in Australia.
3. The new owners of 8 Bolton Street rely on the opinion of 2 architects who are not members of ICOMOS and are not even State Heritage Council listed on the inHerit website.
4. The current application is below allowable height limits.
5. There are no overlooking compliance issues.
6. The current application plans have been formally and independently checked and assessed by WABCA (West Australian Building Certifiers & Assessors) an industry accredited firm and on the whole - reasoned compliant.

## DISCLOSURES

1. We are currently in a boundary dispute with the owners of 10 Surbiton Street (Mooneys) who have provided Submission 1. Submission 1 is de-identified but uses language they have used in the past regarding any application to the TOEF we have ever made. TOEF officers can attest to the perennial complaints and contact to the TOEF by them.
2. We were advised by the previous owners of 8 Bolton Street, that the Mooneys approached them to provide a coordinated rejection of a previous application to the TOEF not related to these works. Of note, the previous owners of 8 Bolton Street did not object to either the first, nor second advertisements.
3. The Mooneys submission to the 'original plan' in advertisement 1 and 2, only revolved around non related works at the rear of the property.
4. The owners of the 8 Bolton Street and the Mooneys are friends or social acquaintances.
5. The above may well explain why the Mooneys have made an extensive submission in the form of Submission 1 in response to the current advertisement, even though the entire proposal will hardly be visible from their property and also why their latest submission is far more substantial at least in words than ever before.

6. These points are not to suggest that either party can't object to our application, we just respectfully request that the council assess the objections on their merits, rather than the veracity or coordination of said objections.

#### RESPONSE TO EXPERT OPINIONS

The new owners of 8 Bolton Street rely on the opinion of 2 architects who are not members of ICOMOS and are not even listed on the inherit website (Appendix 1 and prior substantive response).

The TOEF has previously suggested to us that architect opinions and heritage reports should at least be by a State Heritage Council listed architect / professional.

Carl Payne is one of the architects they rely upon and is a founding director of Donovan Payne Architects. They specialize in 'Community Projects, Sporting Facilities, Offices, and Aquatic Complexes' (Appendix 2). A search of the website of Donovan Payne Architects for the word 'Burra' does not show any evidence of the Burra Charter on the website, and does not suggest any Heritage Architecture expertise. In fact the website shows 'Oops' in response to the search.

The other architect they rely upon, Mr. McCann, designed a bathroom in a TOEF 'B' heritage listed house on Bolton Street where the shower and toilet are clearly visible from the street (details are set out in our prior substantive response).

In the alternate, as well as the current concept design by an ICOMOS member, a 21-page heritage report by a State Heritage Listed architect also supported a loft addition (See Appendix 4 for State Heritage reference and full report previously submitted).

A fleeting reference is made to a Fremantle Heritage Society person, but there is no such report with respect to 10 Bolton Street and we attribute this to a comment regarding architecture in general.

#### GENERAL RESPONSE

We state our case simply and succinctly in dot point form below, and in response to various views and opinions received from the 2 respondents. This response should also be read in conjunction with our previous more detailed response that we will reference intermittently.

1. The current application is definitively a clerestory / pop up Burra Charter Loft addition – the pop up area equates to the addition of under 5% of area atop the edge of the existing buildings roof ridgeline.

Burra is a small historical town in South Australia, where Australia ICOMOS held a convention and adopted the European charter for historic conservation, hence the Burra Charter. First adopted in 1979, it provides the best practice standard for managing cultural heritage places in Australia.

Mr. Alex Willis (Heritage Council listed architect and ICOMOS member) is the concept designer for the loft addition. He is an Australia ICOMOS member and his numerous qualifications, including heritage qualifications are referenced in our previous substantive response.

With respect to his design he stated 'Essentially the insert is not to distract the existing heritage ie: the roof form & materiality. The architectural respect of period is maintained'.

Our 'original plan' was designed to be as low visual impact as possible in consideration of all of our neighbours.

The 'preferred design' developed out of investigation to mitigate the objection by the current owners of 8 Bolton Street that the 'original plan' was not Burra Charter compliant enough. Their opinion was based on Mr. McCann's conclusion in his effectively 2-page report, where it appears that he did not even inspect 10 Bolton Street. He concluded that the original plan "is inconsistent with the principles of the Burra Charter."

In this process, we came to understand that within the Burra Charter there is a need to show a clear distinction between the old and the new. Similar to the pyramid entry at the Louvre in Paris, that is distinctly different and shows new from old. The most disrespectful resolve there would have been to allow a building similar to the historical buildings of the Louvre, where the observer could not see what was old and what was new.

Now that we personally understand the Burra Charter better, we confirm that in respect of 10 Bolton Street, our home, we cannot return to the 'original plan' and that the current application stands as the 'preferred design'.

2. The existing undercroft garage
  - a. The under croft Garage, has no impact on the footprint, is historically completed and actually does not form part of this submission.
3. The existing lot and build areas
  - a. The property subdivision occurred well prior to the current owners (Mark and Tanya) purchasing the property, was certainly approved by TOEF and is rather irrelevant in this conversation as it does not form part of this submission.
4. The existing Studio
  - a. The studio was also completed prior to the current owners (Mark and Tanya) purchasing the property and is not part of this submission.
5. The property is to remain the same number of bedrooms/'private residence'.
  - a. Understanding that there is the loss of the bedroom downstairs, and the gain of a bedroom upstairs. Therefore, there is no net change in the number of bedrooms.
  - b. Noting that 'how' one uses the space in their house is also 'private' and not topic for discussion or judgment in this application.
6. This pop up structure has been carefully designed to enable the existing buildings ridgeline to be honoured and seen in its historical form, the same goes for the chimney – the current design honours the chimney. The design enables the chimney to be seen from inside the upstairs room with all the craftsmanship on view and preserved, and at the same time be seen extending to the outside of the room, all in one view. This adds to the historical value of the home as it shows historical craftsmanship that is otherwise hidden. The front chimney will also remain visible from outside the building from public vantage points along Bolton St and beyond, as much as this form is visible in reality. (Photographic views - to 10 Bolton St, can be seen in our Final response document as well as in the plans set submitted).
7. Prominence
  - a. It has been suggested by the respondents, that "the property is highly visible from all angles and any changes will affect the integrity of the original design and the authenticity of that design".
  - b. In reality:
    - i. Current views are significantly different to what they were back when the above photo was taken (circa 1906) and detailed documentation of current views have been recorded and were referenced during the design and planning process and available for viewing in our previous substantive submission.
    - ii. The views of the front Chimney will not be obscured from the street to the West and North West, and will in fact be more visible due to reduced visual clutter. This has been shown

photographically in our previous submission, noting that the chimney is currently only visible from gaps between the houses along Angwin Street for example.

- iii. The visual clutter ironically is provided by 8 Bolton Street, (the authors of one of the submissions). There is a second Filigree Chimney, which is not able to be seen from other properties, but is on full view from one of the rear outdoor areas of 8 Bolton Street (where there is no privacy screening).
  - iv. The Burra Charter Clerestory / Pop Up as a form “accents’ the existing roofline, chimney and Turret, whilst negligibly impacting any considerable views to the river the neighbours at # 8 Bolton St may have; as assessed under the formal guidelines set out in the BCA / NCC. This can be seen in the plans submitted.
8. Open space/plot ratio and site cover requirements are irrelevant in this conversation re the loft addition as the proposed additions are within the existing footprint and therefore do not alter the footprint of the property.
9. Bulk and Scale of Proposed Development – refer notes above
- a. The proposed design has been resolved to minimize any change to the Bulk and Scale of the property – In reality the desired additional space has been effected in the majority by utilizing the existing roof space. The additional pop up itself equates a mere 60 cubic meters (under 5% of the visual volume of the existing building above NGL) and has been detailed to effect a structure that seemingly floats above the existing roof; clearly defining the distinction between the two historically but also elegantly and minimally.
  - b. This has been achieved via the use of a ring of clerestory windows that bring \*natural light and \*air into the roof space. (\*required by the BCA “Building codes of Australia” for a habitable space).
  - c. The Clerestory ring has also been positioned and designed at a height that is respectful of the Eastern, # 8 Bolton Street, neighbors re privacy.
  - d. Contrary to comment in the submissions that the proposed building is 3 stories high; it is actually still a single storey house with a loft roof, a turret and an excavated \*undercroft garage i.e. is \*’under the NGL’ (natural ground level).
10. Primary heritage attributes
- a. Opposing submission comment – ‘The proposed designs which have been submitted to date do nothing to retain the primary heritage attributes of the property and in fact detract from them.’
  - b. In fact considerable time and attention has been invested into strategically maintaining numerous heritage elements of the property – Some of these elements have been discussed above – others are available in our previous substantive submission and documented in the drawing set themselves under Justifications, Considerations and Reference material.. pages 24 – 28.
11. The original roof structure has been maintained from the street front and various general vistas – (the only view of the existing roof nominally changed is that for the neighbor to the East, # 8 Bolton Street).
- a. The infill of the valley enables the space required for the new master Bedroom to be “housed in its majority” within the existing roof space. The new pop up roof has been designed with a slight curve on it for water runoff and to minimize glare. The goal was to maintain the new ‘top of roof height’ under the top corbel of the chimney as a significant heritage detail.
  - b. A low pitched skillion was considered – however it would have meant compromising the chimney corbels – which was deemed not an option.
12. Obstruction of View - under the line of sight
- a. Nb: views are assessed from a buildings edge not ‘inside’ buildings; as outlined in the BCA residential codes.

- b. The respondents' photos appear to be taken from a few metres at least 'inside' the building itself and 'sitting' at a desk.
- c. We find this extremely disappointing, as they are the same authors who picked up a very technical point in our original plans regarding which side of a street a perspective should have been taken from by our original designer / architect. This was corrected in our later submission.
- d. The resolved clerestory pop up has been strategically designed to minimize any impact on the neighbors (at #8) views, with the new clerestory top of roof sitting just below the neighbors line of sight – refer plan page 21 – and which the respondent at #8 has actually agreed with in his submission.
- c. The resolved Clerestory Pop Up's top of roof line also sits within the maximum heights allowed.
- e. Vistas 'are' available from the Eastern Neighbours Balcony level; which the respondent at #8 agrees with in his submission. – refer plan page 21
- f. Heights have been checked numerous times to confirm this. The survey and various building levels including the neighbor's balcony level was also checked and confirmed by the surveyor and all implemented into the currently drawings, engineering and DA submission.

### CONCLUSION

Considerable time, thought, care, exploration, work and expense has gone into resolving the proposed design with the TOEF in consideration of:

1. Our needs going forward, as a growing and active family
2. The need to modernize the living space
3. The needs of and with respect for the heritage of the building (which is the reason we want to stay here and help restore it for the next 20 + years.)
4. Respect of the neighbors – especially those at # 8

We feel we have done everything possible to appease all concerned since our application for approval in 2018.

As the new owners of 8 Bolton Street have used a seemingly manipulative perspective from inside their house sitting at a desk to suggest a loss of view, we are concerned that they do not want any works to be undertaken and would not approve of any addition. This is quite simply an untenable position. On this assumption, our next step would be to ask them to design an addition that they would be happy with, an absurd situation.

We hope that council can appreciate all the time, energy and emotion invested to date.

We hope that the council can see the merit of the application and see its way clear to approve the proposed works.

This will allow us to actually get on and commence works to restore and improve the building before another year passes and the building falls further in to disrepair.

We still have faith in what we believe to be a system that is fair and just.

APPENDIX 1 - Extract from [www.stateheritage.wa.gov.au](http://www.stateheritage.wa.gov.au)

Note that Carl Payne and Donovan Payne Architects are not listed.

APPENDIX 2 - Carl Payne is a founding director of Donovan Payne Architects, an architectural firm with no stated interest in Heritage Architecture.

APPENDIX 3 - A search of the Donovan Payne Architect website for 'Burra' does not show any reference at all, but they do say 'Oops'.

APPENDIX 4 - Extract from [www.stateheritage.wa.gov.au](http://www.stateheritage.wa.gov.au)



A previous 21-page heritage report by listed architect Phillip McAllister supported a loft addition. See full report in previous submissions.

View from inside rooms cannot be retained and protected forever where the proposal is lower than what is permitted under the Residential Design Guidelines.

### **Officer Response – Submission 1**

The number of bedrooms and bathrooms in a house is a matter for the applicant to decide.

The proposed development has no impact on site coverage or open space provided on site as it is being built within the existing building footprint and as such is not a relevant planning consideration. It is not unusual for older dwellings to not comply with current planning regulations and expectations as over time State and local governments change their requirements. In this case heritage properties like the subject property were built in an era when planning legislation did not exist in Western Australia. Heritage dwellings are not expected to comply with current regulations unless development is being proposed.

There are substantial variations in lot and dwelling size across the Town of East Fremantle. The concept of dwellings specifically being built to match lot size is highly subjective. If a dwelling complies with local and state planning regulations then lot size and dwelling area are irrelevant.

The Town has the ability to consider the bulk and scale of development with every development application and as such can consider permitting development that varies from the deemed to comply requirements of the Residential Design Codes and the acceptable development provisions of the Residential Design Guidelines.

The subject property is recognised as having heritage significance as a result of its inclusion on the Town's heritage list as a Category A property.

The proposed development does not completely obscure the existing turret/tower on site.

The chimney is retained and not completely obscured by the proposed development.

Note that the subject site is located within the Riverside (South) precinct according to Local Planning Policy 3.1.1 Residential Design Guidelines. There is no reference to the Surbiton precinct in the policy.

### **Officer Response - Submission 2**

The applicant has the right to withdraw and re-submit amended plans that they believe will have the support of the Town.

If a development proposal does not meet the acceptable development clauses of the Residential Design Guidelines then the proposed design can be compared against the acceptable development provisions of the policy. There are times when Committee or Council has to make decisions that will be based on a range of principles and clauses of the relevant regulations that they work within. Planning is not an exact science and views regarding heritage are often qualitative rather than quantitative. The proposed loft utilises the valley of the roof and does not alter the external panels of the roof on the eastern or western side of the house. The loft and associated renovations allow for the restoration of the dwelling which will in turn ensure that much of the heritage character is retained. A contentious proposal such as this will be decided by Council. The increase in height is a small proportion of the overall height of the building and attempts to minimise the impact on the rest of the heritage property.

It is the applicant's prerogative to submit development applications and the Town will process them in accordance with the processes and procedures adopted by the Town.

In areas where views are potentially impacted by development a maximum roof height of 8.1m above natural ground level is imposed. In this case the proposed loft addition sits below this maximum height.

This is in fact lower than what is permissible according to the Residential Design Codes Category B height limits.

Given that the loft has a total height of 2.7m from floor to the top of the windows the fact that approximately 0.6m protrudes above the existing roof line and utilises the existing roof valley means that there is minimal change to the rest of the roof structure.

A condition is normally imposed on any development that has rooves that potentially may create glare that requires the applicant/owner to use an etching to reduce the glare from the roof.

Conservation and preservation of heritage properties does not necessarily mean that heritage properties will not be permitted to have additions and alterations approved over time. The Town does not want to see a situation where large numbers of residential properties are effectively kept as monuments but ultimately fall into a state of disrepair because they cannot be modified over time to allow the owners to create liveable and sustainable contemporary homes. The Town endeavours to balance heritage protection with the rights of owners to develop homes in accordance with their requirements irrespective of the views of surrounding property owners.

The Burra Charter provides guiding principles but does not have legislative power to prescribe how additions and alterations to heritage properties must be done. In the case of Category A heritage dwellings it is the role of Council whether or not to approve development.

The chimney is retained on the property and although it is partly obscured by the addition of the loft it will be required to be retained as part of the development on the subject site.

Although the neighbouring property owners can make suggestions and have opinions with regards to what they believe is the most appropriate type of development it must be recognised that it is the owners' prerogative to make decisions around the development. Ultimately changes to the building cannot be held up because a resident in North Fremantle or Mosman Park believes that their view of the building has been changed by development on site.

The loft addition is a means to propose an addition without having a steeper pitched roof which would probably increase the height and bulk of the any development.

Development of heritage property often favours additions that are able to demonstrate the heritage and non-heritage components of the development and this is in accordance with clause 3.7.2.2 Desired Development Outcomes of the Residential Design Guidelines no iv "Additions and alterations should visually contrast to a contributory dwelling." Differentiation may be major or subtle. In this case the proposal clearly demonstrates this.

Decisions regarding whether a dwelling is adequate or not for the owners is ultimately a decision for the owners.