



# MINUTES

## Town Planning Committee

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Tuesday, 7 July 2020 at 6.33pm

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MINUTES OF THE ORDINARY MEETING OF THE TOWN PLANNING COMMITTEE HELD IN THE COUNCIL CHAMBER, 135 CANNING HIGHWAY, EAST FREMANTLE ON TUESDAY 7 JULY 2020.

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

Presiding member opened the meeting at 6.33pm 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 Watkins  
Cr Nardi  
Cr Natale

The following staff were in attendance:

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

There were 3 members of the public in attendance.

**3.2 Apologies**

Cr Harrington

**3.3 Leave of Absence**

Nil

**4. MEMORANDUM OF OUTSTANDING BUSINESS**

Nil

**5. DISCLOSURES OF INTEREST**

**5.1 Financial**

Nil

**5.2 Proximity**

Nil

**5.3 Impartiality**

**5.3.1** Cr Collinson declared a proximity interest in Item 11.1 as the owner is known to Cr Collinson through the Town of East Fremantle CDAC Committee.

**6. PUBLIC QUESTION TIME**

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

Nil

**6.2 Public Question Time**  
Nil

**7. PRESENTATIONS/DEPUTATIONS**

**7.1 Presentations**  
Nil

**7.2 Deputations**  
Nil

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

**8.1 Town Planning Committee (2 June 2020)**

**8.1 OFFICER RECOMMENDATION**

Moved Cr Nardi, seconded Natale

That the minutes of the Town Planning Committee meeting held on Tuesday 2 June 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 Natale, seconded Cr Nardi**

**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)**

**11.2 View Terrace No 29 (Lot 252) Proposed change to roof pitch and height - amendment to existing approvals**

<b>Owner</b>	Thomas & Christel Hodgkinson
<b>Applicant</b>	Kensington Design Australia Pty Ltd
<b>File ref</b>	P050/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	7 July 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 change to the roof pitch and height to an existing planning approval at No 29 (Lot 252) View Terrace, East Fremantle.

**Executive Summary**

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

- (i) Clause 5.1.3 – Residential Design Guidelines – Roof Height – 8.1m required, greater than 8.1m provided.

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

**Background**

Zoning: Residential R17.5  
Site area: 819m<sup>2</sup>

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

P028/20 – amendments to existing approval – 30 April 2020  
P047/17 – alterations and additions – 24 June 2019  
P062/15 – studio in front – 4 August 2015

**Consultation**

Advertising

The application was advertised to surrounding land owners 22 May 2020 to 5 June 2020. Two submissions were received from the same submitter. These are included below;

<b>Submission</b>	<b>Applicant Response</b>	<b>Officer Response</b>
<p>I find it difficult to understand how an architect would not allow sufficient roof space to accommodate air conditioning ducting and then apply for a 700mm variation above the 8.1m maximum height allowable to accommodate the 'oversight'.</p> <p>Thank you for your email of June 4 2020. In response to your question my email of the 3 June 2020 does not constitute a formal acceptance or rejection of the Application P050/20 but rather an expression of my concerns over the revised plans on the following basis. Planning amendments and further variations- There have been a number of variations to the original plans over a 3 year period (refer to letter to me App No P047/17, File Ref P/VE29, 19 July 2107) and now include the most recent and significant variation to the roof height. Your comment regarding plans not being working drawings is noted. However all variations to date have required additional concessions to be approved by me and I am reluctant to make further concessions. This would include any further variations to the proposed design, including roof materials (previously shown as solar tiles, not colourbond), any further increase to the roof line height by the addition of any solar panels, satellite dishes that would impact the proposed roof-line, or any other variations of any nature. The proposed variations include a significant increase to the elevation at the rear of the property. The height and bulk of the eastern elevation will significantly overshadow my rear garden, and reduce the amenity of this space. Also the plans are unclear to me as to where the proposed new patio will be located.</p> <p>I do not wish to object to the build, however I do request that the issues raised above are considered during the approval process.</p>	<p>Firstly, and importantly, our neighbours at 31 View Terrace reiterated their position that the submission was not an objection to the proposal.</p> <p>The engineering design for the house was not completed until May 2020. The size of the cranked roof beams necessitated the increase of the roof pitch.</p> <p>Until May 2020 we were still working with the engineers to try and achieve the structural design within the approved roof pitch. Our neighbour's initial requests in 2017 to minimise the size and number of columns to maximise their views necessitated large cantilevers and cranked beams in the roof.</p> <p>The July 2017 application was the original application (not a variation). During this process it was mutually agreed that columns be removed (as were privacy screens) to maximise our neighbour's views. The roof material has been changed to Colourbond due to costs and concerns regarding lack of local support for the original specified tiled roof.</p> <p>We do propose to install low profile solar panels.</p> <p>The installation of a satellite dish has not been considered at this time.</p> <p>The height and bulk of the eastern wall to our neighbour has not altered from the current approved drawings.</p>	<p>Plans for development applications are often not working drawings. As such the builder or engineer may provide advice to the owner/applicant that changes are necessary to drawings that have received planning approval.</p> <p>In this case a new roof height has been proposed and new development application submitted to ensure the development is in compliance with planning requirements. Development applications are advertised to neighbouring properties so owners can make comment which is taken into account when completing the assessment and report for the proposal. However, the final decision regarding approval of the development application rests with the Town Planning Committee and/or Council.</p> <p>The proposal is for an increase in roof height and a change in roof pitch. References to a patio is an administrative error by the Town on the letter sent for advertising purposes. With regards to overshadowing the method by which this is assessed does not result in any overshadowing to the neighbouring property to the east of the proposed development.</p> <p>The proposed changes to the plans are considered minor compared to the total development. There is no significant increase in overshadowing from the increased roof height to the property to the south.</p> <p>Owners have the right to request variations to previously approved plans of development and the Town has the responsibility of assessing them in accordance with the regulatory framework that the Town of East Fremantle operates within.</p>

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Community Design Advisory Committee (CDAC)

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

External Consultation

Nil.

**Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

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

**Policy Implications**

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

**Financial Implications**

Nil

**Strategic Implications**

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

Built Environment

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

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

Natural Environment

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

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

### Risk Implications

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

### Site Inspection

A site inspection was undertaken.

### Comment

#### Statutory Assessment

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

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

#### Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback			N/A
Secondary Street Setback			N/A
Lot Boundary Setbacks			
			N/A
Open Space			N/A
Wall height			N/A
Setback of Carport			N/A
Car Parking			N/A
Site Works			N/A
Visual Privacy			N/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	A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	N/A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	N/A
3.7.8 Roof Form and Pitch	N/A
3.7.9 Materials and Colours	N/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
<b>3.7.17.4 Building Design Requirements</b>	<b>D</b>
3.7.17.4.3 Fremantle Port Buffer Area	N/A



This development application proposes a change in roof pitch and height of the roof on the subject dwelling. One variation is requested to the Residential Design Guidelines in relation to the height of the roof. There are 2 previous approvals in place that have a direct relationship to this development application and in both cases the height of the roof was in excess of 8.1m but less than the current proposal for a roof that reaches just under 9m.

The proposed change in roof height was advertised to the neighbouring properties, and one submission was received which is detailed in the Advertising section with associated response from the applicant and Town officer.

The proposal is recommended for approval subject to conditions.

#### Roof Height

The proposed roof does not achieve the acceptable development provisions of the Residential Design Guidelines; clause 3.7.17.4.1.2 A1.4 is not met that requires roof heights to be a maximum of 8.1m to the top of a pitched roof.

The height exceeds the maximum 8.1m height provision and is higher than previously approved. In this case the height of the roof will rise to 8.8m.

Two submissions were received from the same submitter that expressed concerns regarding the proposed development. A number of concerns are unrelated to this application including overshadowing and the location of the patio. Overshadowing is not an issue for the submitter's property in terms of how it is calculated for development application assessment purposes (the overshadowing only impacts on the southern property and does not impact on any properties to the east or the west and there is minimal impact to the southern property). The development application relates to a change in the roof height and there is no reference to the installation of a patio. It is the prerogative of the applicant and owner to propose development applications and for the Town to assess the proposals on their merit accordingly.

The proposed roof does achieve performance criteria clause 3.7.17.4.1.3 where new developments, additions and alterations are to be of a compatible form, bulk and scale to traditional development. Whilst higher the roof form will remain relatively consistent to the existing dwelling. The additional height is required for air-conditioning ducting and due to engineering specifications.

In this case the rest of the dwelling is not being changed by the proposed amendments to roof height. There are already existing approvals in place in relation to other development on site (P028/20 – amendments to existing approval – 30 April 2020; P047/17 – alterations and additions – 24 June 2019).

It is noted that the roof changes have been brought about by the need to accommodate “cranked roof beams” to ensure that there is adequate space for the air conditioning infrastructure inside the roof space, as well as a view expressed by the designer that there will be an improvement in the aesthetics of the building. There are minimal impacts on the views of surrounding properties from the change in roof height. The adjoining neighbour to the east will not lose existing views, as currently there are no view corridors over the current dwelling.

#### Conclusion

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

- Sally Pearse (architect) and Tom Hodgkinson (owner) spoke in support of the officer's recommendation.

**11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP010720:**

Moved Cr Nardi, seconded Cr Natale

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

- (i) Clause 5.1.3 – Residential Design Guidelines – Roof Height – 8.1m required, greater than 8.1m provided;

for the roof at No 29 (Lot 252) View Terrace, East Fremantle, in accordance with the plans date stamped received 22 May 2020, subject to the following conditions:

- (1) All conditions included in previous development approvals P047/17 and P028/20 are still applicable in relation to development at 29 View Terrace, East Fremantle.
- (2) The works are to be constructed in conformity with the drawings and written information accompanying the application for development approval other than where varied in compliance with the conditions of this development approval or with Council's further approval.
- (3) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (4) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (5) The proposed dwelling is not to be occupied 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) 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 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) 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 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.

### 11.3 View Terrace No 30 (Lot 269) Proposed alterations and additions

<b>Owner</b>	James Turnbull
<b>Applicant</b>	Modern Ark Layout Design
<b>File ref</b>	P047/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	7 July 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 30 (Lot 269), East Fremantle.

#### Executive Summary

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

- (ii) Clause 3.7.17.4.1.2 – Residential Design Guidelines – Wall Height – 5.6m required, 6.9m provided; and
- (iii) Clause 3.7.9.3 - Residential Design Guidelines – Roof Materials – compatible and do not detract from existing dwelling required, custom orb /Colorbond 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: 769m<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 8 to 22 May 2020. Two submissions were received.

Submission	Applicant Response	Officer Response
<b>Submission 1</b> Whilst we support development of 30 View Terrace we have concerns that we would like addressed and we object to certain elements of the proposed development: 1. There is evidence of water draining into our property at 28 View Terrace as the Ground levels are higher to the 30 View Terrace side by approx. 500mm as that	1. I'll have to make a note on the plans that current retaining wall be inspected by the builder. Would prefer to simply install channel drain along the fence edge to stop water draining onto neighbour's property. We were not planning on adjusting anything along the boundary. We are not planning any extra soil build up and simply	As noted above in the applicant's response there are numerous amendments that have been addressed and amendments made to the plans that respond to the concerns of neighbouring properties. These changes are listed below; <ul style="list-style-type: none"> <li>• Reduction in the depth of the rear balcony to decrease the bulk and scale of the rear of the development.</li> <li>• New channel drains are to be installed along the south western section of the side</li> </ul>

<p>House has been built at a later date. The current retaining wall is inadequate and the current fence cannot be used to retain the adjacent property levels. This will need to be addressed if the proposed works proceed. A new Boundary Retaining Wall should be constructed to be at least 100mm higher than the proposed new Floor Levels.</p> <p>2. Referencing drawing A16, the proposed New Study Window does not meet the relevant R-Codes with respect to visual privacy. The proposed window would provide for direct views into our living room, hallway and kitchen, as well as our outdoor area adjacent to the boundary. This element of the proposed development should be rejected and mitigated to afford us privacy.</p> <p>3. Where windows along the Western wall of the house are replaced, these should be replaced with similarly opaque/frosted windows to maintain our visual privacy.</p> <p>4. We are concerned that the height of the West facing section of the proposed Balcony will allow vision directly to our Living Room, portion of our existing balcony and our garden. Whilst the 7.5m offset from the boundary is appreciated, we would ask that the development afford us a degree of privacy, noting that the amenity views afforded by the proposed balcony are to the North West, North and North East.</p> <p>5. We note that on the drawings it is stated that the boundary pegs are gone. For the avoidance of doubt, the marked locations of these removed pegs are not accepted by us. Any works should be preceded by a boundary re-survey at the developer's expense.</p>	<p>replace paving which we'll then install channel drains.</p> <p>2. Study window will have a fixed louvred screen looking up to the sky - you'll see than on the attached sketch.</p> <p>3. All west facing windows are going to be frosted and or 1.6m high above FFL.</p> <p>4. We will provide screen along the far west end of the balcony as marked in red. We are also planning to reduce the balcony depth from 6.1m to 5.5m (by 600mm). The northern end on the west facing balcony is set 7.5m and overlooks their roof and their balcony is screened.</p> <p>5. A re-peg of the site will be done during construction.</p>	<p>boundary shared with 28 View Terrace to reduce stormwater flow into 28 View Terrace.</p> <ul style="list-style-type: none"> <li>• A site inspection will be carried out to assess the condition of the existing retaining walls.</li> <li>• The site will be re-pegged before construction to verify the location of property boundaries.</li> <li>• Louvred screening is to be added to the proposed study window to ensure overlooking onto 28 View Terrace is mitigated.</li> <li>• Additional height will be added to the existing side wall of the balcony such that it is 1.7m high from the FFL to reduce overlooking into the side yard of 28 View Terrace.</li> <li>• Tall trees are to be planted along the northern boundary of the property that is shared with 29 Woodhouse Road and reduce overlooking into the property.</li> <li>• The highlight window on the western side of the proposed master bedroom has been raised to 1.7m from FFL to increase privacy between neighbouring properties.</li> </ul>
<p><b>Submission 2</b> I object to the proposal. Concerns are as follows; ROOF: Alterations to the roof seem excessive in scale and bulk, and there are concerns with any increase of the building height. POOL:</p>	<p>Roof - we are sitting well below the 8.1m max ridge - cannot lower pitch as it won't tie into existing, we cannot lower ceiling as it would be too low and we cannot pull back the roof as we'd like the entire balcony covered against rain. We'll propose to reduce the balcony by 600mm.</p>	<p>See above.</p>

<p>Proximity of proposed pool to the boundary shared with 29 Woodhouse is of concern due to impact on privacy and aural impact.</p> <p><b>BALCONY:</b></p> <p>The proposed balcony seems to be an extension of its own existing width closer to the boundary with 29 Woodhouse. From the plans the proposed closest point seems to be nearly half of the current distance to the boundary.</p> <p>It is clear that there are significant privacy impact concerns. In particular, the proximity and vantage point of such balcony in terms of overlooking the backyard, carport and dwelling house on 29 Woodhouse, and in particular the direct visual corridor of such balcony into the second storey bathroom window and the ground floor bedroom window at the rear of 29 Woodhouse.</p> <p>To put a human perspective on the impact, kindly find attached a photo of what the current balcony of 30 View Terrace looks like from the backyard of 29 Woodhouse. The balcony as it already currently stands offers little visual privacy to the backyard of 29 Woodhouse due to the higher elevation and vantage point offered by the balcony. Should the balcony be extended closer to the boundary, such lack of privacy will be exacerbated.</p> <p>The question is posed: If this were your backyard, would you feel comfortable if the balcony as pictured were extended closer than it is?</p> <p>Not only is the extension of the balcony objected to in terms of its impact on privacy of neighbours, but the scale and bulk of the development at the rear of 30 View Terrace seems excessive as well.</p>	<p>Pool - will most likely stay -we can propose some extra screen on top of existing fence and we will be installing some tall trees</p> <p>Balcony - We can proposed 600mm reduced balcony. Roof most likely to stay as per point above. We can provide extra height to rear fence and tall trees for privacy. You'll see an image taken from the living area looking into 29 Woodhouse rear window. When the balcony slab extends out the slab will screen view out to 29 Woodhouse from the living room.</p> <p>Changes are marked in purple clouds:</p> <p>A03 - Site to be re-pegged, channel drain to west and builder to check condition of retaining wall</p> <p>A10 - same as above + showing permanently fixed louvred screen to study, solid brick screen to west of balcony, north end of balcony down to 5.3m versus 6.1m and roof down to 5m versus 5.4m to reduce bulk</p> <p>A11 - west boundary notes</p> <p>A14 - balcony and roof depth down to 5.3m deep balcony versus 6.1m and roof down to 5m versus 5.4m and trees used to the north to screen some view to Woodhouse neighbour</p> <p>A15 - Screen to the west + trees</p> <p>A16 - Solid rendered brick to west end of balcony shown + screen to study window and master bed window sill to 1.7m high, powder room window frosted</p> <p>A17 - balcony and roof depth reduced</p> <p>A18 - new page showing section through study room permanently fixed louvred screen looking to the sky.</p>	
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Community Design Advisory Committee (CDAC)

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

External Consultation

Nil

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### 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			
Master bedroom & WIR – western boundary	1.1m	3.5m	A
Store – eastern boundary	1m	1.4m	A
Balcony – eastern boundary	1.2m	3.904m	A
Balcony - western boundary	1.2m	7.5m	A
Balcony – southern boundary	1.2m	8.36m	A
Open Space	50%	58%	A
<b>Wall height</b>	<b>5.6m</b>	<b>6.9m</b>	<b>D</b>
Setback of Garage			N/A
Car Parking	2 car bays	2 car bays	A
Site Works	Max 0.5m	No significant changes	A
Visual Privacy	4.5m	1.524m (screening added)	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	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
3.7.8 Roof Form and Pitch	A
<b>3.7.9 Materials and Colours</b>	<b>D</b>
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	A
3.7.15.4.3 Fremantle Port Buffer Area	N/A
3.7.17.3 Garages and Carports	A



This development application proposes alterations and additions to an existing dwelling at 30 View Terrace, comprising of the enclosure of the garage, addition of 2 storerooms, extension of rear balcony, addition of a new master bedroom, internal refurbishment and re-arrangement of rooms and terracing and landscaping of the garden area, including the addition of a below ground pool.

The property is not heritage listed and retains much of the existing structure that was built in 1983-84. The owner is proposing changes to the design that utilise the existing approved heights of the dwelling and the significant slope of the site to increase the footprint of the building to the north and the south of the current dwelling. Two variations are requested to the requirements of the Residential Design Guidelines. These variations relate to wall height and changes in the roof materials and privacy setbacks from the eastern boundary. The proposal is recommended for approval subject to conditions.

#### Wall Height

The dwelling has an existing balcony and this is proposed to be increased in size by approximately 44m<sup>2</sup>. There is a roof above this balcony which exceeds the maximum wall height and this is partly due to the slope and height of the existing lot. According to acceptable development clause 3.7.17.4.1.2 A1.4 of the Residential Design Guidelines the maximum wall height should be 5.6m, but in this case it is proposed to be up to 1.3m above this, at a height of 6.9m.

View corridors are significantly maintained, the proposed additional wall height whilst located further to the rear boundary does not significantly impact on the view corridors to the eastern neighbour. As the height of the structure is within the 8.1 metres it is considered there is no impact to the southern neighbours.

Given that views are a relevant consideration in this area and the style of the proposed design is not unusual in this area, the height above the maximum wall height is not unreasonable and is supported given that the roof is at the maximum roof height of 8.1m as prescribed in acceptable development clause 3.7.17.4.1.3 A1.4 of the Residential Design Guidelines.

#### Roof Materials

It is proposed to change the existing roof which consists of tiles to a Colorbond/custom orb metal roof. This does not achieve the acceptable development clause 3.7.9.3 A4.1 & A4.2 of the Residential Design Guidelines which requires that matching but distinguishable materials should be utilised. Nonetheless the change in roof materials does achieve performance criteria 3.7.9.3 P4.1 & P4.2. The proposed materials are both compatible with the immediate locality and do not detract from the existing dwelling. There is no impact to adjoining neighbours or the streetscape. As such the change in roof materials can be supported.

#### Visual Privacy Setbacks

In the original plans the window from the study looks out over the side yard of 28 View Terrace and required a privacy setback of 4.5m from the side boundary in accordance with 5.4.1 C1.1 i, however, it did not achieve this as the setback from the boundary was only 1.524m. However, the applicant agreed to amend the plans to install a privacy screen over the window to limit the ability to look into the neighbour's yard. As a result of this screening the visual privacy setback is no longer an issue and this variation is no longer relevant.

There was also a submission from the property owners directly to the north of this dwelling that claimed that the bulk and scale of development was excessive and resulted in a loss of privacy. The proposed rear balcony is located 8.36m from the rear boundary, well in excess of the 7.5m privacy setback required by

the Residential Design Codes. As such it is also not a planning issue as the minimum requirements have been exceeded. It is noted that the proposed balcony has been reduced in depth from the originally submitted plans in response to the submission and following discussions with the applicant.

#### 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.

- James Turnbull (owner) spoke in support of the officer's recommendation.

#### **11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP020720:**

**Moved Cr Nardi, seconded Cr Watkins**

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

- (i) Clause 3.7.17.4.1.2 – Residential Design Guidelines – Wall Height – 5.6m required, 6.9m provided**
- (ii) Clause 3.7.9.3 - Residential Design Guidelines – Roof Materials – compatible and do not detract from existing dwelling required, custom orb /Colorbond provided**

**for alterations and additions at No 30 (Lot 269) View Terrace East Fremantle, in accordance with the plans date stamped received 29 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) 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) 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.**

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

**Footnote:**

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

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

**(CARRIED UNANIMOUSLY)**

**Note:**

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

### 11.1 Marmion Street No 16 (Lot 1) Application for development approval of patio subsequent to development

<b>Owner</b>	Cameron & Alexandra Wilson
<b>Applicant</b>	Gerard McCann
<b>File ref</b>	P046/20; P/MAR16
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	7 July 2020
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	Ni

#### **Purpose**

The purpose of this report is for Council to consider a planning application for a patio subsequent to development at No 16 (Lot 1) Marmion Street, East Fremantle.

#### **Executive Summary**

The patio has been constructed and is seeking approval subsequent to development.

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 – Western Boundary Setbacks – 1m required, 0-.85m provided;
- (ii) Clause 5.1.3 – Residential Design Codes – Eastern Boundary Setbacks – 1.5m required, 0m provided;
- (iii) Clause 5.1.3 – Residential Design Codes – Open Space – 50% required, 40% provided;
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – pitch to match existing dwelling, pitch does not match the existing dwelling; and
- (v) Clause 5.3.1 – Residential Design Codes – Outdoor Living Areas – 2/3 (67%) uncovered required, 35% uncovered 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: 176m<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 14 May to 28 May 2020. No submissions were received from advertising.

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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 (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>Western boundary</b>	<b>1m</b>	<b>0.85m</b>	<b>D</b>
Northern boundary	1m	1.9m	A
<b>Eastern boundary</b>	<b>1.5m</b>	<b>0m</b>	<b>D</b>
<b>Open Space</b>	<b>50%</b>	<b>60%</b>	<b>D</b>
<b>Outdoor Living Area (Uncovered)</b>	<b>67%</b>	<b>35%</b>	<b>D</b>
Wall Height	6m	<6m	A
Roof Height	9m	<9m	A
Setback of Carport			N/A
Car Parking			N/A
Site Works			N/A
Visual Privacy			N/A
Overshadowing			N/A
Drainage		To be conditioned	A

#### Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	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	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

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3.7.16.3 Garages and Carports	N/A
3.7.16.4.3 Fremantle Port Buffer Area	A

This development application is seeking approval of a patio subsequent to development at 16 Marmion Street East Fremantle. The proposal is recommended for approval subject to conditions and is discussed in detail below.

Works were undertaken before planning approval was sought for development on this heritage listed property. The property is a Category A heritage listed property and also a built strata property and 1 of 2 properties in the strata scheme. Like many properties of this age (built circa 1901) it would not comply with contemporary planning requirements in terms of property setbacks, site coverage and open space requirements. Modern planning requirements relating to density coding and the requirements laid down in the Residential Design Codes do not fit well with the existing dwelling. The works are hidden from the street and do not significantly impact on the existing heritage dwelling.

There are multiple variations that are requested to the requirements of the Residential Design Codes and Residential Design Guidelines, including matters relating to lot boundary setbacks, site coverage and open space, roof pitch and outdoor living areas.

#### Western Boundary Setback

The patio on the western boundary is 5m long, has an average height of 3m (average) and no major openings. It is required to have a setback of 1m in accordance with the Residential Design Codes deemed to comply clause 5.1.3 C3.1 i and Table 1.

However the patio is setback 0.85m from the western boundary, but achieves the design principles clause 5.1.3 P3.1 for the following reasons;

- There is minimal impact from building bulk on adjoining properties;
- Adequate sunlight and ventilation is provided to the building and open spaces on the site and to adjoining properties; and
- There is minimal overlooking or loss of privacy as a result of the development.

Based on these reasons the reduced boundary setback can be supported.

#### Eastern Boundary Setback

The patio on the eastern boundary has to be assessed using the total length of the wall of the dwelling, patio, laundry and toilet. It is a total length of 21.67m, has an average height of 3m (average) and no major openings. It is required to have a setback of 1.5m in accordance with the Residential Design Codes deemed to comply clause 5.1.3 C3.1 i and Table 1.

A nil setback is provided. The dwelling being heritage was built with minimal or nil setbacks and the proposal continued these setbacks. The patio setback achieves the design principles clause 5.1.3 P3.2 for the following reasons;

- Makes effective use of space for enhanced privacy for the occupants and outdoor living areas;
- There is reduced impact from 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 as a result of the development;

- Does not have an adverse effect on the amenity of the adjoining property;
- Sunlight to major openings of habitable rooms and outdoor living areas on adjoining properties is not restricted; and
- The proposal does not impact adversely on the heritage of the building and provides an appropriate covered outdoor space to be utilised as ancillary to the dwelling.

On balance there is minimal impact on streetscape. As such the reduced boundary setback can be supported.

#### Open Space

Under the Residential Design Codes deemed to comply clause 5.1.4 C4 sites within areas with a density coding of R20 are supposed to have a maximum of 50% site coverage and 50% of the site dedicated to open space. In this case 60% of the site is covered by the dwelling, not including the patio which if open sided on 2 sides is not included in the open space calculation (if it was included the site coverage would rise to 70%). As such 40% of the site is open space.

It is recognised that this property was constructed in an era when there was no planning regulation and the planning requirements have been imposed on a building that will have difficulty complying with contemporary planning requirements. As such the reduced open space level can be supported in accordance with design principles clause 5.1.4 P4;

- It provides opportunities for residents to use space external to the dwelling for outdoor pursuits and access within and around the site; and
- It provides space for external fixtures and essential facilities.

#### Roof Pitch

The roof pitch of the patio is 8 degrees which does not meet the Residential Design Guidelines acceptable development clause 3.7.8.3 A4.1 which requires that additions and alterations match the original roof pitch of the existing dwelling. The roof pitch of the existing dwelling is 34 degrees. Nonetheless the patio roof pitch positively contributes to the existing building and as such meets the performance criteria clause 3.7.8.3 P1 and can be supported.

#### Outdoor Living Areas

The outdoor living area does not achieve the Residential Design Codes deemed to comply clause 5.3.1 C1.1 which requires at least 2/3 of the outdoor living area to be uncovered. In this case 65% of the outdoor living area is covered and 35% is uncovered.

Although the area that is covered is nearly double the amount permissible under the Residential Design Codes it achieves design principles clause 5.3.1 P1.1 because the spaces are;

- Capable of use in conjunction with a habitable room of the dwelling;
- Open to winter sun and ventilation; and
- Optimises use of the northern aspect of the site.

It is noted that the owner stated that part of the reason for the large patio area was because the neighbouring property to the north at 87 Glyde Street has a large window that overlooks the backyard and reduced the privacy available to 16 Marmion Street. Again this highlights the issues related to contemporary planning regulation which sometimes does not fit well with older and existing dwellings. This is exacerbated by the much lower site level of 16 Marmion compared to 87 Glyde Street. Whereas



16 Marmion Street's lot is cut into the side of the hill that rises up Glyde Street, 87 Glyde Street is built on top of the ridge and as such is much higher. For these reasons the proposed increase in coverage of the outdoor living area 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 Design Guidelines are considered acceptable. As such it is recommended that the patio development approval subsequent to development be supported subject to planning conditions.

#### **11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP030720:**

**Moved Cr Natale, seconded Cr Nardi**

**That Council grant approval subsequent to development and discretion is exercised in regard to the following;**

- (i) Clause 5.1.3 – Residential Design Codes – Western Boundary Setbacks – 1m required, 0.85m provided**
- (ii) Clause 5.1.3 – Residential Design Codes – Eastern Boundary Setbacks – 1.5m required, 0m provided**
- (iii) Clause 5.1.3 – Residential Design Codes – Open Space – 50% required, 40% provided**
- (iv) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – pitch to match existing dwelling, pitch does not existing dwelling**
- (v) Clause 5.3.1 – Residential Design Codes – Outdoor Living Areas – 2/3 (67%) uncovered required, 35% uncovered provided**

**for a patio at No 16 (Lot 1) Marmion Street, East Fremantle, in accordance with the plans date stamped received 11 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 Building Permit shall be 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.*

**(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 Collinson declared a proximity interest in Item 11.1 as the owner is known to Cr Collinson through the Town of East Fremantle CDAC Committee.*

#### 11.4 George Street No 61 (Lot 6228) Proposed patio

<b>Owner</b>	Town of East Fremantle
<b>Applicant</b>	East Fremantle Primary School
<b>File ref</b>	P054/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	7 July 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 patio at No 61 (Lot 6228) George Street, East Fremantle (East Fremantle Kindergarten).

#### **Executive Summary**

The applicant is seeking Council approval for a patio on Council owned land. No variations are requested to the General Principles of the George Street Designated Heritage Area.

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

#### **Background**

Zoning: Open Space

Site area: 3288m<sup>2</sup>

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

Nil

#### **Consultation**

##### Advertising

The application was not advertised to surrounding land owners. The proposed development will be hidden by an existing wall along Hubble Street, has no streetscape impact and has no impact on surrounding residential dwellings.

##### 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*

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

#### **Policy Implications**

*Town of East Fremantle Local Planning Policy 3.1.6 George Street Designated Heritage Area*

### Financial Implications

Funding as part of the Budget Review was approved as a contribution to the proposal.

### 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

This development application proposes a patio located adjacent and to the rear of the kindergarten building and behind the mural wall at 61 George Street. The kindergarten is located on Council land adjacent to Glasson Park on the corner of Glyde Street and George Street. The patio measures 4.1m wide and 6.8m long with a wall height of 2.2m and a roof height of 3.034m. It consists of a gable roof supported

by 6 upright posts. The patio is located over existing paving slabs. The Town has previously approved a financial contribution to the kindergarten to help pay for the construction of the patio.

The lot is within the George Street Designated Heritage Area and as such the following New Buildings General Principles of this local planning policy are to be used as a measure of assessment. The assessment will address each point individually and state whether the principle is addressed or not by the proposed design and how this is achieved.

#### **New Buildings General Principles**

- i. New buildings, as viewed from the street frontage, are to be designed in a contemporary style that is sympathetic in terms of form, bulk, scale, materials and proportions to the Heritage Area.
- ii. New developments are not to replicate traditional building form and should be of a contemporary style without traditional influences, as faux styles devalue authenticity of places. Contemporary requirements associated with new development result in faux heritage not having the same qualities as authentic places (refer to Figure 6 in Appendix 4).
- iii. The design of the streetscape elements are to:
  - a) Be consistent with front boundary building alignments;
  - b) Engage with the street;
  - c) Reflect/interpret the existing vertical rhythms of elements such as party walls, parapet panels and openings;
  - d) Reflect/interpret the existing horizontal rhythms of elements such as parapets, verandahs and awnings; and
  - e) Conceal roof forms behind parapet walls. Parapets to the main street frontage are to be restrained in terms of decorative forms and detailing.
- iv. New developments are to reflect and complement the scale, setbacks, bulk and proportions of existing contributory buildings and streetscape (refer to Figures 7 and 8 in Appendix 4).
- v. New developments are to respect and reflect the established development pattern.
- vi. New developments are not to negatively impact on the streetscape character of the Heritage Area.
- vii. New developments, structures or hardstand (including car parking) should not detract from the setting of the heritage place.
- viii. Where possible existing views of a heritage building(s) from the street should be preserved to acknowledge the contribution heritage places make to the streetscape.
- ix. New buildings or structures should; be designed and located in a way that does not overwhelm or dominate the heritage building(s) which should remain the dominant building(s) on the site, and they should be understated relative to the existing heritage building(s).
- x. Wherever possible, new buildings, structures or hardstand areas (including car parking) should be designed and sited to avoid having a negative impact on original mature landscaping, garden areas, driveways and other landscaping features where they are

considered to form part of the setting of the heritage place, and/or contribute to the heritage significance.

- xi. Where there is a Conservation Plan for a heritage place any proposals for new buildings, structures or hardstand areas (including car parking) should address the policies contained within the Conservation Plan.
- The patio is an open structure with 6 posts supporting the roof. There are no other additions to the patio roof or posts.
  - The patio is a contemporary design without embellishment or architectural adornment.
  - The patio is aligned with the front boundary of Hubble Street like the main kindergarten building and abuts the mural wall attached to the kindergarten building.
  - The development does not engage with the street because the patio is hidden from direct view by a mural wall along the boundary of the lot.
  - Like the surrounding kindergarten playground area the patio is open.
  - The proposed structure is a single storey patio and aligns with the neighbouring building height which is also single storey.
  - The patio is hidden behind the mural wall on the boundary attached to the kindergarten building.
  - As the patio is hidden behind the mural wall and smaller than the adjoining kindergarten building it complements surrounding buildings without being imposing or detracting from heritage dwellings in the street.
  - The location of the patio behind the mural wall ensures that the established development pattern is respected.
  - As the patio is hidden behind the mural wall it does not detract from the streetscape character.
  - As the patio is hidden behind the mural wall it does not detract from the heritage character.
  - The patio does not impact on heritage dwellings and their contribution to the streetscape.
  - The patio does not overwhelm or dominate the surrounding heritage buildings.
  - The patio does not have an impact on landscaping or garden areas as it being constructed above a paved area.
  - There is no conservation plan applying to the kindergarten building.

The patio is hidden behind the existing mural wall facing Sewell Street and is of a size that does not dominate the surrounding dwellings. It is a contemporary structure that will benefit the kindergarten by providing a covered outdoor area adjacent to the kindergarten playground. It is also noted that the patio is being partially funded by a grant from the Town.

Based on the preceding assessment, the proposed development can be supported. There are no variations requested to the George Street Precinct Heritage Area and the proposed patio is fully compliant with this policy document.

#### Conclusion

Based on the assessment that has been completed and the explanation provided in this report, the proposed development is considered acceptable. It is recommended that the proposed development be supported subject to planning conditions.

**11.4 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP040720:**

Moved Cr Watkins , seconded Cr Nardi

That development approval is granted for a patio at No 61 (Lot 6228) George Street, East Fremantle, in accordance with the plans date stamped received 26 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) 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) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (8) This planning approval is to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (i) ***this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (ii) ***a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.***
- (iii) ***it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.***



- 
- (iv) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (v) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

(CARRIED UNANIMOUSLY)

Note:

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



### 11.5 Fraser Street Unit 1 No 32 (Lot 1) Proposed Patio

<b>Owner</b>	Linda Phillips
<b>Applicant</b>	Profounder Factory Direct Pty Ltd
<b>File ref</b>	P052/20
<b>Prepared by</b>	James Bannerman Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	7 July 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 patio at Unit 1 No 32 (Lot 1) Fraser 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 5.1.2 – Residential Design Codes – Primary Street Setbacks – 6m required, 4m provided; and
- (ii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 26 to 28 degrees required, 20 degrees provided

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

#### Background

Zoning: Residential R17.5

Site area: 91m<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. One submission was received.

Submissions	Applicant Comment	Officer Comment
The 6m set back in Fraser Street and many other streets in East Fremantle is important in maintaining the ambience and street scape of the area. The set back helps provide a more open environment and front garden space for shrubs and trees to grow, breaking up the built environment of the street and surroundings.	The area of the patio has been amended to be 21.45 square meters to comply with council requirements There is currently a large shade sail that extends from the dwelling towards the road further than the proposed patio, this will be removed and the replacing patio will be smaller	The setback is 6m but this can be varied subject to the submission of a development application for the consideration of the Town. It is recognised that open spaces such as a front yard do provide areas for gardens with trees and shrubs, but owners may choose to pave the area with concrete or bricks or alternatively grow turf without any larger shrubs or trees. Landscaping is ultimately a

<p>There is also the risk that the ‘pergola’ structure will later be enclosed and used as additional accommodation and storage. The proposed pergola structure covers a very large area of 37 square metres. Granting this exemption will lead to further cluttering of the set back areas in East Fremantle. This will also create a precedent for residents seeking permission to build extensions into the set back zone. The property at 1/32 Fraser Street was purchased only a few months ago without a pergola and the knowledge a 6 metre set back rule applies to this property.</p>	<p>The patio design is within the current existing dwelling colour scheme, “Monument” to match the roof and “Ironstone” to match gutters etc. the patio compliments the dwelling with the design and shape. The patio will be made out of colorbond steel.</p>  <p>There is an already existing 1.48m high perimeter brick wall around the outdoor area that extends from the dwelling towards the road. The patio will be well within this perimeter wall and setback 4m from the primary street boundary. This would need Town of East Fremantle approval. This proposed patio is the only outdoor living space available to the dwelling. The outdoor area is North facing and the patio will provide protection from direct sunlight into the dwelling and protect it from the weather</p>	<p>decision for the owner. Likewise residents have the ability to store possessions in their private open space and given that this is the only outdoor area there is a high likelihood that some possessions will be stored in this area.</p> <p>A condition will be included in the recommendation that the patio will not be able to be enclosed or converted into an additional room.</p> <p>As stated in the report this unit is limited by the fact that the front yard is also the only outdoor space and similar units within the complex have previously had patios approved in the front setback area.</p> <p>Following discussions with the applicant the size of the patio has been substantially reduced such that the structure will measure 3.3m deep and 6.5m wide with a total area of 21.45m<sup>2</sup>.</p> <p>Development proposals are assessed according to numerous criteria. Front setbacks are one consideration, however, other factors have to be taken into account from Local planning Scheme No 3, Residential Design Codes and the Residential Design Guidelines.</p>
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Community Design Advisory Committee (CDAC)

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

External Consultation

Nil

**Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

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

**Policy Implications**

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

## Financial Implications

Nil

## Strategic Implications

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

### Built Environment

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

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

### Natural Environment

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

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

## Risk Implications

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

## Site Inspection

A site inspection was undertaken.

## Comment

### Statutory Assessment

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

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

#### Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6m	4m	D
Secondary Street Setback			N/A
Lot Boundary Setbacks			
Western side	1m	>1m	A
Eastern side	1m	>1m	A
Open Space	50%		
Wall Height	6m	2.3m	A
Roof Height	9m	3.55m	A
Setback of Carport			N/A
Car Parking			N/A
Site Works			N/A
Visual Privacy			N/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	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	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 Fremantle Port Buffer Area	N/A

This development application proposes a patio to be installed in the front yard of the subject property. One variation to the Residential Design Codes and one variation to the Residential Design Guidelines are requested in relation to primary street setback and roof pitch. The proposal is recommended for approval subject to conditions.

#### Primary Street Setback

The proposed patio is setback 4m from the front boundary where a front street setback of 6m is required in accordance with deemed to comply clause 5.1.2 C2.1 i of the Residential Design Codes.

The property does achieve design principles 5.1.2 P2.1. The patio is setback from the street boundary an appropriate distance to ensure that it;

- Contributes to and is consistent with an established streetscape. It is noted other such structures have been approved for other units within the Strata and therefore provides consistency;
- Provide adequate privacy for the dwelling;
- Provide usable open space for the dwelling. The dwelling is limited to the open space provided, therefore the proposal will facilitate an area of covered space to be utilised in conjunction with habitable rooms, albeit the covered area is located within the front setback area;
- Accommodate site planning requirements such as parking, landscape and utilities; and
- Allow safety clearance for easements for essential service corridors.

It is noted that the patio is located in the only outdoor area that is available to this dwelling unit which is also located in the front setback area. The unit currently has a shade sail located over the same area where the patio is proposed to be constructed.

There are a number of units in the same strata complex located along Coolgardie Avenue that have outdoor living areas located in the front setback area facing the street and have also had patios approved in this area (Unit 6 No 16 Coolgardie Street and Unit 9 No 16 Coolgardie Street).

For these reason the reduced primary street setback of 4m can be supported.

#### Roof Pitch

The proposed patio has a roof pitch of 20 degrees where a roof pitch of 28 to 36 degrees is required in accordance with the Residential Design Guidelines acceptable development clause 3.7.8.3 A4.1. Performance criteria clause 3.7.8.3 P4 is achieved because the roof form of the new patio complements the traditional form of surrounding development. For this reason the roof pitch can be supported.

#### Strata Approval

It is also noted that the strata body has approved the proposed development subject to Council approval being achieved.

#### Advertising

There was one submission in opposition to the proposed patio as previously noted in this report. The comments made by the submitter, in writing and by phone conversation, reinforced the need for the patio to be reduced in size and have an increased setback from the front boundary. It is recognised that the original proposal was a very large structure with a minimal primary street setback of 1m.

Discussions were held with the applicant and it was agreed that amended plans for the patio would be submitted that had a reduced width and depth and an increased setback of 4m from the primary street. These amended plans are the subject of this report.

#### 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.

**11.5 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP050720:**

Moved Cr Natale, seconded Cr Watkins

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

- (i) Clause 5.1.2 – Residential Design Codes – Primary Street Setbacks – 6m required, 4m provided
- (ii) Clause 3.7.8.3 – Residential Design Guidelines – Roof Pitch – 26 to 28 degrees required, 20 degrees provided

for a patio at Unit 1 No 32 (Lot 1) Fraser Street, East Fremantle, in accordance with the plans date stamped received 18 June 2020, subject to the following conditions:

- (1) The patio shall not be enclosed with screening, walls, windows, glass or plastic barriers and shall remain open at all times. Any such proposed change will require the submission of a development application for the consideration of the Town.
- (2) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (3) The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (4) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (5) All 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) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (9) This planning approval is to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

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

**(CARRIED UNANIMOUSLY)**

**Note:**

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

**12. MATTERS BEHIND CLOSED DOORS**

Nil

**13. CLOSURE OF MEETING**

There being no further business the Presiding Member declared the meeting closed at 6.58 pm.

*I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 7 July 2020, Minute Book reference 1. to 13 were confirmed at the meeting of the Committee on:*

.....*4/8/20*.....

  
Presiding Member