



AGENDA

Town Planning & Building Committee

Tuesday, 6 March 2018 at 6.30pm

Disclaimer

The purpose of this Committee meeting is to discuss and, where possible, make resolutions about items appearing on the agenda.

Whilst the Committee has the power to resolve such items and may in fact, appear to have done so at the meeting, no person should rely on or act on the basis of such decision or on any advice or information provided by a member or officer, or on the content of any discussion occurring, during the course of the meeting.

Persons should be aware that the provisions of the Local Government Act 1995 (section 5.25 (e)) establish procedures for revocation or rescission of a Committee decision. No person should rely on the decisions made by the Committee until formal advice of the Committee decision is received by that person.

The Town of East Fremantle expressly disclaims liability for any loss or damage suffered by any person as a result of relying on or acting on the basis of any resolution of the Committee, or any advice or information provided by a member or officer, or the content of any discussion occurring, during the course of the Committee meeting.

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Procedure for Deputations, Presentations and Public Question Time at Council Meetings

Council thanks you for your participation in Council Meetings and trusts that your input will be beneficial to all parties. Council has a high regard for community input where possible, in its decision making processes.

<p style="text-align: center;">Deputations</p> <p>A formal process where members of the community request permission to address Council or Committee on an issue.</p>	<p style="text-align: center;">Presentations</p> <p>An occasion where awards or gifts may be accepted by the Council on behalf of the community, when the Council makes a presentation to a worthy recipient or when agencies may present a proposal that will impact on the Local Government.</p>
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Procedures for Deputations

The Council allows for members of the public to make a deputation to Council on an issue related to Local Government business.

Notice of deputations need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact Executive Support Services via telephone on 9339 9339 or email admin@eastfremantle.wa.gov.au to arrange your deputation.

Where a deputation has been agreed to, during the meeting the Presiding Member will call upon the relevant person(s) to come forward and address Council.

A Deputation invited to attend a Council meeting:

- (a) is not to exceed five (5) persons, only two (2) of whom may address the Council, although others may respond to specific questions from Members;
- (b) is not to address the Council for a period exceeding ten (10) minutes without the agreement of the Council; and
- (c) additional members of the deputation may be allowed to speak with the agreement of the Presiding Member.

Council is unlikely to take any action on the matter discussed during the deputation without first considering an officer's report on that subject in a later Council agenda.

Procedure for Presentations

Notice of presentations being accepted by Council on behalf of the community, or agencies presenting a proposal, need to be received by 5pm on the day before the meeting and agreed to by the Presiding Member. Please contact Executive Support Services via telephone on 9339 9339 or email admin@eastfremantle.wa.gov.au to arrange your presentation.

Where the Council is making a presentation to a worthy recipient, the recipient will be advised in advance and asked to attend the Council meeting to receive the award.

All presentations will be received/awarded by the Mayor or an appropriate Councillor.

Procedure for Public Question Time

The Council extends a warm welcome to you in attending any meeting of the Council. Council is committed to involving the public in its decision making processes whenever possible, and the ability to ask questions during 'Public Question Time' is of critical importance in pursuing this public participation objective.

Council (as required by the *Local Government Act 1995*) sets aside a period of 'Public Question Time' to enable a member of the public to put up to two (2) questions to Council. Questions should only relate to the business of Council and should not be a statement or personal opinion. Upon receipt of a question from a member of the public, the Mayor may either answer the question or direct it to a Councillor or an Officer to answer, or it will be taken on notice.

Having regard for the requirements and principles of Council, the following procedures will be applied in accordance with the *Town of East Fremantle Local Government (Council Meetings) Local Law 2016*:

1. Public Questions Time will be limited to fifteen (15) minutes.
2. Public Question Time will be conducted at an Ordinary Meeting of Council immediately following "Responses to Previous Public Questions Taken on Notice".
3. Each member of the public asking a question will be limited to two (2) minutes to ask their question(s).
4. Questions will be limited to three (3) per person.
5. Please state your name and address, and then ask your question.
6. Questions should be submitted to the Chief Executive Officer in writing by 5pm on the day before the meeting and be signed by the author. This allows for an informed response to be given at the meeting.
7. Questions that have not been submitted in writing by 5pm on the day before the meeting will be responded to if they are straightforward.
8. If any question requires further research prior to an answer being given, the Presiding Member will indicate that the "question will be taken on notice" and a response will be forwarded to the member of the public following the necessary research being undertaken.
9. Where a member of the public provided written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
10. A summary of the question and the answer will be recorded in the minutes of the Council meeting at which the question was asked.

During the meeting, no member of the public may interrupt the meetings proceedings or enter into conversation.

Members of the public shall ensure that their mobile telephone and/or audible pager is not switched on or used during any meeting of the Council.

Members of the public are hereby advised that use of any electronic, visual or audio recording device or instrument to record proceedings of the Council is not permitted without the permission of the Presiding Member.

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NOTICE OF MEETING

Elected Members

An Ordinary Meeting of the Town Planning & Building Committee will be held on Tuesday, 6 February 2018 at the East Fremantle Yacht Club, (Ward Room), Petra Street, East Fremantle commencing at 6.30pm and your attendance is requested.

GARY TUFFIN
Chief Executive Officer

2 March 2017

AGENDA

1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. RECORD OF ATTENDANCE

3.1 Attendance

3.2 Apologies

Mayor O'Neill

3.3 Leave of Absence

4. MEMORANDUM OF OUTSTANDING BUSINESS

5. DISCLOSURES OF INTEREST

5.1 Financial

5.2 Proximity

5.3 Impartiality

6. PUBLIC QUESTION TIME

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

6.2 Public Question Time

7. PRESENTATIONS/DEPUTATIONS

7.1 Presentations

7.2 Deputations

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Town Planning and Building Committee (6 February 2018)

8.1 OFFICER RECOMMENDATION

That the minutes of the Town Planning and Building Committee meeting held on Tuesday 6 February 2018 be confirmed as a true and correct record of proceedings.

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

10. REPORTS OF COMMITTEES

10.1 Community Design Advisory Committee

Prepared by: Andrew Malone Executive Manager Regulatory Services

Supervised by: Gary Tuffin, Chief Executive Officer

Authority/Discretion: Town Planning & Building Committee

Attachments: 1. Minutes of the Community Design Advisory Committee meeting held on 5 February 2018

PURPOSE

To submit the minutes of the Community Design Advisory Committee meeting held in February for receipt by the Town Planning & Building Committee.

EXECUTIVE SUMMARY

The Committee, at its meeting held on 5 February 2018, provided comment on planning applications listed for consideration at the March Town Planning Committee meeting and other applications to be considered in the future. Comments relating to applications have been replicated and addressed in the individual reports.

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

10.1 OFFICER RECOMMENDATION

That the Minutes of the Community Design Advisory Committee meeting held on 5 February 2018 be received.

5 February 2018

MINUTES

Minutes of a Community Design Advisory Committee Meeting, held at East Fremantle Yacht Club, on Monday, 5 February 2018 commencing at 6:05pm.**1. OPENING OF MEETING**

Cr Collinson welcomed members of the Community Design Advisory Committee and made the following acknowledgement:

“On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place and pay respects to the elders past and present.”

2. PRESENT

Cr Cliff Collinson	Presiding Member
Ms Alex Wilson	
Mr Clinton Matthews	
Mr David Tucker	
Dr John Dalitz	
Mr Donald Whittington	
Mr Andrew Malone	Executive Manager Regulatory Services

3. APOLOGIES

Nil

4. LEAVE OF ABSENCE

None

5. DECLARATIONS OF INTEREST

Nil

6. CONFIRMATION OF MINUTES

Minutes of the Community Design Advisory Committee meeting held on 11 December 2017 were confirmed.

7. PRESENTATION

Saracen Properties and Urbis to present an initial design concept for the Royal George Hotel.

The committee made the following comments on the proposal:

- *Improved curtilage around the Royal George is requested.*
- *Improved residential and pedestrian interface with Duke Street.*
- *Committee request a building of outstanding architectural merit.*
- *Committee request increased public use and public return for the Royal George building.*
- *The Panel raise concerns about the overall proposed building height.*

5 February 2018

MINUTES

8. BUSINESS**8.1 *Locke Crescent No. 12 (Lot 4993) - John Chisolm Design (Application No. P104/17 – 28 September 2017)***

Amended plans for alterations and additions to existing residence.

(a) The overall built form merits;

- The modified design of the front façade is considered to have less impact than the previous proposal.
- The design is considered to be in keeping with the other building designs within the area;
- Reasonable proposition for the area.
- The applicant is considered to have addressed the previous concerns of the Committee in respect to design and streetscape.

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

- No comment.

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

- No comment.

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

- No comment.

(e) The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;

- No comment.

(f) The demonstration of other qualities of best practice urban design including "Crime Prevention" Through Environmental Design performance, protection of important view corridors and lively civic places;

- No comment.

8.2 *Staton Road No. 73B (Lot 303) – Private Horizons Planning Solutions (Application No. P083/17 – 22 August 2017)*

New three level residence on vacant lot.

- ❖ The Committee advised that the comments made by the Committee at the meeting held on 4 September be reiterated. Comments were as follows:

(a) The overall built form merits;

- The committee considers the proposal has limited built form merit and that it has poor internal design. In particular relating to solar access and overlooking by adjoining neighbours.
- There is insufficient material and lack of detail on the plans, particularly relating to the elevations and front fence, which should be designed to comply with Council's Fencing Policy.

5 February 2018

MINUTES

- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;*
 - No comment.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
 - The overall streetscape is consistent with the overall character of the area.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
 - No comment.
- (e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*
 - No comment.
- (f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places.*
 - No comment.

**8.3 Woodhouse Road No. 1C (Lot 18) - Altus Planning
(Application No. P144/17 – 21 December 2017)**

Demolition of existing residence and new three storey residence.

- (a) *The overall built form merits;*
 - No comment.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;*
 - No comment.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
 - Query the need for demolition.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
 - No comment.
- (e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*
 - No comment.
- (f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;*
 - No Comment.

**8.4 Riverside Road No. 36 (Lot 3)- David Hartree
(Application No. P002/18 – 10 January 2018)**

Alterations and additions to existing residence.

- (a) *The overall built form merits;*
- No comment.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;*
- No comment.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
- No comment.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- No comment.
- (e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*
- No comment.
- (f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;*
- No Comment.

**8.5 Alexandra Road No. 53 (Lot 200) - Jacqueline Boston
(Application No. P003/18 – 10 January 2018)**

Carport, patio and front fence.

- (a) *The overall built form merits;*
- The front fence to Alexandra Road does not comply with Council’s Fencing Policy relating to front fences. The proposed fence should be 60% visually permeable for the length of Alexandra Road.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;*
- The Panel note the design and material utilised to the verandah and carport is average and alternatives should be investigated.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
- No comment.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- No comment.

(e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*

- No comment.

(f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;*

- No Comment.

**8.6 Alexandra Road No. 53 (Lot 200)- Jacqueline Boston
(Application No. P006/18 – 15 January 2018)**

New two storey residence on vacant lot.

(a) *The overall built form merits;*

- The Committee note there is minimal design integrity for the proposal.

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

- No comment.

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

- No comment.

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

- No comment.

(e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*

- No comment.

(f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;*

- No Comment.

**8.7 Canning Highway No. 209 (Lot 2) – Sidi Construction Pty Ltd
(Application No. P008/18 – 24 January 2018)**

New two storey residence on a vacant lot.

(a) *The overall built form merits;*

- The building has no relationship to any other development of the locality.
- The Panel consider there is no design merit in the proposed development.

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

- See above comments.

- (c) *The relationship with and impact on the broader public realm and streetscape;*
- The Panel consider the proposed development would have a detrimental impact to the locality and result in a poor streetscape outcome.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- No comment.
- (e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*
- The proposal has some passive solar efficiencies assisting in the environmental sustainability in the design.
- (f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;*
- The proposal demonstrates passive surveillance to the streetscape.

8.8 Canning Highway No. 209 (Lot 49)

Preliminary plans for alterations and additions to Existing Residence – ‘Category B’ on Municipal Inventory.

- (a) *The overall built form merits;*
- The committee does not support the design of the development because of the poor design and integration of the addition which is due to lack of delineation and encroachment on the heritage dwelling.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;*
- No comment.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
- The Panel consider the proposed development would have a detrimental impact to the heritage dwelling and result in a poor streetscape outcome.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- No comment.
- (e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*
- No comment.
- (f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;*
- No Comment.

ITEM 10.1

Community Design Advisory Committee

ATTACHMENT 1

TOWN OF
EAST FREMANTLE



5 February 2018

MINUTES

8. OTHER
Nil

9. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING
Nil

10. DATE & TIME OF NEXT MEETING

10.1 *Monday 26 March 2018, commencing at 6pm.*

Meeting closed at 10.05pm.

11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

11.1 King Street No. 53 (Lot 321) – Additions and Alterations to Existing Dwelling – Installation of Windows

Applicant/Owner	E & D Dunchard
File ref	P/KIN53; P005/18
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	6 March 2018
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Location plan 2. Photographs 3. Plans date stamped 12 January 2018

Purpose

This report considers a planning application for minor additions and alterations involving the installation of windows on the side elevation of the heritage dwelling at No. 53 King Street, East Fremantle.

Executive Summary

This report considers a planning application for minor additions and alterations to the side elevation of the heritage dwelling for the installation of windows on the northern elevation at No. 53 King Street, East Fremantle.

The following issue is relevant to the determination of this application:

- Lot boundary setback (north).

It is considered the minor R-Code variation will have a minimal impact on the amenity of the adjoining site and can be supported.

Background

Zoning: Residential R20

Site area: 508m²

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

Nil in regard to this application.

Consultation

Advertising

The application was advertised to the adjoining land owner from 17 January to 2 February 2018. The adjoining owner to the north viewed the plans and made a submission objecting to the proposal which is summarised below:

- Loss of privacy both visual and sound;
- Bedroom and bathroom adjacent to the three pane window;
- Both windows are at a height that allows views to another bedroom window; and
- Minimal setback between buildings and windows allows for increased noise disturbance.

The applicant's response is provided below:

“The purpose of this application is to rectify an original design flaw of the building. As built, the design does not provide anywhere near enough internal natural light. Currently this part of the house is so dark as to be dingy and oppressive.

The choice of 3 pane windows is specifically to remedy this problem but also it is to do two additional things. Firstly, to match the existing window style and treatment of the front elevation of the house and secondly to provide proportion and visual harmony to the internal design. Incidentally, the lead-lighting for the new windows is to be locally commissioned and will ensure the design closely mimics the existing lead-light pattern on the listed front elevation.

Opposition to the new and additional glazing

- *There are no reasonable grounds for opposition.*

Perceived loss of visual and sound privacy

- *Regarding visual privacy. Our proposal causes no additional loss of visual privacy.*
- *Regarding sound privacy. Any additional sound transfer that might eventuate is more likely to affect 53 King Street than 51 King Street as this is the established pattern.*

Bedroom and Bathroom (windows at 51 King Street)

- *Adjacent to proposed 3 pane window. at 53 King Street.*

Regarding the bedroom window (referred to as the ‘son’s bedroom window’)

- *There is already an existing, 2 pane window at 53 King Street that overlooks the bedroom at 51 King Street and vice versa.*
- *This 2-pane window was part of the original 53 King Street build, estimated to be some 80 years ago.*
- *The bedroom window at 51 King Street was installed in recent years during renovations and significant extensions at that property.*
- *This window was installed immediately opposite the existing 2 pane (dining room) window at 53 King Street.*
- *We understand this window replaced an existing original window in a different though adjacent location.*
- *This installation created an additional (though potentially small) loss of privacy to 53 King Street.*
- *The existing two pane window at 53 King Street is 100% clear glass. Our proposal is that there is one additional pane. However, we further propose that all 3 panes are changed from 100% clear glass to leaded panes in keeping with the front elevation’s window style. Importantly, we propose the top portion of all 3 panes is styled to use textured glass that cannot be seen through. This, coupled with the fact there is an existing fence that partially hides each pane, would have the net effect of increasing privacy not decreasing it.*

Regarding the bathroom window at 51 King Street

- *We believe the window at 51 King Street was installed in recent years during renovations and significant extensions at that property.*
- *This window at 51 King Street is already of 100% obscure glass, negating any possible visual privacy issue.*

- *We reiterate there is no possibility of any loss of privacy from the installation of this 3 pane window at 53 King Street.*

Elevation allows for overlooking into son's bedroom

- *This overlooking was caused by the opposing party, by the installation of the window ('son's bedroom window') at 51 King Street a few years ago.*

Objects to overall closeness of windows to boundary line

- *The closeness to the boundary line is the same or potentially marginally less than the closeness of the bedroom and bathroom windows to the boundary line at 51 King Street."*

Community Design Advisory Committee (CDAC)

This application was not referred to the CDAC due to the very minor nature of the proposal and as it did not impact the streetscape.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

Heritage List of LPS No. 3

Policy Implications

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

Municipal Heritage Inventory - 'B' Category

Fremantle Port Buffer Zone - Area 2

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

4.1 *Conserve, maintain and enhance the Town's open spaces.*

4.1.1 *Partner with Stakeholders to actively protect, conserve and maintain the Swan River foreshore.*

4.1.2 *Plan for improved streetscapes parks and reserves.*

4.2 *Enhance environmental values and sustainable natural resource use.*

4.2.1 *Reduce waste through sustainable waste management practices.*

4.3 *Acknowledge the change in our climate and understand the impact of those changes.*

4.3.1 *Improve systems and infrastructure standards to assist with mitigating climate change impacts.*

Site Inspection

February 2018

Comment

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Local Planning Policies. 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	6.0m	N/A	A
Lot Boundary Setback	1.5m	900mm (existing)	D
Open Space	50%	N/A	A
Outdoor Living	30m ²	N/A	A
Car Parking	1	N/A	A
Site Works	Less than 500mm	N/A	A
Visual privacy setback	>0.5m above NGL – 4.5m	Less than 500mm above NGL	A
Overshadowing	≤25%	N/A	A
Drainage	On-site	N/A	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	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	N/A
3.7.9 Materials and Colours	A

3.7.10 Landscaping	N/A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.18.3 Garages and Carports	N/A
3.7.15-20 Precinct Requirements	N/A

Building Height (R-Codes)	Required	Proposed	Status
External Wall height (R-Code)			
Roof Ridge height (R-Code)	N/A	N/A	No change to existing

The additions and alterations will comprise the enlargement of an existing dining room window on the northern elevation approximately midway along the length of the wall. Another pane of glass which matches the existing panes will be added making this window approximately a third larger (total area of 2.34m²). The other lounge room window to be installed at the street end of the dwelling will be an exact copy of the window that is being enlarged (2.34m²). It will be positioned at the same height as the existing window. The matters raised by the adjoining owner in the submission are addressed below.

Lot boundary setback

The existing dwelling has a setback of approximately 900mm from the northern lot boundary. A similar setback exists for 51 King Street. The northern elevation contains a number of windows (i.e. major openings) to habitable rooms. As this is an existing dwelling the required setback of 1.5 metres under the R-Codes cannot be achieved, so technically the applicant is seeking approval for a setback variation due to the installation of the window. The reduced lot boundary setback is supported as it adds no additional building bulk to the site.

The adjoining owners' concerns regarding noise are not considered to be a valid planning consideration in this circumstance. There are already openings along this elevation and the owner of 51 King Street also has windows along this elevation. The windows will be to a lounge and dining room which are existing rooms within the dwelling. Dwellings in the Plympton Precinct are all situated very close to side lot boundaries and it is a very evident characteristic of housing in the Precinct and an obvious amenity consideration when choosing to live in a suburb of this nature. The closeness of the dwellings in this circumstance should not prevent reasonable alterations and additions to the dwelling to meet modern housing expectations. This was the case with the approval of recent alterations and additions for 51 King Street which resulted in similar situation arising for 53 King Street. Matters arising in respect to noise are dealt with in accordance with State Environmental Protection (Noise) Regulations and can be reported to the Town's Environmental Health Officer for further investigation.

Visual privacy

The visual privacy provisions of the R-Codes state as follows:

The 'Deemed to Comply' provisions for Element 5.4.1 Visual Privacy of the R-Codes requires major openings which have their floor level more than 0.5 metres above natural ground level, and positioned so as to overlook any part of any other residential property behind its setback line, to comply with the following:

- 4.5 metres in the case of bedrooms and studies;
- 6.0 metres in the case of habitable rooms, other than bedrooms and studies; and
- 7.5 metres in the case of unenclosed outdoor active habitable spaces.

The proposed development complies with the 'Deemed to Comply' provisions of the R-Codes as the approved plans for No. 53 King Street indicates the floor level of the rooms concerned are not 500mm above natural ground level. As such the visual privacy provision of the R-Codes requiring a greater setback of 4.5 metres is not applicable or relevant to the assessment of the proposal to install additional windows.

Furthermore, the proposed new window will be opposite a blank wall of a bedroom on the other property and offset from the bathroom window which has obscure glazing. The window to be increased in size is opposite a bedroom. As this window already exists the addition of another pane of glass is relatively inconsequential in respect to visual privacy as there is already an opening in this location. It is noted a tree is also positioned between the two windows which also restricts viewing between openings and that the change in the type of glazing as outlined in the applicant's submission will also reduce the degree of visibility through the windows.

It is noted that there is a dividing fence of reasonable height between the two properties. However, if the two land owners determine that the fence height between the properties needs to be increased to offer greater visual privacy between rooms then that is a matter for the two landowners to discuss and resolve under the provisions of the *Dividing Fences Act*.

Heritage

The property is a category B property on the Municipal Inventory and is therefore listed in the Heritage List of the Planning Scheme. The proposal is not considered to have any impact on the heritage elements of the dwelling. The windows will not be easily visible from the street and in any case the applicant is intending to replicate the panes of glass so the windows will appear as original windows.

Conclusion

The applicant is wishing to introduce additional light and ventilation to the rooms. This is not considered an unreasonable proposal given the era in which many of the original homes in the Plympton Precinct were constructed. The application is therefore supported on the basis that the installation of the windows is considered to have a negligible impact on the amenity of the adjoining property and minimal impact on the streetscape and the heritage dwelling. The application is therefore recommended for approval subject to standard planning conditions.

11.1 OFFICER RECOMMENDATION

That Council exercise its discretion in granting planning approval to vary:

- (i) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a northern lot boundary setback of less than 1.5 metres;**

for additions and alterations to the existing dwelling (installation of windows) on the northern elevation at No. 53 (Lot 321) King Street, East Fremantle, in accordance with the plans date stamped received 12 January 2018, subject to the following conditions:

- (1) The materials and design details of the windows are to be to the satisfaction of the Chief Executive Officer and submitted with the Building Permit application.**
- (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.**

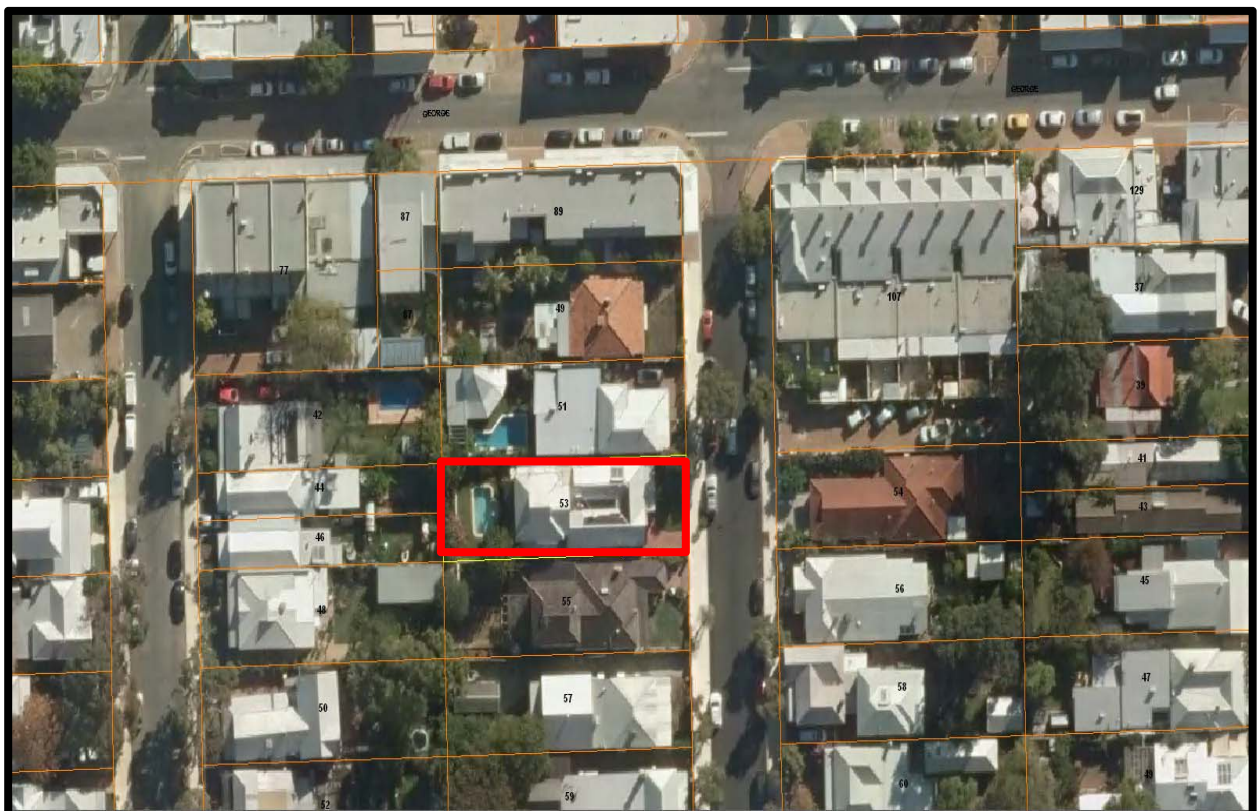
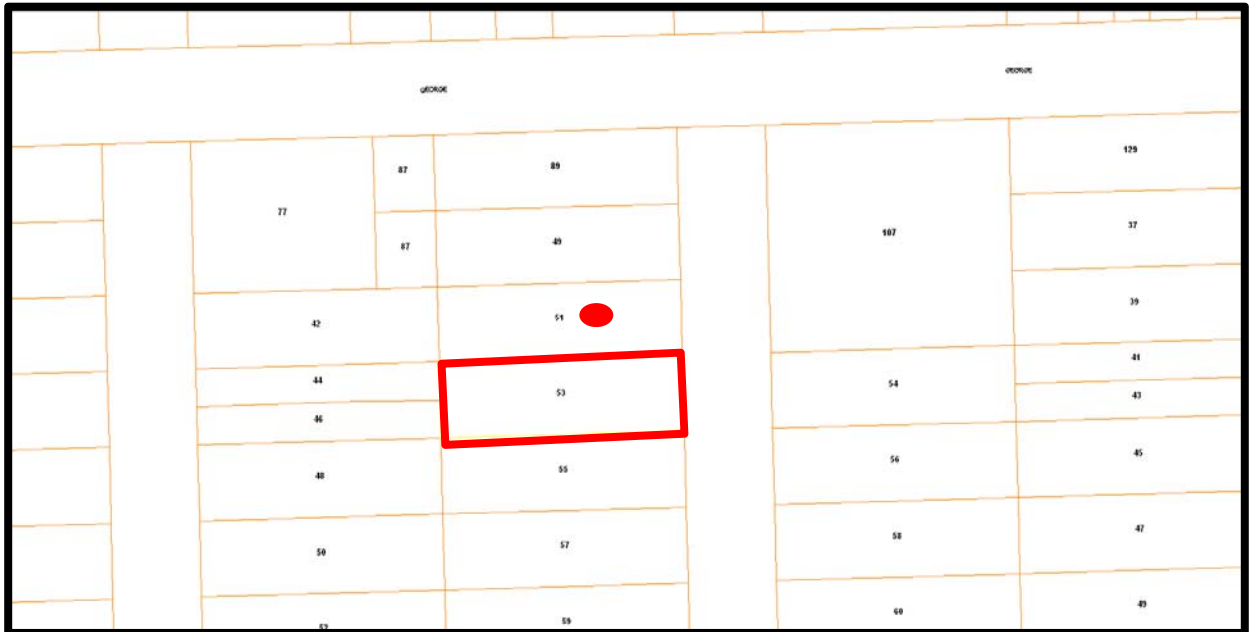
- (4) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (5) All storm water is to be disposed of on site,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

Footnote:

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

- (i) *This decision does not include acknowledgement or approval of any 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".*

NO. 53 (LOT 321) KING STREET- P005/18- NEW WINDOWS & REPLACEMENTS- CATEGORY B





TOWN OF EAST FREMANTLE
PLANNING APPLICATION

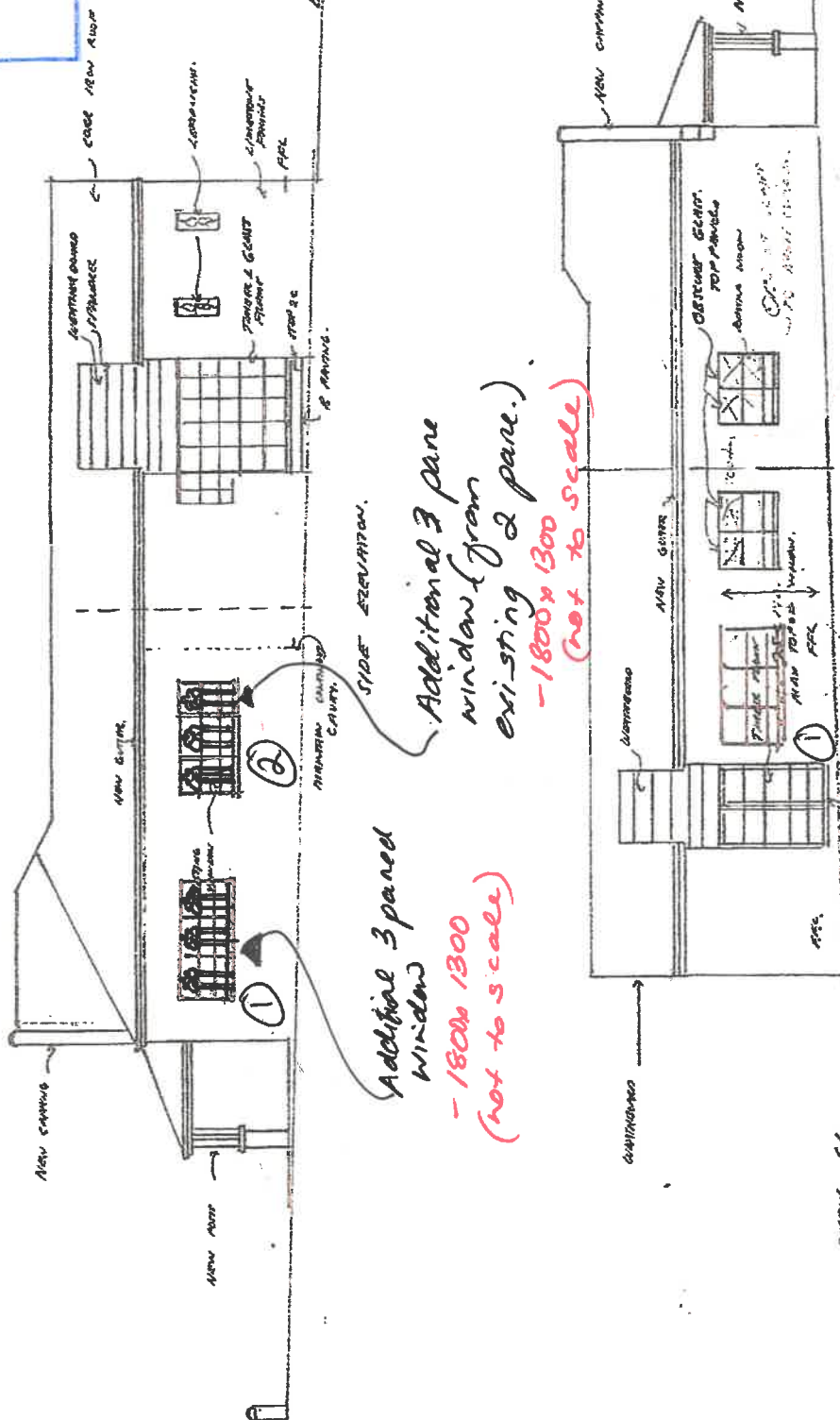
ITEM 11.1

DATE 12 JAN 2018

No. P 005-18

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ATTACHMENT 3



Additional 3 pane window (from existing & pane.)
- 1800 x 1300 (not to scale)

Additional 3 pane window
- 1800 x 1300 (not to scale)

Additional 3 pane window to bedroom
New window to bedroom (not to scale)

NEW WINDOW TO BEDROOM
NEW WINDOW TO BEDROOM

Project: Fremantle	Date: 12/1/18
Drawn by: K. GONZALEZ	Checked by: J. PERRELLI
FOR APPROVAL	
DRAWN BY K. GONZALEZ 3/21/18	

11.2 Hubble Street No. 66 (Lot 1) – Additions and Alterations to Heritage Dwelling

Applicant	John Chisholm Design
Owner	R R & J N Mfune
File ref	P001/2018; P/HUB66
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	6 March 2018
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Location plan 2. Photographs 3. Plans date stamped 19 January 2018

Purpose

This report considers a planning application for rear additions and alterations to the heritage dwelling at No. 66 Hubble Street, East Fremantle.

Executive Summary

The additions to the house are all to the rear and comprise a two storey extension to the existing cottage. The later additions to the rear of the original cottage have no heritage significance and a separate rear studio building and outdoor toilet will be demolished to allow for construction of the additions.

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

- Lot boundary setback (R-Codes);
- Visual privacy setback (R-Codes);
- Solar access for adjoining sites (R-Codes); and
- Roof pitch (Residential Design Guidelines).

It is considered the variations will not have a significant impact on the amenity of adjoining sites and can be supported subject to conditions regarding building materials, parapet walls and window treatments.

Background

Zoning: Residential R20

Site area: 254m²

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

16 May 2006: Building License issued for bathroom alterations.

21 December 2009: Building Permit issued for studio extensions.

6 June 2017: Alterations and additions to existing cottage, including two storey rear additions to the rear approved by Council.

Consultation

Advertising

The application was advertised to the surrounding land owners from 17 January to 2 February 2018. No submissions have been received. The adjoining strata owners have indicated in writing that they have no objection to the proposal.

Community Design Advisory Committee (CDAC)

This application was considered at the CDAC meeting of 1 May 2017. The fresh development approval application submitted in 2018 is a result of a review of project costs. The current proposal has not been altered to any great extent from the original proposal and is of a lesser scale in terms of building bulk and lot boundary setbacks. As such the application was not referred to the CDAC.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

LPS No. 3 Heritage List

Policy Implications

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

Municipal Heritage Inventory - 'B' Category

Fremantle Port Buffer Zone - Area 2

Financial Implications

Nil

Strategic Implications

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

"KEY FOCUS AREA 3: Built and natural environment

Aspiration: Our town is developing in harmony with our unique character within the fabric of the region's built and natural environment.

3.2 Maintain a safe and healthy built and natural environment

- Building control*
- Heritage planning*
- Identify and protect significant heritage buildings*
- Undertake projects to preserve the Town Hall precinct."*

Site Inspection

February 2018

Comment

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the Town's Local Planning Policies. 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	6.0m	As existing	A
Lot Boundary Setback	Northern elevation: 1.5m (LF) 1.2m (UF) Southern elevation: 1.5m (LF) 2.5m (UF)	1.145m – 1.5m (LF) 1.145m (UF) Nil (LF) 1.0m (UF)	D
Open Space	50%	55%	A
Outdoor Living	30m ²	~50m ²	A
Car Parking	1	As existing	A
Site Works	Less than 500mm	Less than 500mm	A
Visual privacy setback	Bedrooms >0.5m above NGL -4.5m	<4.5m	D
Overshadowing	≤25%	25.18%	D
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.18.3 Garages and Carports	N/A
3.7.15-20 Precinct Requirements	A

Building Height (R-Codes)	Required	Proposed	Status
Wall height (R-Code)	6.0m	3.1m- 5.3m	A
Ridge height (R-Code)	9.0m	5.9m (north) 5.3m (south)	A

The additions and alterations will comprise a two storey extension attached to the rear of the cottage. Two storey additions of a different design were granted approval in 2017. This application was greater in scale and bulk than the one currently proposed and involved the removal of the rear of the cottage. The current application involves less floor space and is attached to the rear of the existing cottage. It will comprise an entry, bathroom and family area on the ground floor and bedrooms on the upper floor. The connection to the existing cottage is via a living room. An alternate side entry to the dwelling is proposed where the ground and upper storey additions meet although this cannot be seen from the street. The front facade will remain unaltered. The construction materials will be synthetic weatherboard over a timber frame with a Zinalume roof.

Due to the narrowness of the lot (i.e. ~6m) compliance with a number of development standards is not possible. Despite the non-compliance it is considered there are no issues in respect to building bulk/scale impact because the adjoining owner to the north has an approval for a rear extension to that cottage with minimal setbacks from the lot boundary and the lot to the south has already been extended along that boundary. The applicant has therefore taken into consideration the overlooking and bulk/scale impacts of the extensions to each residence in an attempt to minimise the impact on each of the neighbouring lots. The adjoining owners have not raised any objection to the proposals either.

Lot boundary setbacks

The ground floor addition will be positioned along the southern side of the lot with a nil setback for the ground floor and a 1.0 metre setback for the upper floor. The dwelling is set back approximately 1.0 to 1.5 metres from the northern boundary.

The northern and southern lot boundary setbacks of the proposed extension do not meet the 'Deemed to Comply' provisions of the R-Codes. It is not realistic, however, to expect compliant setbacks to be achieved with a lot width of ~6.0 metres. The applicant has taken into account the existing site circumstances and the recently approved alterations and additions to the property to the north, as well as the positioning of the dwelling to the south and has tried to minimise the overlooking and the bulk/scale of the additions.

The 'Design Principles' of the R-Codes are considered satisfied in this instance as the additions do not unnecessarily contribute to building bulk on the adjoining lot, and whilst not being ideal in respect to light and ventilation to open spaces, there is still greater than 50% open space achieved on site and the overshadowing does not result in any more coverage of the lot than what is already in shadow on the lot to the south because of existing buildings or trees.

Visual privacy

The 'Deemed to Comply' provisions for Element 5.4.1 Visual Privacy of the R-Codes requires major openings which have their floor level more than 0.5 metres above natural ground level and positioned so as to overlook any part of any other residential property behind its setback line, to comply with the following:

- 4.5 metres in the case of bedrooms and studies;
- 6.0 metres in the case of habitable rooms, other than bedrooms and studies; and
- 7.5 metres in the case of unenclosed outdoor active habitable spaces.

The proposed development does not comply with the 'Deemed to Comply' provisions of the R-Codes for the bedroom windows on the upper level, however, the 'Design Principles' of 5.4.1 allows for:

P1.1 Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through: building layout, location; design of major openings; landscape screening of outdoor active habitable spaces; and/or location of screening devices.

P1.2 Maximum visual privacy to side and rear boundaries through measures such as: offsetting the location of ground and first floor windows so that viewing is oblique rather than direct; building to the boundary where appropriate; setting back the first floor from the side boundary; providing higher or opaque and fixed windows; and/or screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).

It is considered the location of the bedroom windows will not pose any major overlooking or reduction in privacy for the adjoining properties and as such is supported. The 'Design Principles' of Element 5.4.1 Visual Privacy of the R-Codes are considered satisfied in that there is no direct overlooking of active habitable spaces due to the orientation of the windows at the eastern and western ends of the building and as they will overlook roof spaces on each site. On such narrow lots with little or no setback for the buildings there is limited open space to overlook. No further screening is considered required in this instance with the exception of the north facing bedroom windows on the upper level which the applicant has indicated will be installed with obscure glazing. The glazing of the window will be imposed as a condition of planning approval. It is not considered necessary for the bedroom windows on the eastern and western elevations to be obscure glazing. The adjoining owners have not indicated an issue with the proposal to position windows in this location and these windows are the only light source for the rooms. As these rooms are very narrow it is considered important to allow as much light and ventilation as possible.

Solar access - overshadowing

A minimal amount of overshadowing of the property to the south will occur (i.e. 0.18%). This is another 6 metre wide lot. The adjoining owners have not objected in this circumstance as the overshadowing calculation includes the overshadowing from the existing residence and overshadowing from the addition will partly fall over a portion of the existing house which has a nil setback to the northern lot boundary.

Roof pitch

The roof pitch is non-compliant with the Residential Design Guidelines, however, in this circumstance the preference is for the design of the additions to be distinct from and not replicate the design elements of the original dwelling so the pitch variations are supported.

Heritage

The dwelling is categorised as Category 'B' on the Heritage List of the Planning Scheme. Overall the proposal is considered to acknowledge the heritage value of the property and in the main the variations from the R-Codes and the Residential Design Guidelines are considered to be of no significance for the neighbouring properties, or are acceptable in respect to extension and renovation of the heritage property. The dwelling still maintains the same presence and appearance as far as the streetscape is concerned and the additions which will be visible behind the original house are not considered intrusive as far as the streetscape is concerned, particularly given the lot is only 6.1 metres wide.

The proposed width of the new section of building is very narrow being less than 5 metres in width and will sit comfortably behind the envelope of the existing house as viewed from the street. Even though it is two storeys it is not on higher ground and the finished floor level of the additions will remain the same as the existing levels. Details of materials and finishes will be requested at Building Permit stage to ensure the Town is satisfied with the materials in respect to the heritage status of the property. A rear studio building and outdoor toilet will be demolished to allow for the additions and alterations to be constructed. There are no objections to the removal of these structures.

Conclusion

The application is supported as the alterations and additions are not considered to have a detrimental impact on the amenity of the surrounding properties and the extension work is of a scale that is respectful of the heritage dwelling, the existing streetscape and the Plympton Precinct. The application is therefore recommended for approval subject to conditions regarding construction materials, parapet walls and visual privacy.

11.2 OFFICER RECOMMENDATION

That Council exercise its discretion in granting planning approval to vary:

- (i) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit:
 - (a) a northern boundary setback of less than 1.5 metres (ground floor) and 1.2 metres (upper floor); and
 - (b) a southern lot boundary setback of less than 1.5 metres (ground floor) and 2.5 metres (upper floor);
- (ii) Clause 5.4.1 – Visual Privacy of the Residential Design Codes of WA to permit a visual privacy setback for bedroom windows (western and eastern elevation) of less than 4.5 metres to the northern and southern boundary;
- (iii) Clause 5.4.2 – Solar Access for Adjoining Sites of the Residential Design Codes of WA to permit overshadowing on the adjoining site to exceed 25% of the site area; and
- (iv) Clause 3.7.8.3 of the Residential Design Guidelines 2016 to permit a roof pitch and form of less than 28°,

for additions and alterations to the existing dwelling at No. 66 (Lot 1) Hubble Street, East Fremantle, in accordance with the plans date stamped received 19 January 2018, subject to the following conditions:

- (1) The details of construction materials, colours and finishes to be used to be to the satisfaction of the Chief Executive Officer and to be submitted at Building Permit application stage.
- (2) All parapet walls are to be of a suitable material to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
- (3) The upper floor bedroom windows on the northern elevation to be permanently installed with obscure glazing. The details to be indicated at Building Permit application stage.
- (4) If requested by Council within the first two years following installation, the metal 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.
- (5) 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.
- (6) 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.
- (7) 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.
- (8) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (9) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

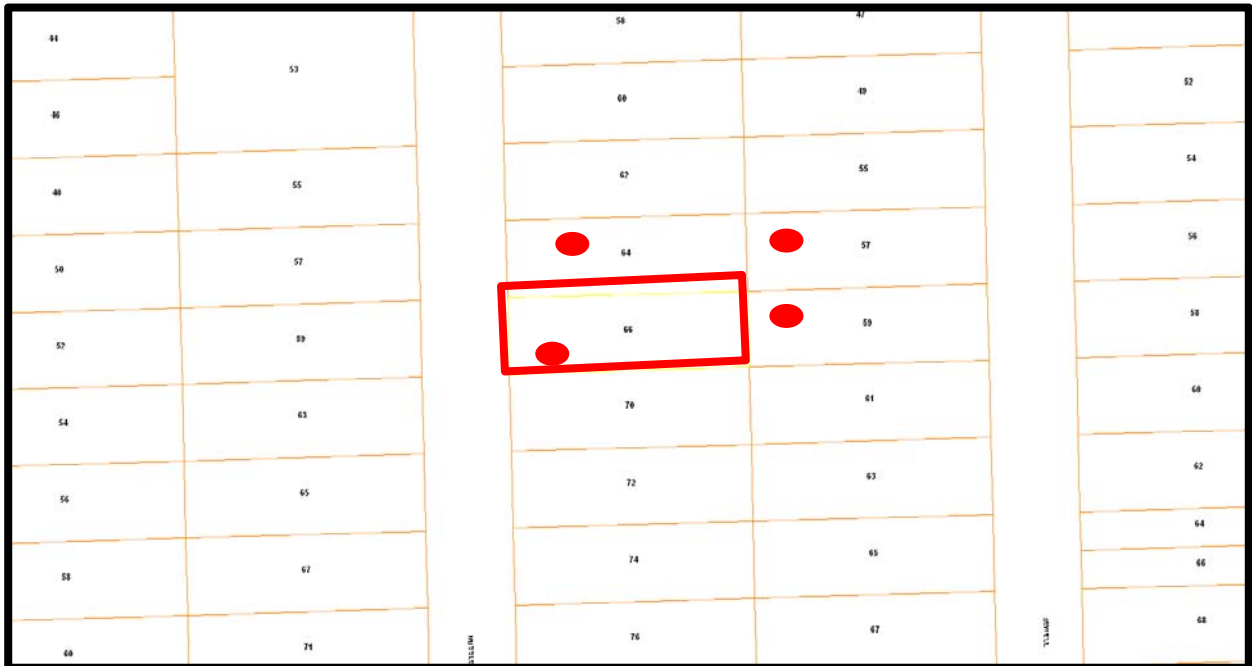
- (10) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant.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

Footnote:

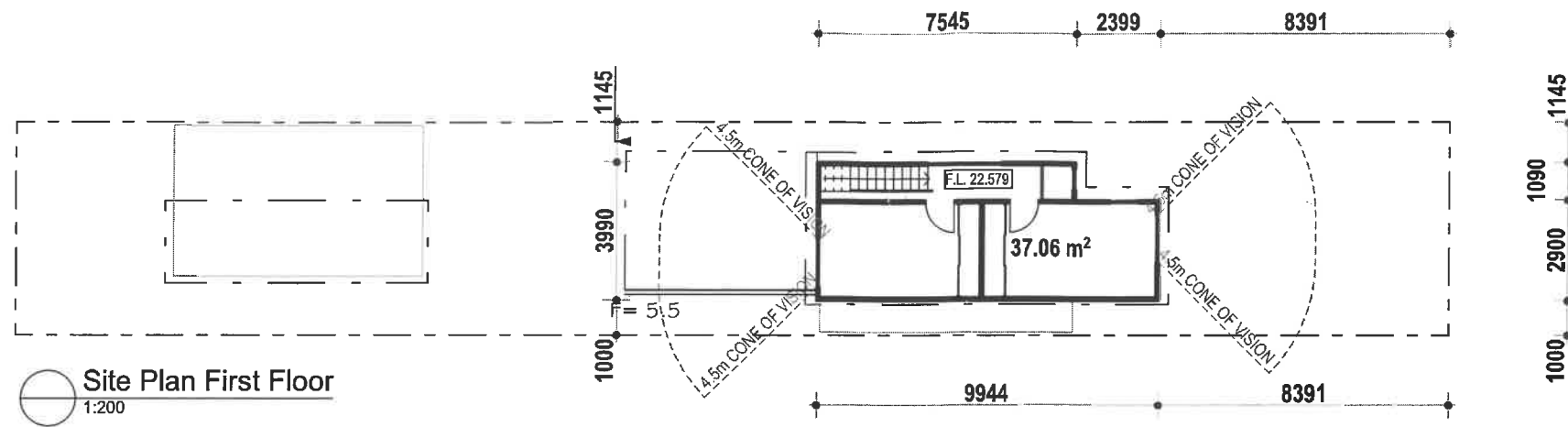
The following are not conditions but notes of advice to the applicant/owner:

- (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.*
- (v) *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".*

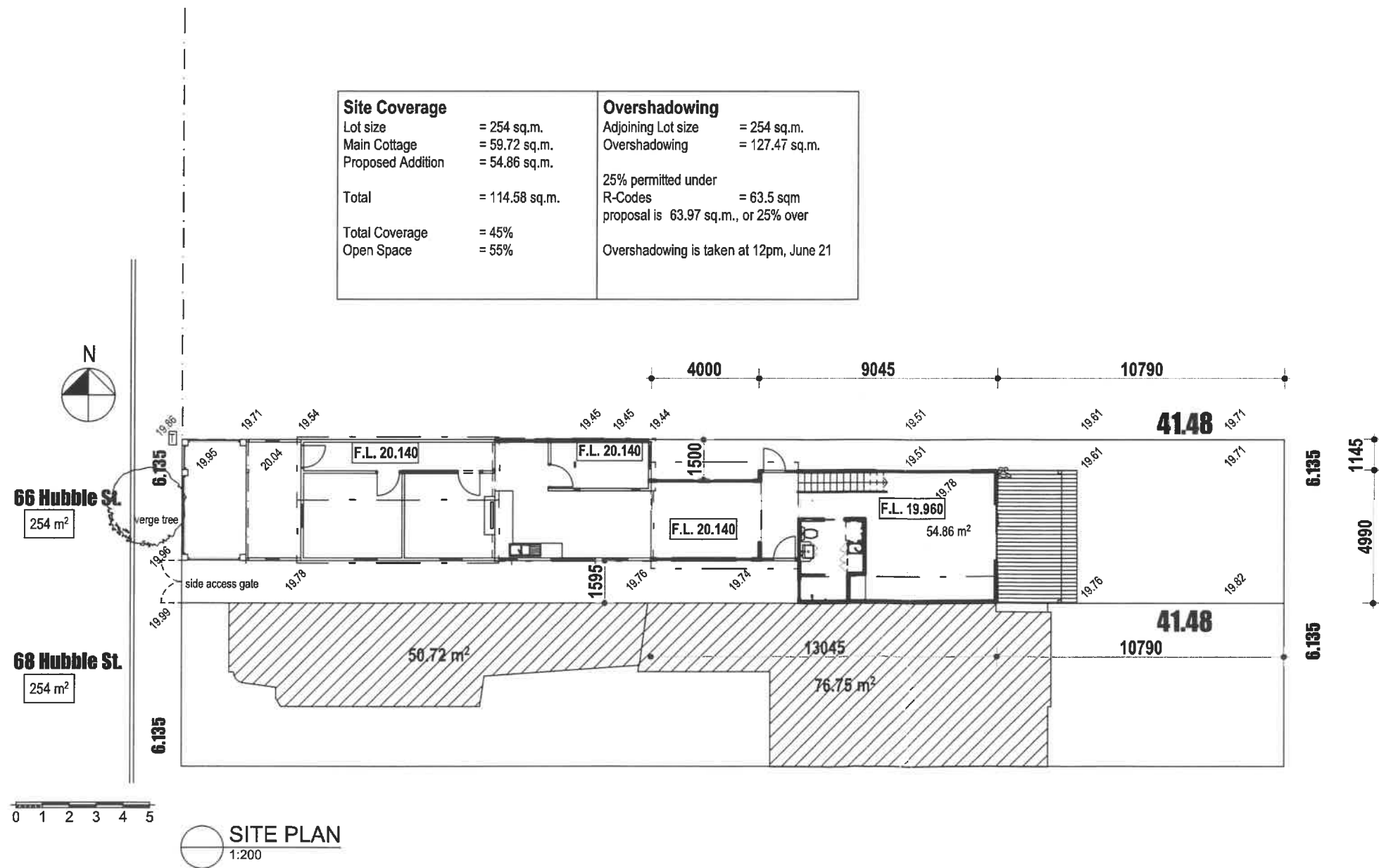
NO. 66 (LOT 273) HUBBLE STREET- P001/18- ALTERATIONS & ADDITIONS- CATEGORY B







Site Coverage		Overshadowing	
Lot size	= 254 sq.m.	Adjoining Lot size	= 254 sq.m.
Main Cottage	= 59.72 sq.m.	Overshadowing	= 127.47 sq.m.
Proposed Addition	= 54.86 sq.m.		
Total	= 114.58 sq.m.	25% permitted under R-Codes	= 63.5 sqm
Total Coverage	= 45%	proposal is	63.97 sq.m., or 25% over
Open Space	= 55%	Overshadowing is taken at	12pm, June 21



Town of East Fremantle
 19 JAN 2018
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REV.	AMENDMENT	DATE
3	issued for planning	17/1/2018
2	issued for planning	17/12/2017
1	issued for planning	14/3/2017

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 BUILDING DESIGN & VISUALISATION
 t. 9339 2224 m. 0408 833 399
 jc@ionchisholm.com www.ionchisholm.com

NATIONAL ASSOCIATION OF BUILDING DESIGNERS
 BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC.

Project:
Alterations & Additions
66 Hubble St.
East Fremantle

Drawing:
Site Plan

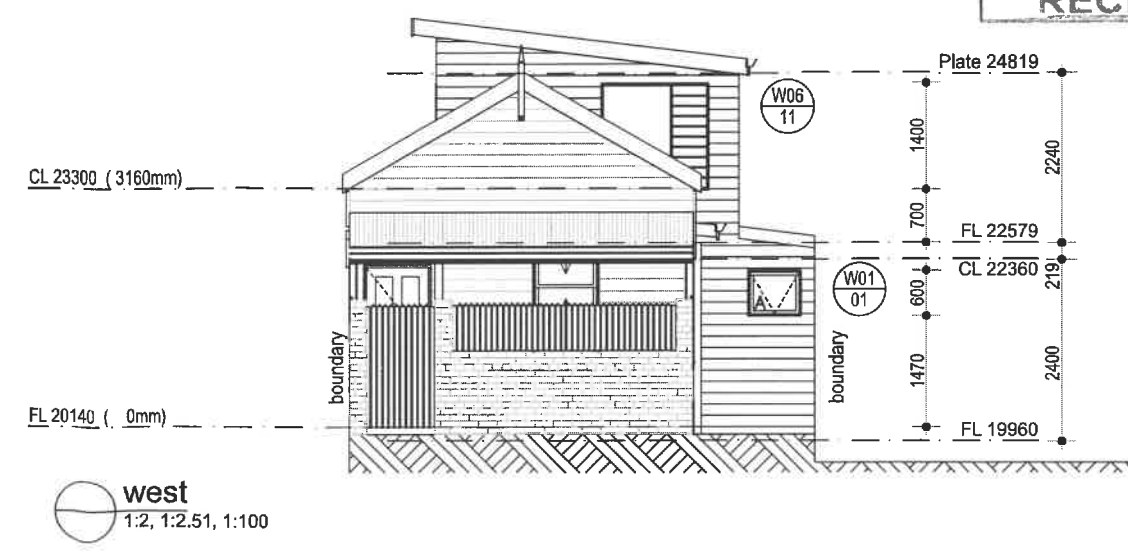
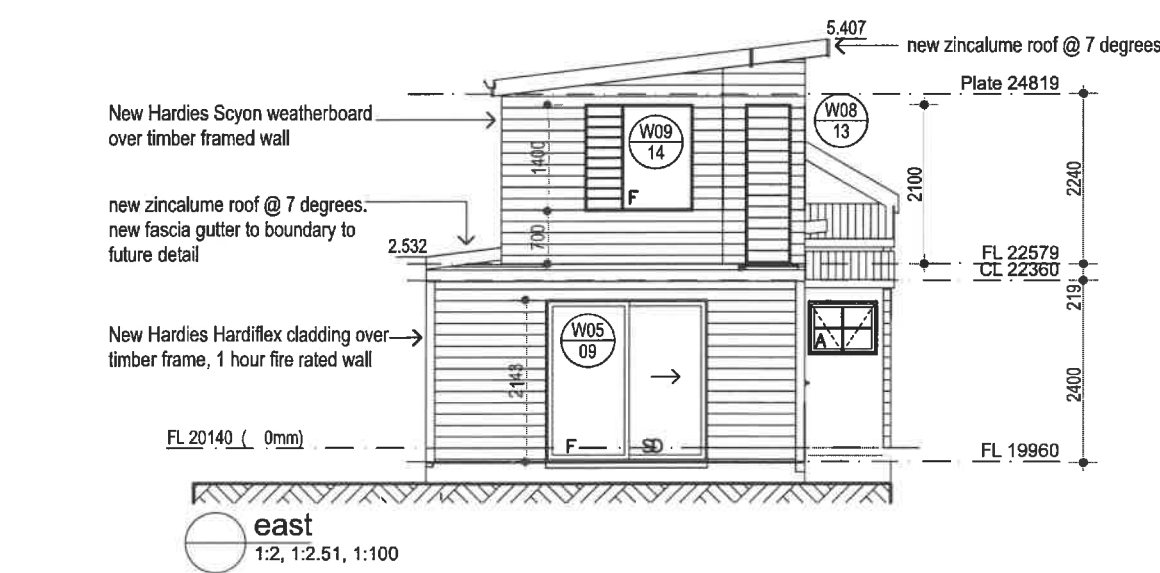
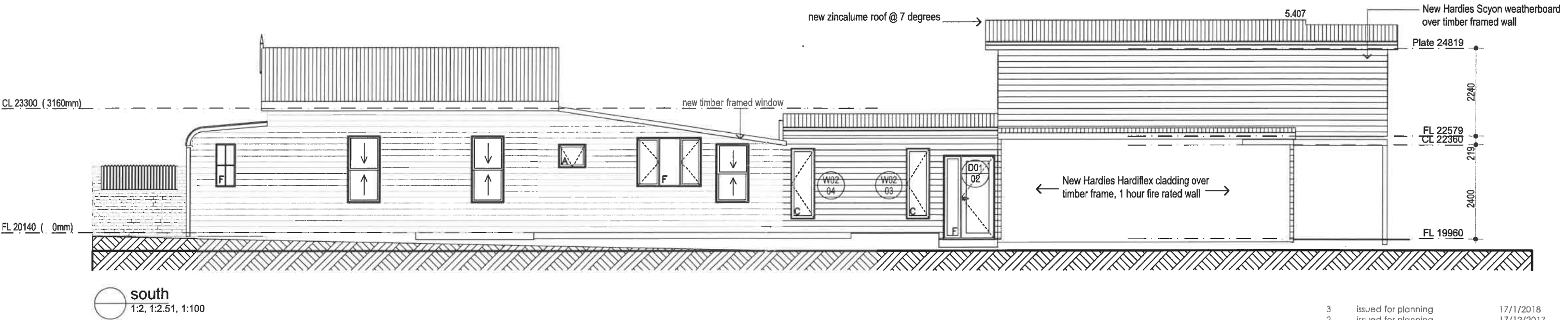
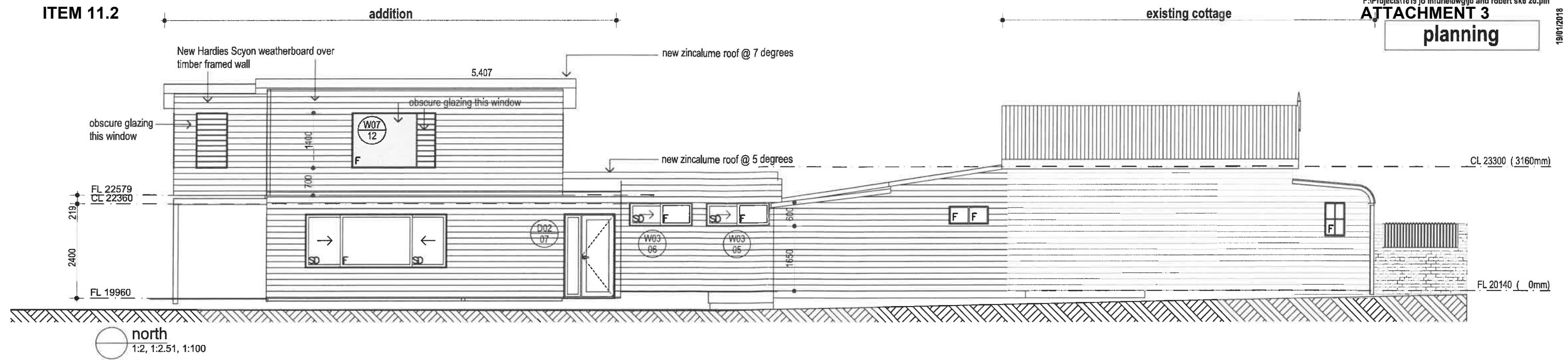
Date: 19/01/2018	Drwn: JC
Job No: 1619	Dwg No.: A101 Rev 3

The builder must verify all dimensions on **30** before commencing any work or shop dwgs.

ITEM 11.2

ATTACHMENT 3
planning

19/01/2018



REV	AMENDMENT	DATE
3	issued for planning	17/1/2018
2	issued for planning	17/12/2017
1	issued for planning	14/3/2017

Town of East Fremantle
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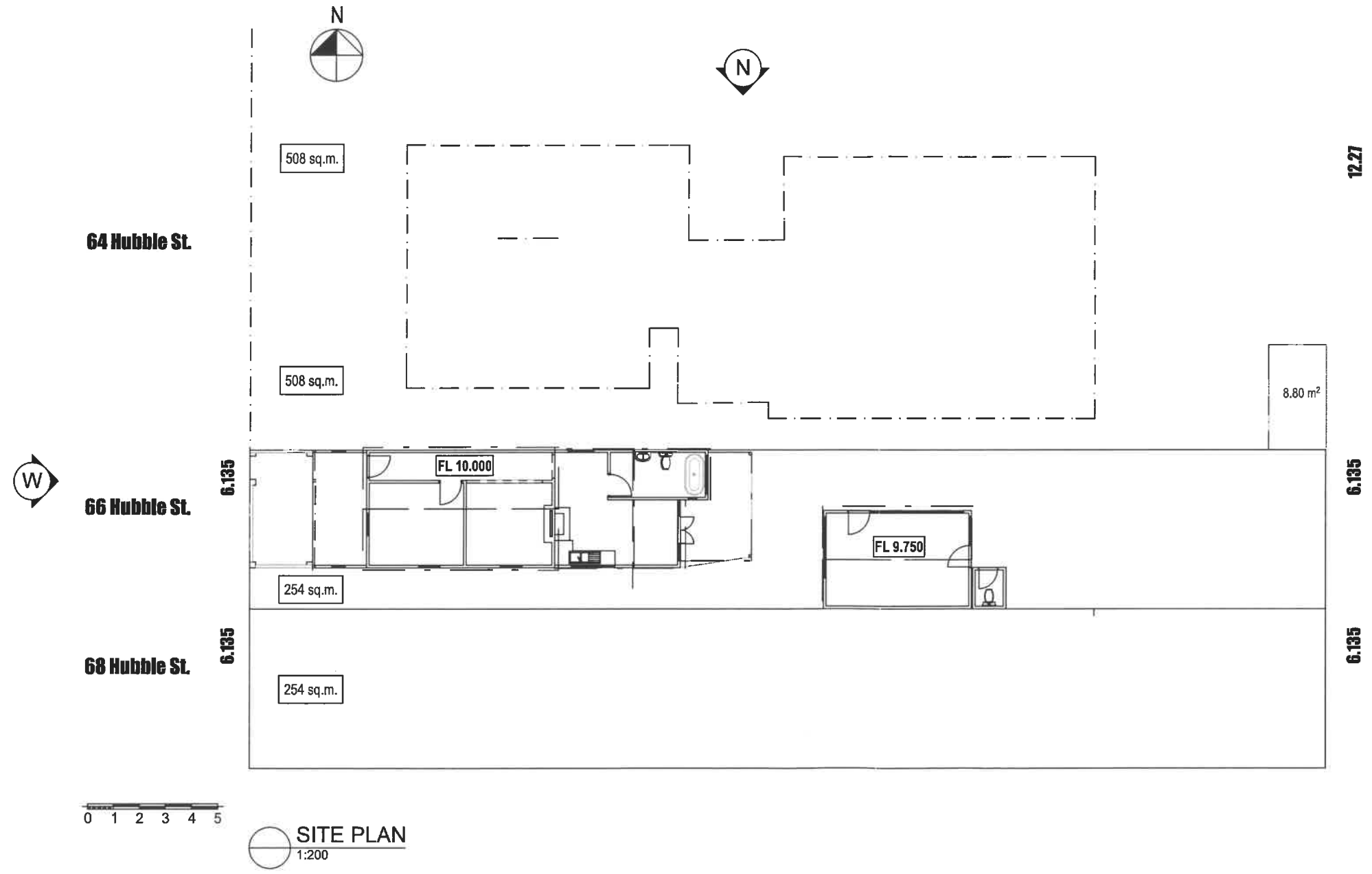


Project:
**Alterations & Additions
66 Hubble St.
East Fremantle**

Drawing:
Elevations

Date: 19/01/2018	Drwn: JC
Job No: 1619	Dwg No.: A301 Rev 3

The builder must verify all dimensions on site before commencing any work or shop dwgs.



Town of East Fremantle
 19 JAN 2018
 RECEIVED

1	issued for information	28/6/2016
REV.	AMENDMENT	DATE

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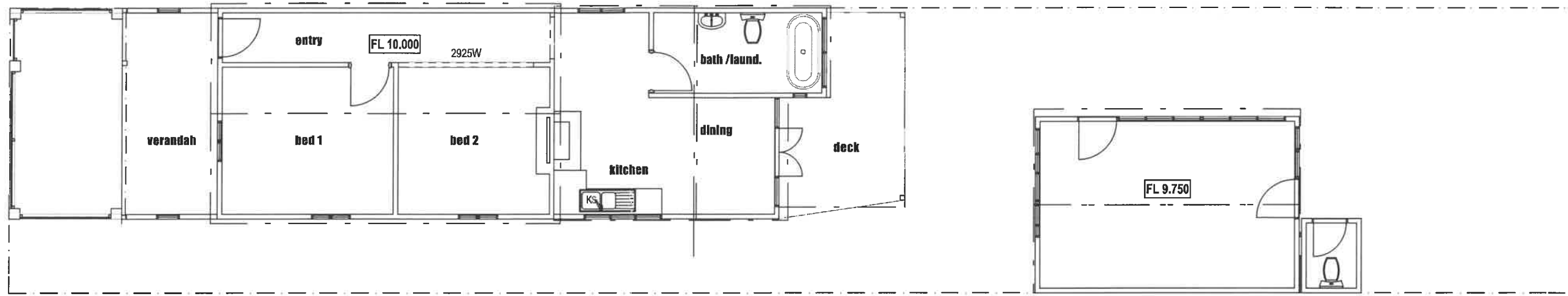
nabd NATIONAL ASSOCIATION OF BUILDING DESIGNERS
 BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC.

Project:
Alterations & Additions
66 Hubble St.
East Fremantle

Drawing:
Site Plan

Date: 28/06/2016	Drwn: JC
Job No.: 1619	Dwg No.: EX101 Rev 1

The builder must verify all dimensions on **33** before commencing any work or shop dwgs.



Plan
 1:100

Town of East Fremantle
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1	issued for information	28/6/2016
REV.	AMENDMENT	DATE

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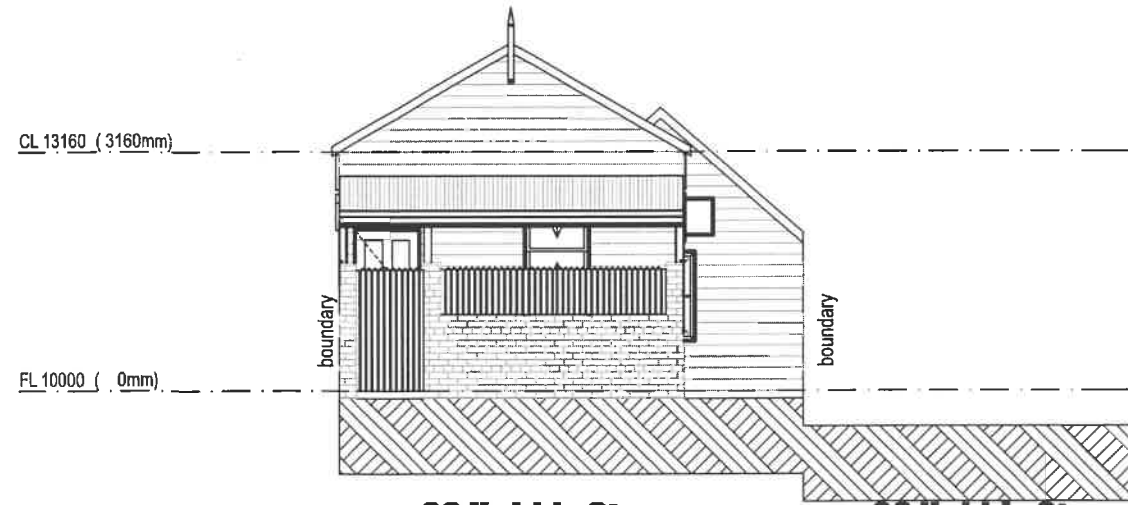
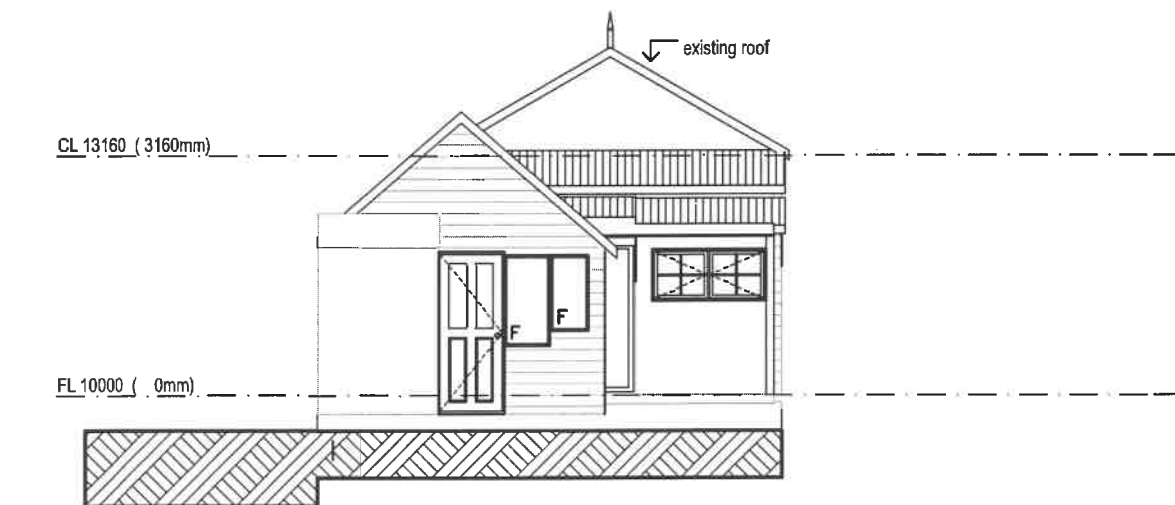
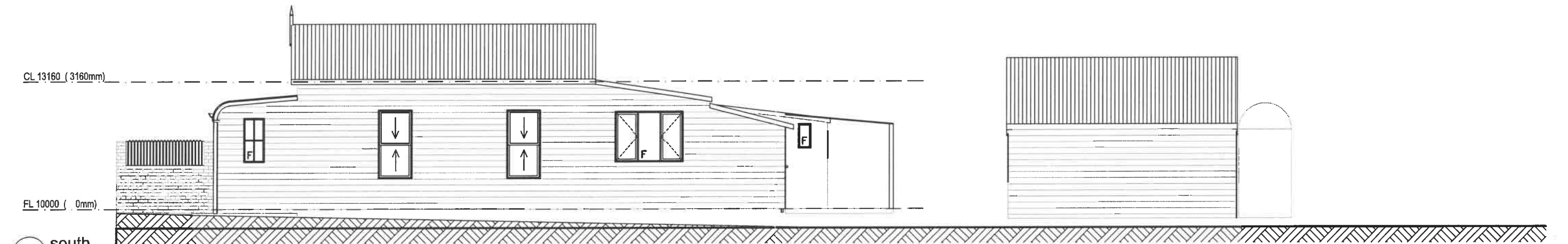
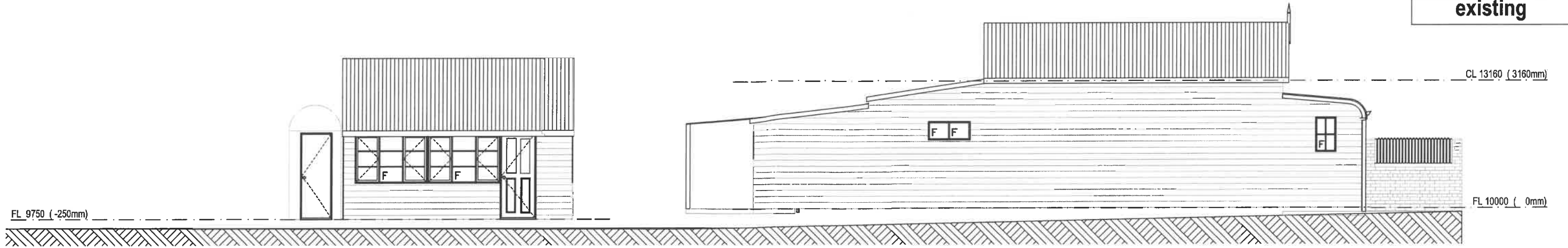
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Project:
Alterations & Additions
66 Hubble St.
East Fremantle

Drawing:
Floor Plan

Date: 28/06/2016	Drwn: JC
Job No.: 1619	Dwg No.: EX201 Rev 1

The builder must verify all dimensions on **34** before commencing any work or shop dwgs.



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Project:
Alterations & Additions
66 Hubble St.
East Fremantle

Drawing:
Elevations

Date: 28/06/2016	Drwn: JC
Job No: 1619	Dwg No.: EX301 Rev 1

The builder must verify all dimensions on site before commencing any work or shop dwgs.

11.3 Locke Crescent No. 12 (Lot 4993) – Additions and Alterations to an Existing Dwelling

Applicant/Owner	D Sargant
File ref	P/LOC12; P104/17
Prepared by	Andrew Malone, Executive Manager Regulatory Services
Supervised by	Gary Tuffin, Chief Executive officer
Voting requirements	Simple Majority
Meeting date	6 March 2018
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Location Plan2. Photographs3. Plans date stamped received 13 February 20184. Submissions5. Response to submissions6. Applicant's letter7. Additional plans/ information

Purpose

This report considers a planning application for additions and alterations to an existing dwelling at No. 12 (Lot 4993) Locke Crescent, East Fremantle.

Executive Summary

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

- Building height: height exceeds the 'Acceptable Development' provisions of the Residential Design Guidelines (maximum height 36.379 AHD);
- Impact to views; and
- Lot boundary setbacks: reduced setbacks to the south eastern boundary

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

Background

Council originally received a development application on 27 September 2017 for a proposed development (additions and alterations) comprising an upper floor for the full width of the existing dwelling. The proposal is for a bedroom, ensuite, balcony (upper floor) and internal modifications throughout the building. These plans were considered by the Community Design Advisory Committee. The proposed design (Mansard roof) was not supported and objections were received from adjoining neighbours.

The applicant subsequently submitted revised plans modifying the design of the upper floor and reducing the overall bulk and scale of the design. The amendment proposes a flat roof over the garage and reduced upper floor footprint. The upper floor additions have been set further back from the western boundary.

The applicant submitted a revised version of the plans to primarily address bulk and scale concerns raised during the initial advertising period and consideration by CDAC. The revision to the proposed design has resulted in an upper floor of a reduced bulk and scale and increased set back to the western boundary. The proposed upper storey section of the dwelling is still over height under the Town's Residential Design Guidelines. The proposed development does impact view corridors for adjoining neighbours. The impact from the proposed development will be discussed in detail below.

Consultation

Advertising

The application was advertised by letters to surrounding land owners on two separate occasions. The first period of advertising was between 3 October and 20 October 2017. Revised plans were submitted to Council. A second round of advertising was undertaken between 2 January and 19 January 2018. Eighteen (18) submissions were received during the submission period, of which twelve (12) were in support of the development and six (6) were opposed to the development. A further two (2) submissions were received after the closing of advertising opposing the development. All submissions were considered in the assessment of this application.

A summary of the submissions is attached and each submission is also attached for consideration.

Community Design Advisory Committee (CDAC)

This application was referred to the CDAC on two separate occasions.

The CDAC comments are as follows:

23 October 2017

Alterations and additions to existing dwelling

- (a) *The overall built form merits;*
- The Committee is not supportive of design elements in respect to the streetscape.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;*
- There is no roof-scape – it is not a Mansard roof.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
- Not a good design outcome or suitable for residential streetscape.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- The Committee do not support the over height component of the design or the scale and bulk of the building in respect to the residential streetscape.
- (e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*
- No further comment required.
- (f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;*
- No further comment required.

5 February 2018

Amended plans for alterations and additions to existing residence.

- (a) *The overall built form merits;*

-
- The modified design of the front façade is considered to have less impact than the previous proposal.
 - The design is considered to be in keeping with the other building designs within the area.
 - Reasonable proposition for the area.
 - The applicant is considered to have addressed the previous concerns of the Committee in respect to design and streetscape.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development.*
- No comment.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
- No comment.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- No comment.
- (e) *The extent to which the proposal is designed to be resource efficient, climatically appropriate, responsive to climate change and a contribution to environmental sustainability;*
- No comment.
- (f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places;*
- No comment.

In light of the above comments and design modifications, the applicant is considered to have addressed the Committee’s initial concerns. The matters raised have been given careful consideration in the assessment of the application and are also discussed in depth in the Statutory Assessment section of this report.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

Town of East Fremantle Local Planning Scheme No. 3

Policy Implications

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

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.*

Site Inspection

November 2017 / February 2018

Comment

LPS 3 Zoning: Residential R17.5

Site area: 706m²

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	7.5m	7.5m	A
Lot Boundary Setback	2.2m Level 3 (east)	1.7m	D
Open Space	50%	72%	A
Car Parking	2	2	A
Site Works	Less than 500mm	As existing	A
Retaining Walls	Greater than 500mm and closer than 1m from lot boundary	As existing	A

Overshadowing	25%	9.1%	A
Drainage	On-site	On-site	A

Local Planning Policy Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	D
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	N/A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.18.3 Garages, Carports and Outbuildings	N/A
3.7.15-20 Precinct Requirements	D

Note: For the purposes of assessment the proposal does not comply with the Acceptable Development provisions of Clause 3.7.2 of the Residential Design Guidelines as detailed in the above table, however it is noted that this section, corresponding illustrations and design requirements are primarily intended for 'contributory' buildings to ensure additions and alterations are appropriate in areas where heritage architecture/ character forms a distinctive feature for that Precinct, retaining the 'traditional' forms of that Precinct.

The term 'Contributory Building' is defined in the RDG:

A building that appears on the Town of East Fremantle's Municipal Heritage Inventory.

The term 'traditional' is also defined in the RDG:

Traditional means the predominant historical development type in areas where there is precinctual heritage value.

The proposed development has been assessed against the 'Performance Criteria' of Clause 3.7.2 and is considered to comply, as the locality as a whole has limited precinctual heritage value. There are no Planning Scheme heritage listed or Municipal Heritage Inventory listed dwellings in the surrounding streets to the subject lot.

Guiding Legislation

The Residential Design Codes (R-Codes) state:

All residential development is to comply with the requirements of the R-Codes. Approval under and in accordance with the R-Codes is required if the proposed residential development:

- (a) does not satisfy the deemed-to-comply provisions of Parts 5 and/or 6 of the R-Codes as appropriate; or*
- (b) proposes to address a design principle of Parts 5 and/or 6 of the R-Codes which therefore requires the exercise of judgement by the decision-maker.*

The R-Codes continues:

Subject to clauses 2.5.2 and 2.5.3, the decision-maker is to exercise its judgement to consider the merits of proposals having regard to objectives and balancing these with the consideration of design principles provided in the R-Codes.

The decision-maker, in its assessment of a proposal that addresses the design principle(s), should not apply the corresponding deemed-to-comply provision(s).

In assessing this application, the Council should also have regard to the Residential Design Guidelines (RDG), which states:

This Local Planning Policy builds on the development requirements (Acceptable Development and Performance Criteria) of State Planning Policy 3.1 'Residential Design Codes', in order to ensure consistency between State and Local Planning Policy approaches in conserving the character and amenity of the Policy Area. Relevant provisions of State Planning Policy 3.5 'Historic Heritage Conservation' have also been included in this Policy where appropriate.

.....the provisions of this Local Planning Policy augment the Codes by providing additional Performance Criteria and Acceptable Development provisions for aspects related to heritage, streetscapes, building design/appearance, boundary walls, site works, building heights and external fixtures.

In relation to the definitions as outlined in the Residential Design Guidelines, various roof forms are defined including pitched, hipped, gambrel and gable roof forms. For the purposes of clarity, the Planning Department contacted the Department of Planning, Heritage and Lands to seek clarity on definitions. The Department has stated:

In our opinion, a skillion roof should be assessed as a 'concealed roof', and therefore should be assessed against Category B, row 2, unless otherwise stated in the Scheme, LPP LSP or LDP.

As you have outlined, a skillion roof does not have a pitch, and therefore, it cannot be considered a 'pitched roof'.

The RDG states the following for a pitched roof:

The commonest roof usually one with two slopes at more than 20° to the horizontal, meeting at a central ridge. It may have gables or hips.

In this instance the flat section of the proposed roof (5 degree pitch) has a return pitch and therefore cannot be assessed as a flat or skillion roof, as the front section of the pitch is 75 degrees. It is considered this section of roof cannot be assessed as a wall. It is noted, however that the roof form has an unorthodox pitch and form of 75 and 5 degrees and gable ended walls to the east and west that does not conform with the RDG definitions.

Building height

The R-Code provisions in respect to building height are substituted by the height control under the Residential Design Guidelines. The Acceptable Development Provisions Clause 3.7.17.4.1.3 states that:

In localities where views are an important part of the amenity of the area and neighbours' existing views are to be affected or the subject site is a 'battle axe' lot, then the maximum building heights are as follows:

- 8.1 metres to the top of a pitched roof;
- 6.5 metres to the top of an external wall (concealed roof); and
- 5.6 metres to the top of an external wall and where the following apply.
 - (i) *the proposal demonstrates design, bulk and scale that responds to adjacent development and established character of the area or other site specific circumstances;*
 - (ii) *the provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped and ;*
 - (iii) *subject to the 'Acceptable Development' standards of the R-Codes – Element 9 – Design for Climate and |Element 8 – Privacy being met.*

The proposed roof does not conform to the various roof definitions of the Residential Design Guidelines. However it is noted the proposed roof form as detailed above, does appear to be consistent with the statement as detailed above from the Department of Planning Heritage and Lands. The applicant and the objectors have indicated differing views on the required assessment of the roof. However, it is not necessary to define the roof form as the development is to be assessed under 'the Performance Criteria' only, as it does not comply with the 'Acceptable Development' provisions.

Notwithstanding any prescribed roof heights as detailed above, the proposed roof form does not comply with any of the 'Acceptable Development' height requirements as required under the RDG and therefore is required to be assessed against the 'Performance Criteria'. The proposal is located in an area where established roof forms are varied. Within the area there are flat roofs, pitched, skillion roof, curved roofs and at least one Mansard roof. In this circumstance non-compliance with the 'Acceptable Development' provisions with the height limit must be assessed in respect to the 'Performance Criteria' of the Residential Design Guidelines.

Performance Criteria

The proposed development does not comply with the provisions of the 'Acceptable Development' Provisions Clause 3.7.17.4.1.3. If the roof form does not conform to any of the defined roof types and exceeds the 'Acceptable Development' height limit requirements, then Council is required to assess the development under the 'Performance Criteria' provisions of the RDG.

The Performance Criteria Clause 3.7.17.4.1.3 P1 states:

New developments, additions and alterations to be of a compatible form, bulk and scale to traditional development in the immediate locality.

In the Richmond Hill Precinct, there are no significant predominant precinctual heritage values, as only a very small number of heritage dwellings are listed in the Precinct and no heritage dwellings are located in the vicinity of the subject lot. Within the immediate vicinity (Woodhouse Road, Locke Crescent, Habgood Street, Chauncy Street and Munro Street) there are no heritage listed or municipal heritage inventory listed dwellings. Therefore the term 'traditional' in the context of the immediate vicinity is not relevant as there is no identified heritage value in this area. There are a total of 39 heritage (heritage listed or municipal inventory listed) properties in the whole locality of the Richmond Hill Precinct, a low number of dwellings as compared to the total number of dwellings in the Richmond Hill Precinct. Other areas, such as the Richmond, Woodside and Plympton Precinct have a significant number of heritage dwellings. Those areas have established heritage development types and established character and

heritage value, therefore establishing a traditional character for the area, which can be referred to when assessing development applications under Clause 3.7.2 of the RDG.

In this instance, the development proposal should be assessed against the prevailing built form of the area, which mainly consists of contemporary new dwellings. Much of the housing stock has been redeveloped with larger additions and alterations or new dwellings. There is no consistent architectural style or era for these streets. There is a mix of single, two storey and two storey and undercroft dwellings which have been modified to conform to design trends popular at the time of redevelopment.

The development type of dwellings in the immediate locality around the subject property vary widely in architectural design and style. A significant number of these properties, specifically where views are available have been modified to include substantial additions and alterations or redeveloped with new large dwellings to take advantage of view corridors. The majority of recent development types in the area are contemporary in design and therefore in the Richmond Hill Precinct it is considered there is no prevailing development type. Richmond Hill is characterised by sloping sites, large dwellings, and varied architectural styles/ design. The proposed additions and alterations are comparable to the existing development form of the locality, notwithstanding the immediate neighbouring developments.

Building height, bulk and scale

As the subject site slopes away from the front (Locke Crescent) of the lot toward the rear (Preston Point Road), the building height is at its highest point towards the front of the lot, some 11 metres into the site.

The proposed height to the top of ridge is 36.379 AHD, a height variation to the Acceptable Development provisions of the RDG of:

- *0.642 metres (maximum height) from the 8.1 metres to the top of a pitched roof;*
- *2.2 metres (maximum height) from the 6.5 metres to the top of an external wall (concealed roof); and*
- *3.14 metres (maximum height) from the 5.6 metres to the top of an external wall and where the following apply.*

Council is not required to determine the style of roof proposed or to categorise the proposed roof as one of the types mentioned above. It is required, however, to assess the development under the 'Performance Criteria' provisions in the first instance and having determined it does not comply then proceed to consider the proposal regardless of roof form under the Performance Criteria.

When the dwelling height is calculated from the street boundary AHD, there is a perceived height of 7.8 metres from a 28.5 AHD (ground level) adjoining the front boundary. The slope steps down from this point to the rear of the lot and therefore the maximum total height increases as the gradient of the lot decreases. The site has been partially excavated and filled. The highest points of the dwelling are located 11 metres into the lot. The lot has a total fall of 2.88 metres from the front boundary to the rear of the lot.

There will be an impact and loss of views for the south eastern property, specifically No. 7 Locke Crescent, an approved predominantly two storey dwelling with additional partial undercroft garage. Both the applicant and the owner of No.7 Locke Crescent have provided streetscape and view corridor analysis. Both sets of analysis indicate an impact to No. 7 Locke Crescent, however the assessment of this application is not assessed based on a loss of water views, but is also assessed against the form, bulk and scale of the development compared to the locality.

The proposal presents as a design that is consistent with the varied architectural style of the area. The development is of a design, bulk and scale that responds to recent developments constructed or approved in the surrounding locality, and that of some of the older dwelling stock in the locality. The immediate properties in the locality have a mix of flat and pitched roofs, therefore due to the architectural style of dwellings the form of the streetscapes will vary in bulk, scale and height. A pitched roof and flat roofed development establish different massing on a streetscape, therefore to limit an assessment to only the immediate neighbours will not provide a locality context. The bulk, scale and height of dwellings in surrounding streets vary depending on the design and slope of a site. The upper floor addition is consistent with other such additions in the locality, where the higher level of the dwelling does not span the full width of the lot. Indeed, some of the older housing stock in the area (developed prior to the introduction of recent development standards) is developed to heights that exceed current building height requirements. The introduction of current standards was in response to the development or redevelopment of some of the older building stock in the area of the Richmond Hill Precinct.

The proposed height of the additions to top of ridge is 36.379 AHD (8.43 metres east elevation and 8.74 metres west elevation above natural ground level due to the sloping nature of the lot). The proposed design whilst exceeding the 'Acceptable Development' provisions of the RDG, will present to the street as two storey with undercroft garage (the front of the lot towards the pedestrian entrance has been filled. However from a streetscape perspective the dwelling is consistent with the other two storey with undercroft dwellings in the area. It is therefore considered the proposed additions are comparable with the prevailing built form, bulk and scale of the locality.

The height, bulk and scale of dwellings in the locality as discussed does vary, however most dwellings, in an attempt to maximise views and view corridors are large, utilising existing levels to maximise development potential. In this regard the proposed design is considered consistent with the design, height, bulk and form of dwellings in the locality.

Loss of Views

The predominant objection to this development is related to the loss of views in respect to the overall building height of the additions.

Clause 3.7.17.4.1.3 states that *where views are an important part of the amenity of the area and neighbours' existing views are to be affected, amongst other things, the following matters are to be considered:*

- (i) the proposal demonstrates design, bulk and scale that responds to adjacent development and established character of the area or other site specific circumstances;*
- (ii) the provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped and ;*
- (iii) subject to the 'Acceptable Development' standards of the R-Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

Points (ii) to (iii) in this instance are considered satisfied.

The merit of the proposal is to be assessed against whether the development responds to adjacent development and established character of the area in respect to form, bulk and scale.

Assessed in detail, the immediate neighbouring properties are reviewed as follows:

No 10 Locke Crescent: The original approval and the amended height approval is a consequence of the steeply sloping lot (3.0 metre fall). The original approval required a variation to the 'Acceptable

Development' provisions height limits of the RDG at the rear of the building (from 6.5m to 8.5m). The proposed amendment required a further discretion as the maximum height proposed was 9.15 metres (2.65 metres discretion to a concealed roof) at the rear of the lot and 6.7 metres at the front (streetscape of the lot). The proposed building modifications required a 0.2 metre height variation to the front elevation (streetscape elevation). The proposed height variation at the time was considered not to have a significant negative impact to the streetscape or adjoining neighbour. An amended application for this proposal was refused by Council, mediated at the State Administrative Tribunal (SAT) and approved by Council under a Direction 31 by the SAT.

No 14 Locke Crescent: The application was approved in 1999 prior to the introduction of the Residential Design Guidelines. The lot was excavated approximately 0.7 metres at the garage on the south eastern (front of the lot) and 0.1 metres to the south west. The overall dwelling height is approximately 0.4 metres below the maximum height permitted above natural ground level.

No. 12 Locke Crescent: The existing dwelling has a maximum height of 7.3 metres to top of roof ridge at the rear of the dwelling, 0.8 metres below the maximum 'Acceptable Development' height requirements for a pitched roof. The height reduces to the front of the dwelling where at the garage, the existing height is 6.9 metres above the natural ground level, approximately 1.2 metres below the 'Acceptable Development' height requirements.

Attachment VC1 to VC8 (streetscape and view corridor montage) of the applicant's attachments demonstrates the addition whilst partially out of scale with the immediate neighbouring structures cannot be viewed in isolation as No. 14 is excavated at the front of the lot by 0.7 metres and therefore is located below the maximum height provision of the 'Acceptable Development' provisions of the RDG and No. 10 is a flat roof (discretion approved), a distinct roof form assessed under the flat roof provisions of the RDG (6.5 metres). The proposal is not out of scale with other recent dwellings in the locality and larger scale developments in surrounding streets.

Assessed on a wider scale, the proposed additions are considered consistent with other dwellings/ additions in the surrounding streets, including the recent new development approvals on the street, notwithstanding other recent development in the surrounding locality. The proposed design of the upper storey addition is consistent with the prevailing front, rear and side setbacks of the area (notwithstanding the zoning permits a reduced front street setback with the recent change in zoning from R12.5 to R17.5). The development provides in excess of 70% open space. Notwithstanding, height, bulk and scale is assessed as per setbacks, open space and other amenity provisions such as solar access, overshadowing and ventilation. In this instance, the proposed development is consistent with the prevailing setbacks and open space requirements of the locality and therefore is not considered to be excessive in form, bulk and scale.

The proposed additions and alterations are considered to be in keeping with the overall built character and scale of dwellings in the locality considering the varying natural ground level and roof forms in the area. Notwithstanding the proposed roof form and overall height, the development assessed against the immediate adjoining lots which consist of two flat roofs, a single storey dwelling and a pitched roof dwelling (excavated into the lot) is considered consistent with the immediate built form.

As noted above the dwelling is designed within the setback requirements for the front, rear and side (western) building setback as required by the R-Codes (eastern boundary discussed below) and the Residential Design Guidelines from the Locke Crescent perspective. Solar access and privacy are not considered issues either.

The greatest impact on views will be for the property at No. 7 Locke Crescent. The balcony at No. 7 Locke Crescent is at 34.748 RL at AHD level. The ridge height of the proposed roof is 36.379. A person standing on the balcony will have views down to the river blocked, however views to the city and across to surrounding suburbs will be maintained. The applicant believes some views will be gained through the removal of the pitched roof for No. 9 Locke Crescent, however this will not assist the view corridor for No. 7 Locke Crescent. No. 5 Locke Crescent will be impacted also, however to a lesser degree.

Whilst the Residential Design Guidelines 'Acceptable Development' provisions take views into account in the overall assessment of the application, the protection of every aspect of a private view cannot be guaranteed. The development provisions in place at a particular time apply to all land owners at the time an application is assessed. Each case needs to be assessed on its merits and the technical assessment of the application in respect to the current residential development policies. The provision in the Residential Design Guidelines which addresses the issue of views specifically states that where views are to be affected then the issue of building height is one of the considerations. The Guidelines, however, do not specify that the height of the building is to be controlled or determined on the basis of protecting existing views of surrounding land owners.

There are no provisions which state the building must be designed so as not to block or limit existing views of current residents. As already noted the Guidelines and the R-Codes would allow for a dwelling to be developed on this lot with a larger building footprint, setback 6 metres from the front boundary (currently in excess of 7.5 metres), which would further increase the bulk and scale of the dwelling and therefore impact views. The existing dwelling has a height of 7.3 metres to the top of the roof at the rear roof level, 0.8 metres below the current maximum 'Acceptable Development' height requirements.

Lot boundary setbacks

The lot boundary setback to the south eastern section of the upper floor does not comply in respect to the side boundary setback requirements. Due to design changes the required setback for the south eastern boundary is 2.2 metres. The proposed setback is 1.7 metres to the upper floor (upper deck), therefore there is a 0.5 metre variation to the 'Deemed to Comply' provisions of the R-Codes.

The proposed front and rear setback is proposed as existing and is considered sufficient to provide a 'Deemed to Comply' compliant setback, whilst providing private open space, drying space and landscaped areas to the rear. The south western set back is also compliant with the 'Deemed to Comply' provisions of the R-Codes.

The side lot boundary setback is non-compliant as noted in the R-Codes summary assessment table above. The additional wall height has increased the required south eastern set back requirements. The upper floor is proposed on the existing external wall, therefore existing side views will be maintained. The reduced setback to the upper floor is considered to have minimal impact on the amenity of the adjoining lots and maintains existing side views. The reduced roof height to the south western boundary reduces any perceived bulk and scale issues. Whilst the 'Deemed to Comply' setback provisions are not achieved the 'Design Principles' of the R-Codes are considered satisfied as the building does not unnecessarily contribute to excessive building bulk on the adjoining lot at No. 10 Locke Crescent. The proposed dwelling provides for adequate sun (overshadowing is compliant with the 'Deemed to Comply' provisions) and ventilation to open spaces to the adjoining property compliant to the acceptable limits for the R-Code. The 'Design Principles' of 5.1.3 P3.1 of the R-Codes are considered satisfied.

Planning and Development (Local Planning Schemes) Regulations 2015

Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 *Matters to be considered by Local Government* outlines the considerations a Local Government is to have due regard

to when assessing an application for development approval. Clause (m), (n) and (x) of the Regulations, are of particular relevance to this application and states as follows:

- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) the amenity of the locality including the following — (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development;*
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*

In assessing the proposed development, all submissions have been considered and are included as an attachment to this report for consideration by the Elected Members. The objections relate to building height, bulk, scale and loss of views.

As discussed within this report the proposed development, whilst over height with regard to the 'Acceptable Development' provisions of the Residential Design Guidelines, when assessed against the 'Performance Criteria', the proposal is considered to satisfy the 'Performance Criteria' in that it is considered to be comparable with other such development in the locality as a whole.

There are amenity impacts, specifically relating to the approved development at No. 7 Locke Crescent regarding loss of river views, however views to the river will be available, although restricted to the side corridors of the development. The Guidelines, do not specify that the height of the building is to be determined on the basis of protecting existing views of importance to surrounding land owners.

The property at No. 7 Locke Crescent will still maintain city views and extensive views to surrounding suburbs. River views will be impacted on individual properties, however other views of significance/ importance will be significantly maintained for surrounding properties. The impact on amenity is primarily related to views, however the impact is difficult to assess particularly as it is a matter of degree of impact. The RDG do not specifically state all views have to be maintained or remain unobstructed. As indicated the property at No. 7 Locke Crescent does have river views through the side of the proposed development, city views, river views through other properties and views to surrounding suburbs. The residential amenity and liveability of particular properties relating to solar access, overshadowing and ventilation within the locality will not be significantly impacted, therefore the amenity impact on the locality is considered minor.

The proposed development when assessed under Clause (m) is considered to be comparable with the locality as a whole. The built form of the area is primarily two storey or two storey with undercroft. The proposed development is two storey with undercroft and therefore the design is consistent with the architectural form of the locality.

Conclusion

Given the above comments the application is recommended for approval subject to conditions. The development is considered to be of a form, bulk and scale that is consistent with both older and newer housing stock in the area, that of a two storey dwelling with undercroft. The proposed development is considered to comply with the 'Design Principles' for setbacks. There are no open space, solar access, overshadowing and ventilation issues. Therefore the development as a whole is not considered of a form, bulk or scale that would have a detrimental impact to immediate adjoining properties and to the locality as a whole.

The development will have an impact to the view corridor of No. 7 Locke Crescent, however assessed as per the 'Performance Criteria' of the RDG and the 'Design Principles' of the R-Codes the intent of the design is comparable to other developments in the locality and therefore the proposal is recommended for approval subject to conditions.

11.3 OFFICER RECOMMENDATION

That Council exercise its discretion in granting planning approval to vary:

- (i) Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit a lot boundary setback of 1.7 metres (upper floor) – required setback 2.2 metres;**
- (ii) Clause 3.7.17.4.1.3 – Building Height, Form, Scale and Bulk of the Residential Design Guidelines 2016 to allow a building height of 8.742 metres above natural ground level (AHD 36.379) as set out in Clause A1.4**

for additions and alterations to an existing dwelling with undercroft garage at No. 12 (Lot 4993) Locke Crescent, East Fremantle, in accordance with the plans date stamped received on 13 February 2018, subject to the following conditions:

- (1) Maximum height of the dwelling at any point on the lot is not to exceed AHD 36.379.**
- (2) The permanent installation of a visually non-permeable screen on the eastern elevation of the upper deck to be in compliance with clause 5.4.1 C1.1 (ii) of the Residential Design Codes of WA.**
- (3) No modification to the crossover is approved. Any new crossovers which are constructed under this approval are to be a maximum width of 5.0 metres and the crossover to be constructed in compliance with Council's Residential Design Guidelines 2016.**
- (4) 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.**
- (5) 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.**
- (6) The proposed works are not to be commenced until Council has received an application for a Demolition Permit (where required) and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- (7) 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.**
- (8) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
- (9) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**

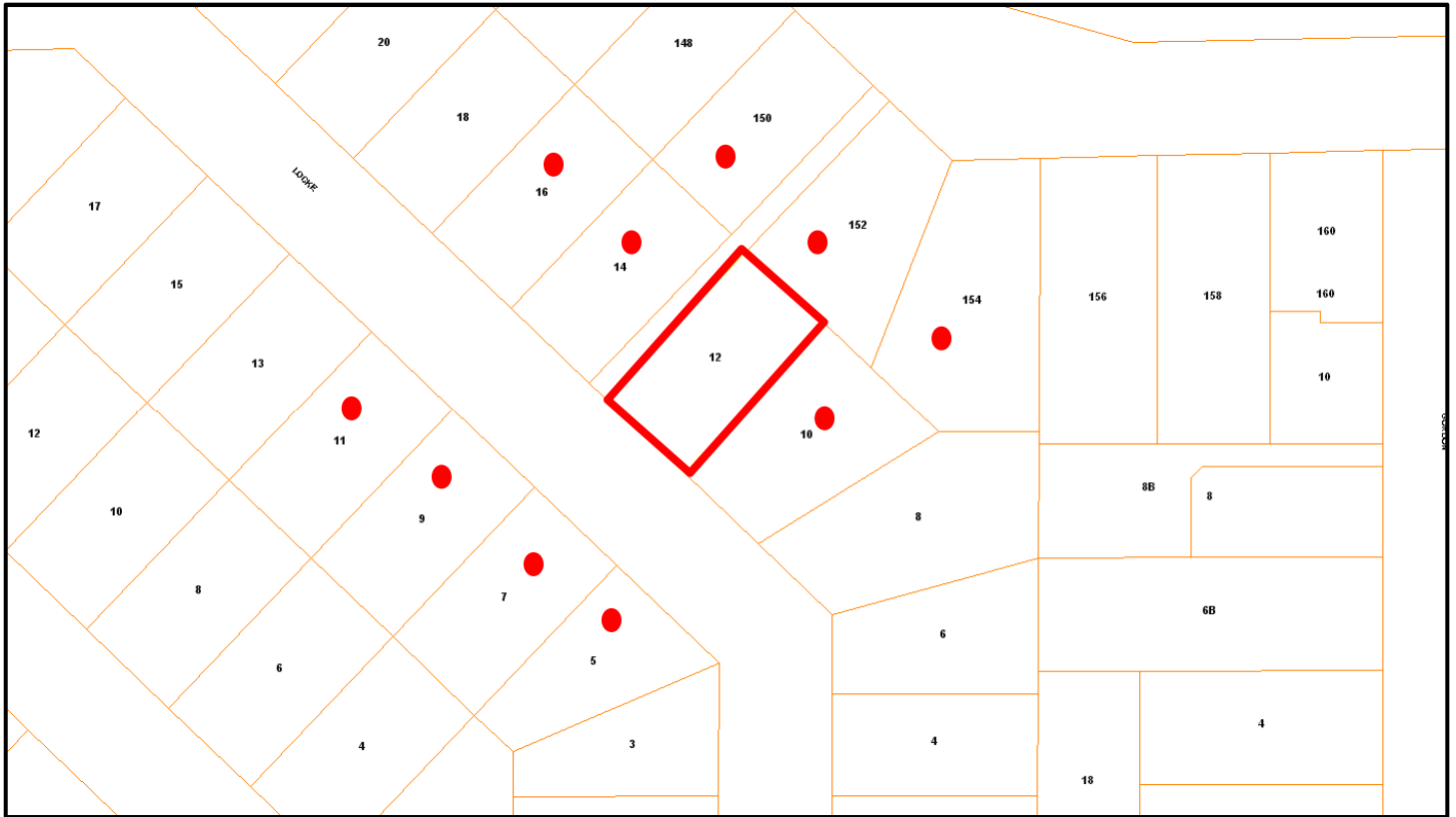
- (10) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant.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

Footnote:

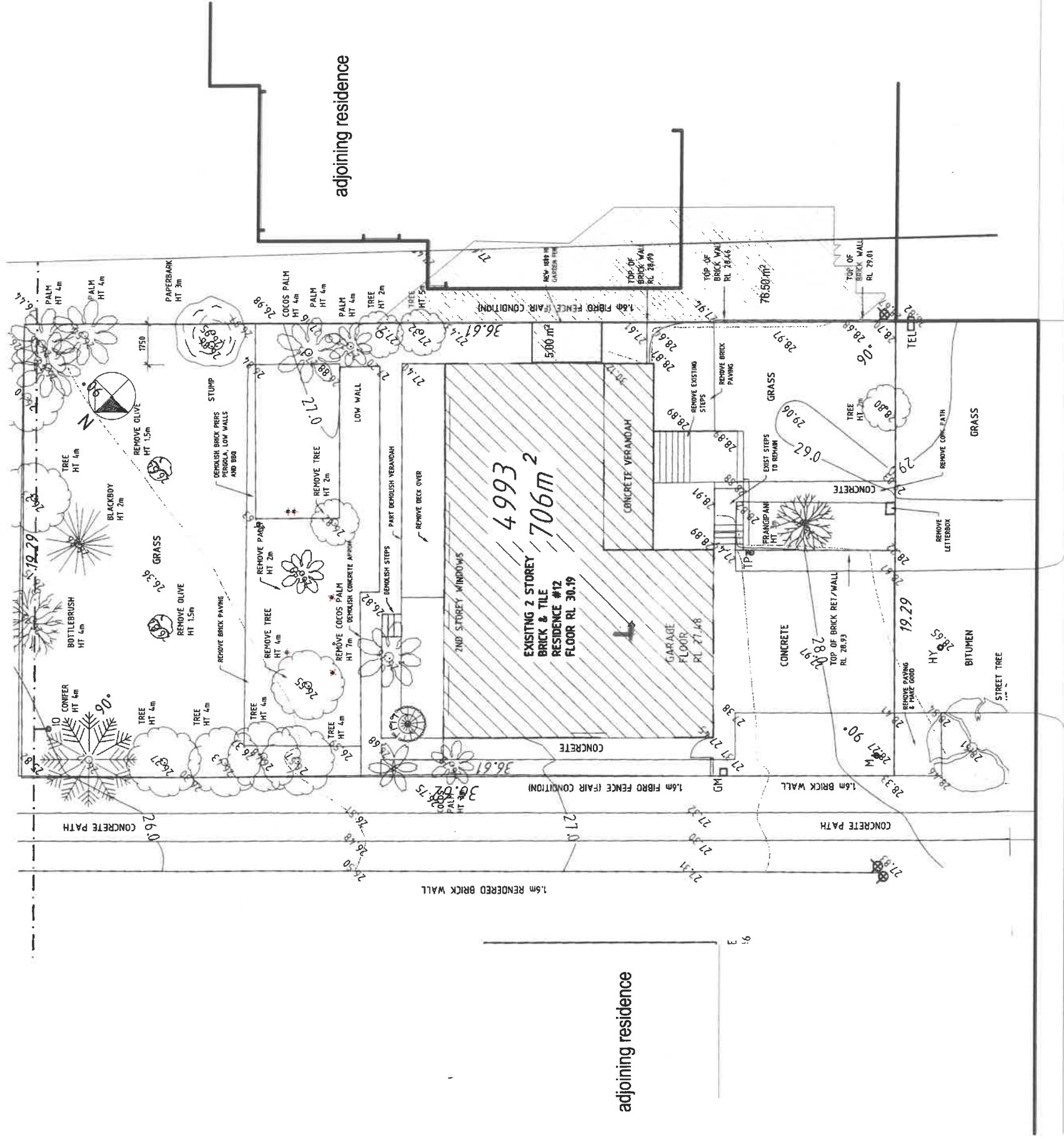
The following are not conditions but notes of advice to the applicant/owner:

- (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".*

LOCKE CRESCENT NO. 12 – P104 / 17 – ALTERATIONS & ADDITIONS







12 Locke Cr.

12 Locke Crescent (Lot 4493)
706 sq.m.

Scale 1:200



Area Calculations	
Site area	= 706 sq.m.
Existing Ground Floor	= 192.8 sq.m.
Proposed Bathroom	= 5 sq.m.
Total coverage	= 197.8 sq.m.
50% coverage	= 353 sq.m.
Site Coverage	= 28%
Open Space	= 72%

Shading indicates sun shadow at June 21, 12pm.
76.5 sq.m. to adjoining neighbour
Adjoining neighbours Lot area = 840 sq.m.
Area of overshadowing = 9.1%

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4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017

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Alterations & Additions

Drawing: **Survey**

Date: 12/02/2018
Dwn: jc
Job No: 1706
Dwg No: A00
Rev: 5

information

ITEM 11.3



Plan view illustrating levels at site corners.
 Project is in Archicad V21, project reference level is set to 27.532 AHD.
 Level dimension tool placed on each corner of the site reflects the AHD level of that point.
 The levels indicated here agree with original survey information provided by owner.



3	issued for planning	8/12/2017
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ATTACHMENT 3

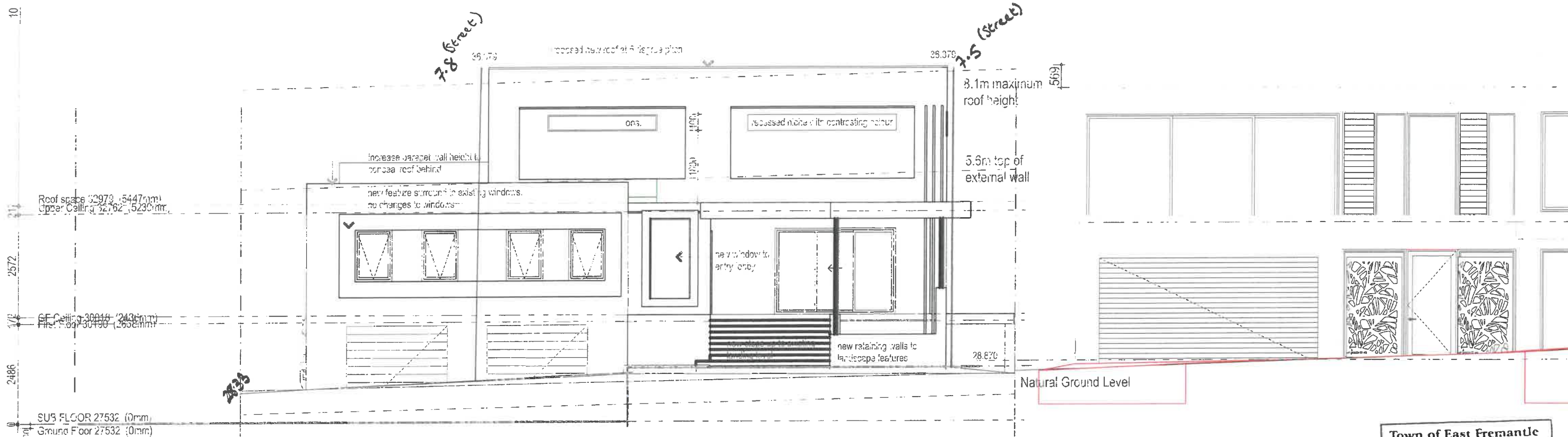
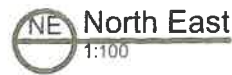
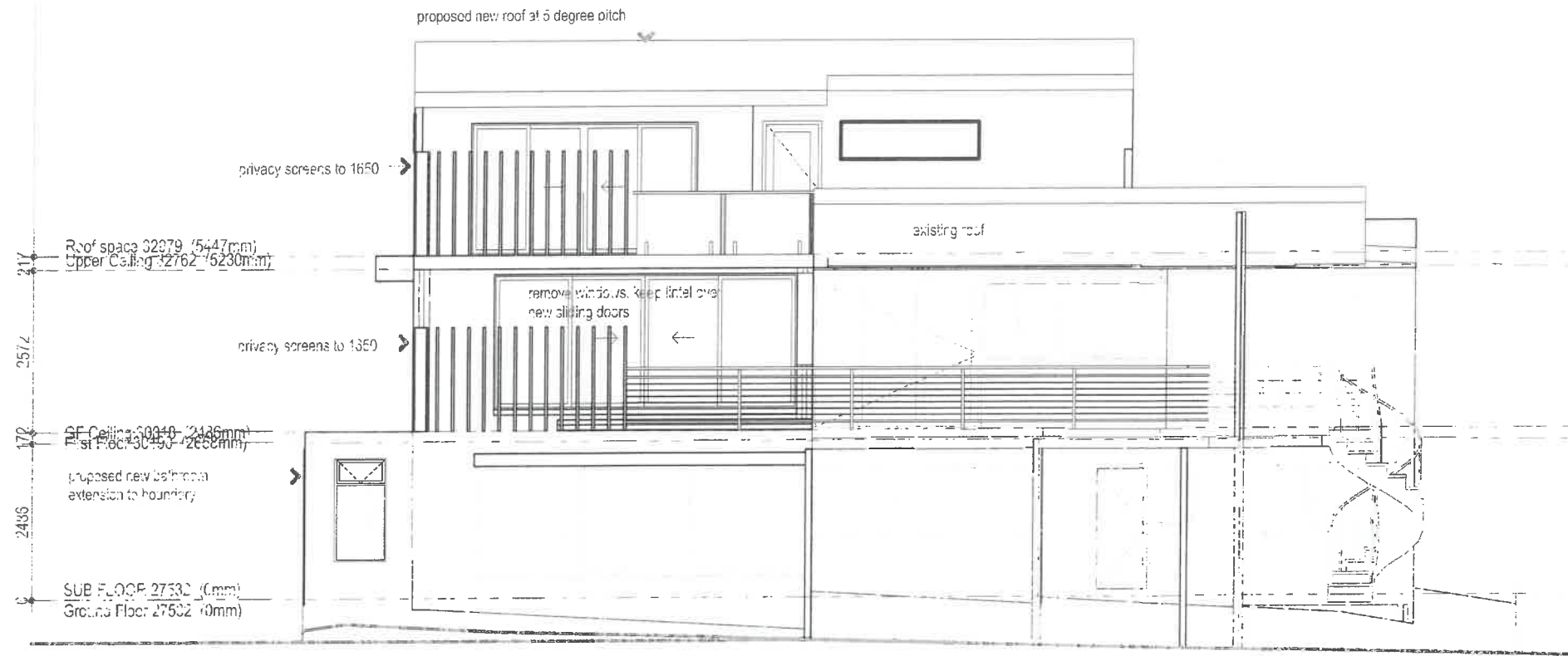
Alterations & Additions

Drawing: Site Survey Data

Date:	9/02/2018	Dwnr:	jc
Job No.:	1706	Dwg No.:	A000
		Rev	4

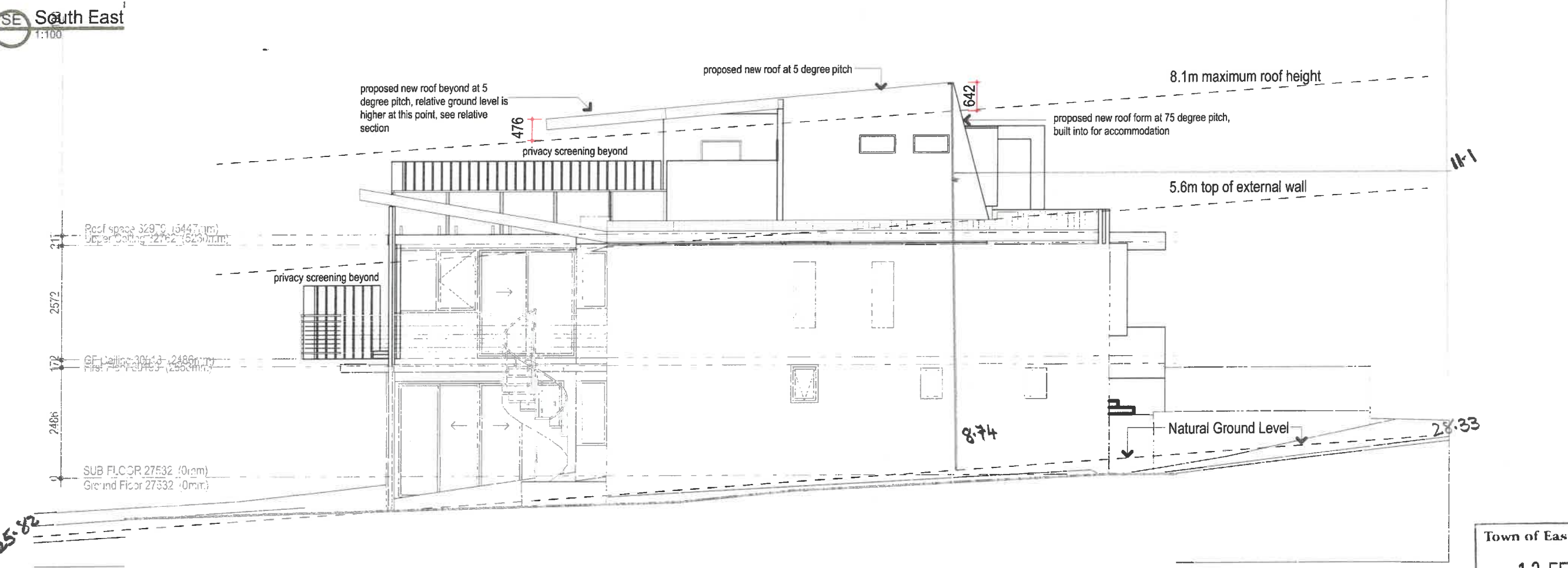
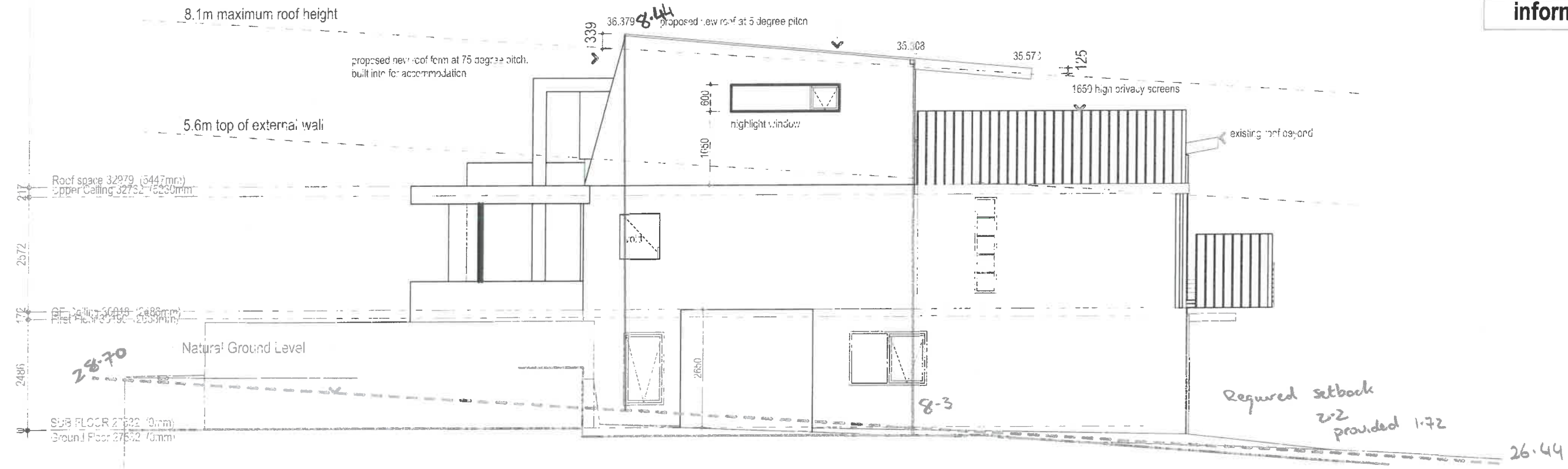
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				4 issued for information 17/1/2018		
3 issued for planning 8/12/2017	<p>The builder must verify all dimensions on site before commencing any work or shop dwgs</p>					
2 issued for planning 30/10/2017						
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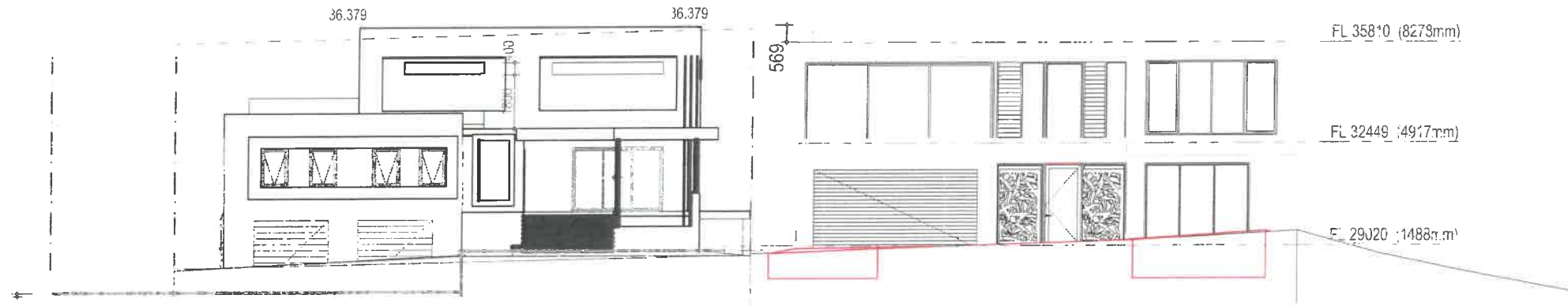
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Alterations & Additions
12 Locke Cr.
East Fremantle

Drawing:
Proposed Elevations

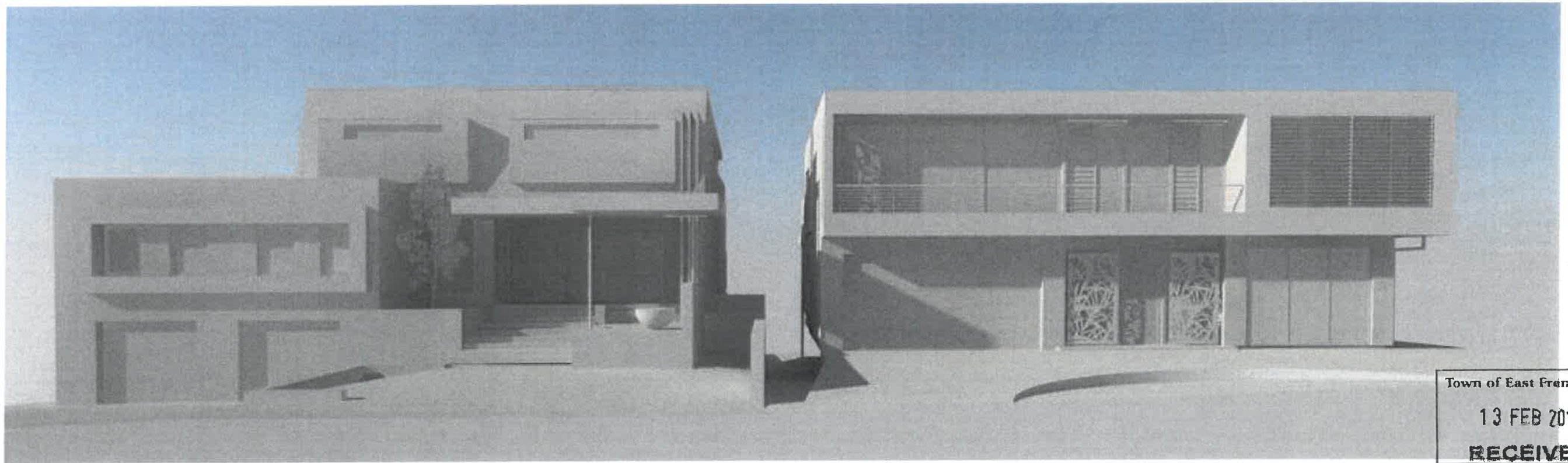
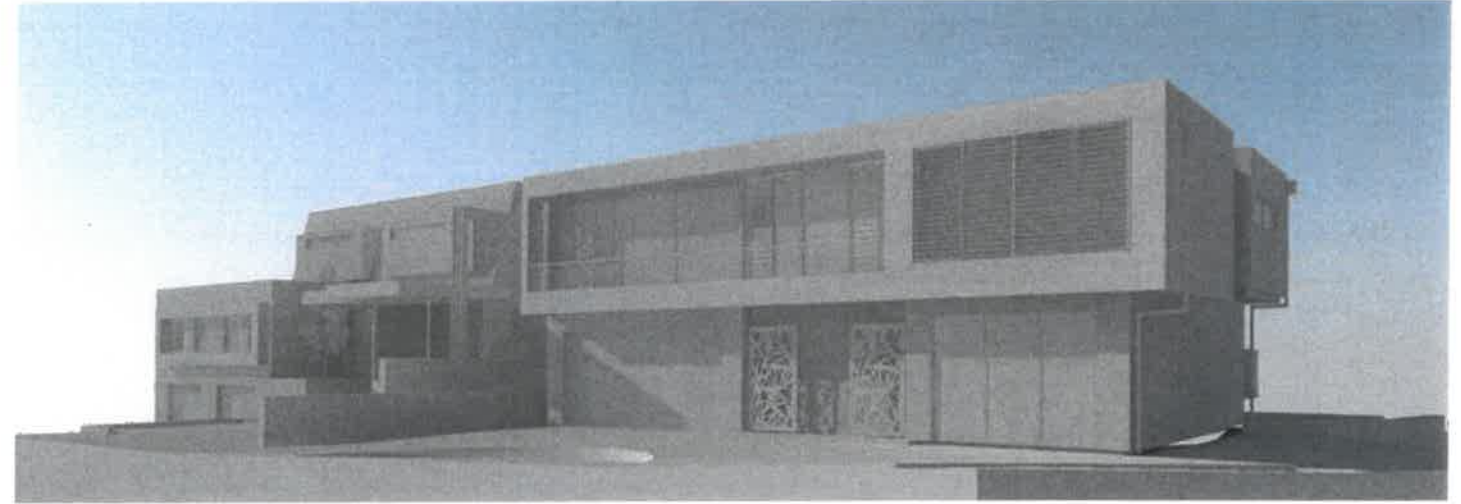
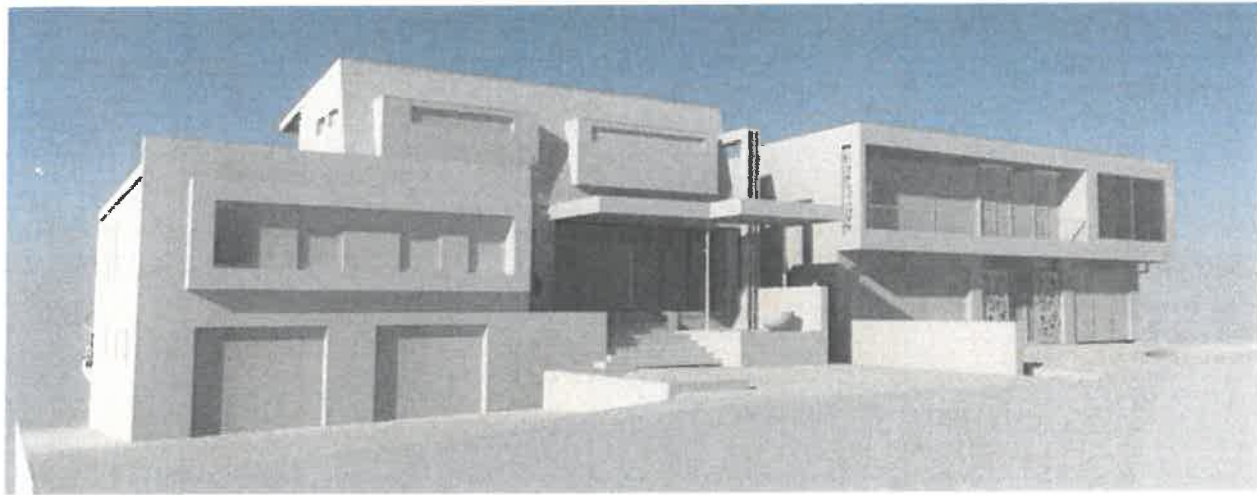
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3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017

Date:	12/02/2018	Drwn:	jc
Job No:	1706	Dwg No.:	A302
		Rev	5

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Street Elevation Scale: 1:200
Referenced on: EX201, A101



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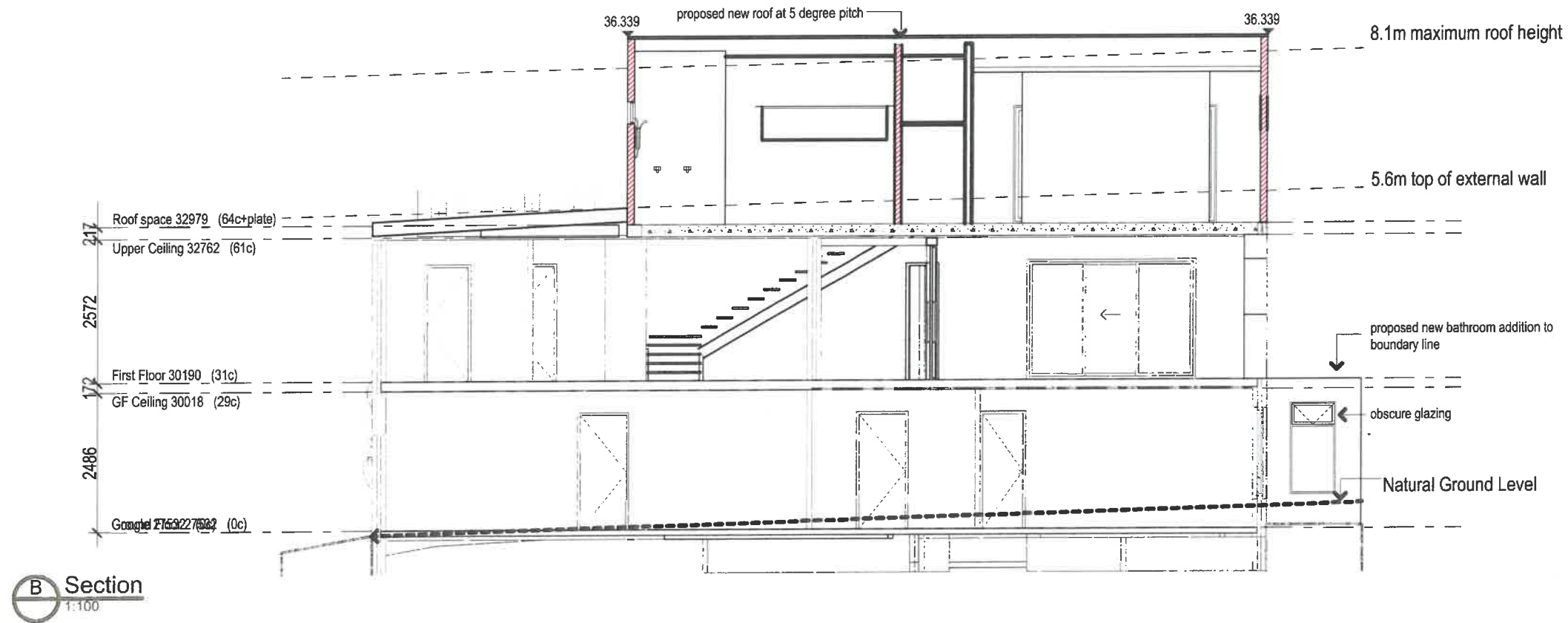
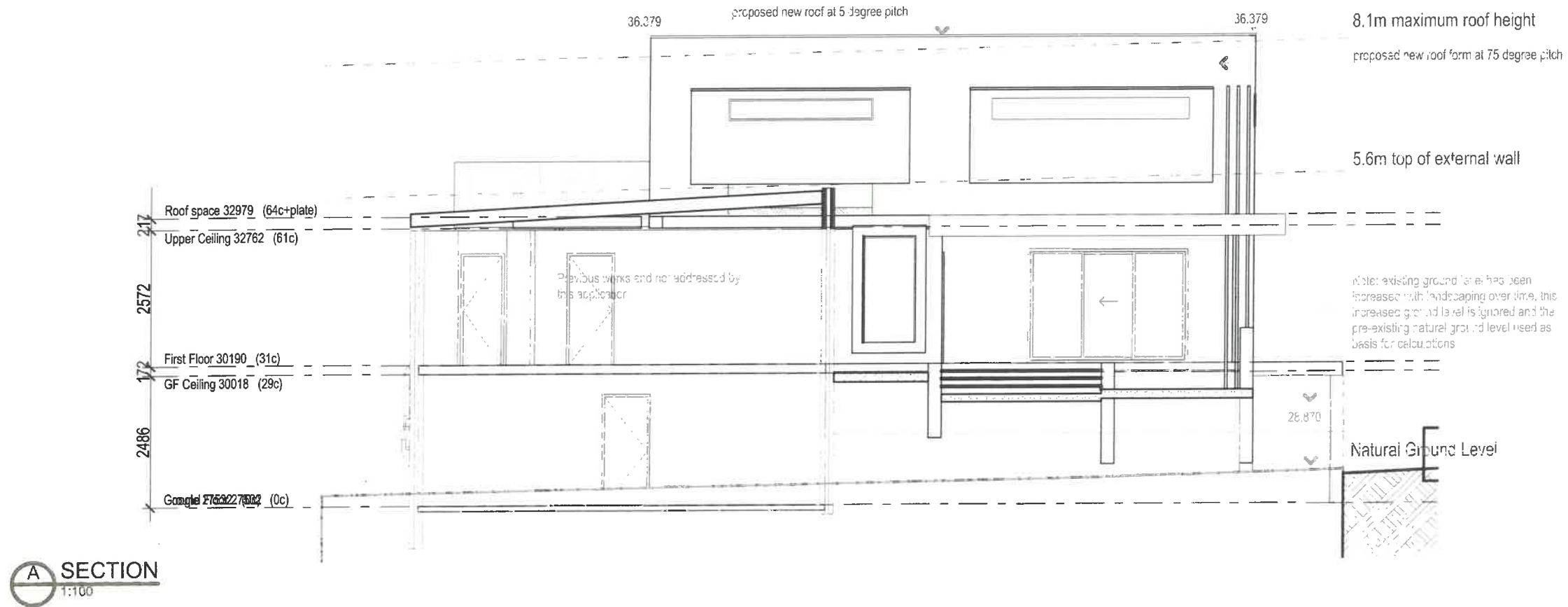
Project: **Alterations & Additions**
12 Locke Cr.
East Fremantle

Drawing: **Street Elevation**

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5	issued for information	11/2/2018
4	issued for information	17/1/2018
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1	issued for planning	27/9/2017

Date: **12/02/2018**
Job No: **1706**
Dwn: **jc**
Dwg No.: **A303** Rev **5**

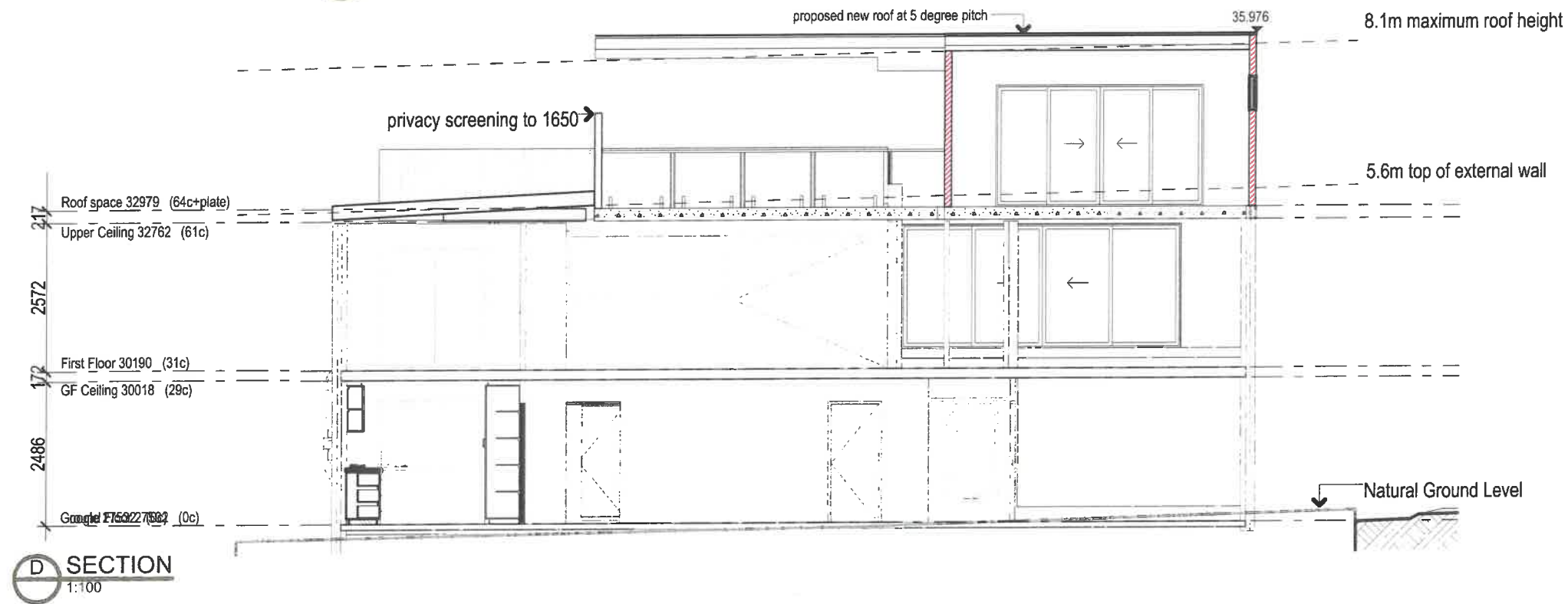
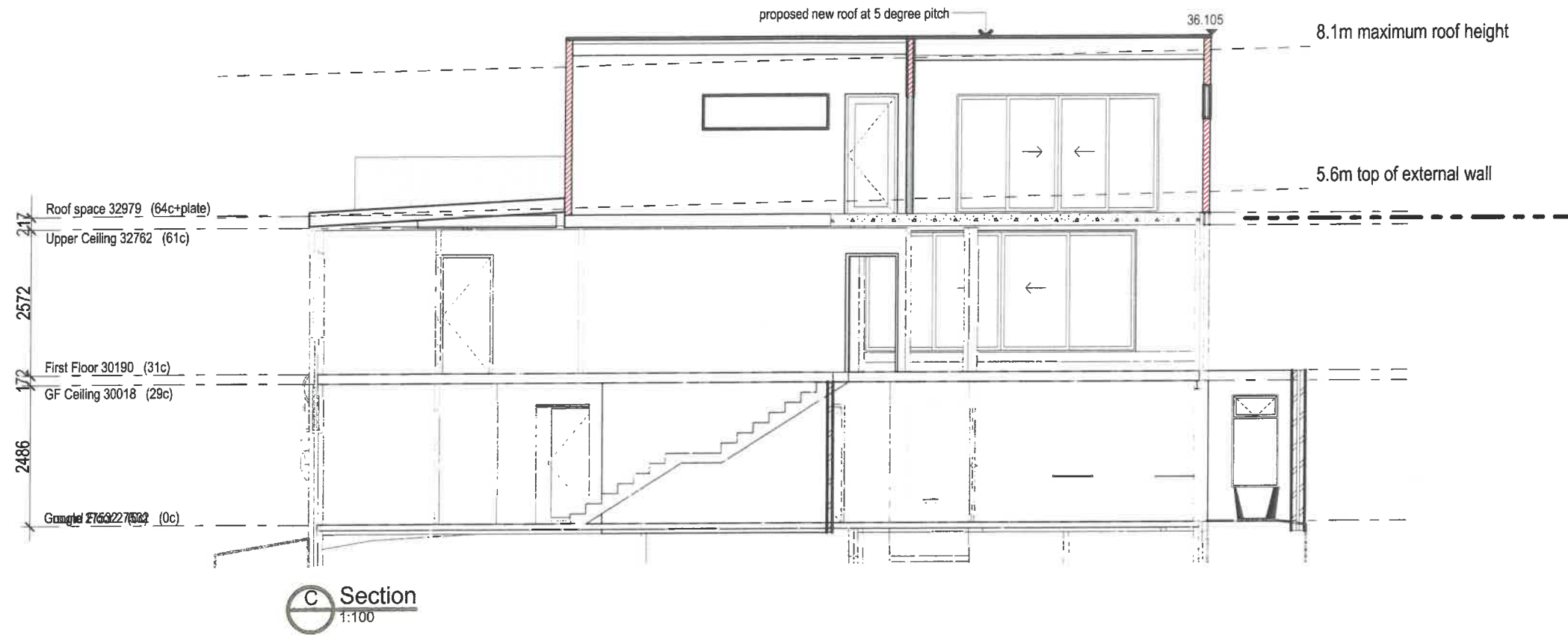
The builder must verify all dimensions on site before commencing any work or shop dwgs **60**



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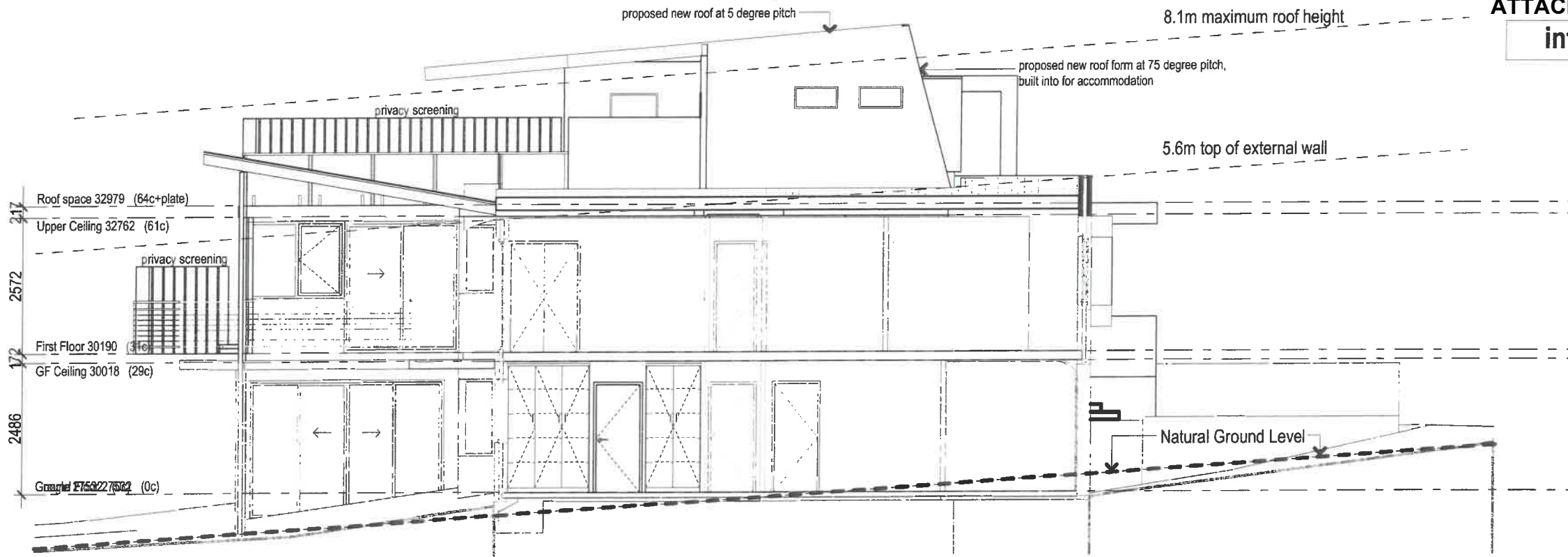
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				4 issued for information 17/11/2018	Job No: 1706	Dwg No: A401 Rev 5
				3 issued for planning 8/12/2017		
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				REV. AMENDMENT DATE		

The builder must verify all dimensions on site before commencing any work or shop dwgs

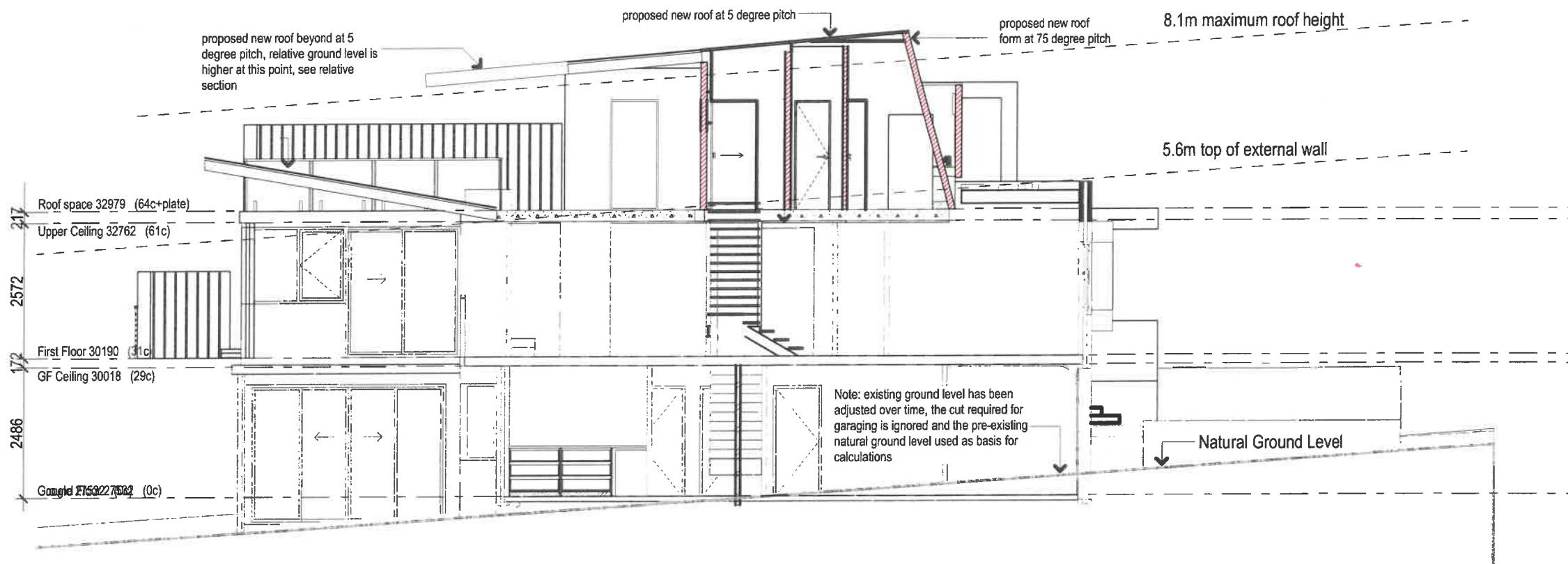


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E Section
1:100



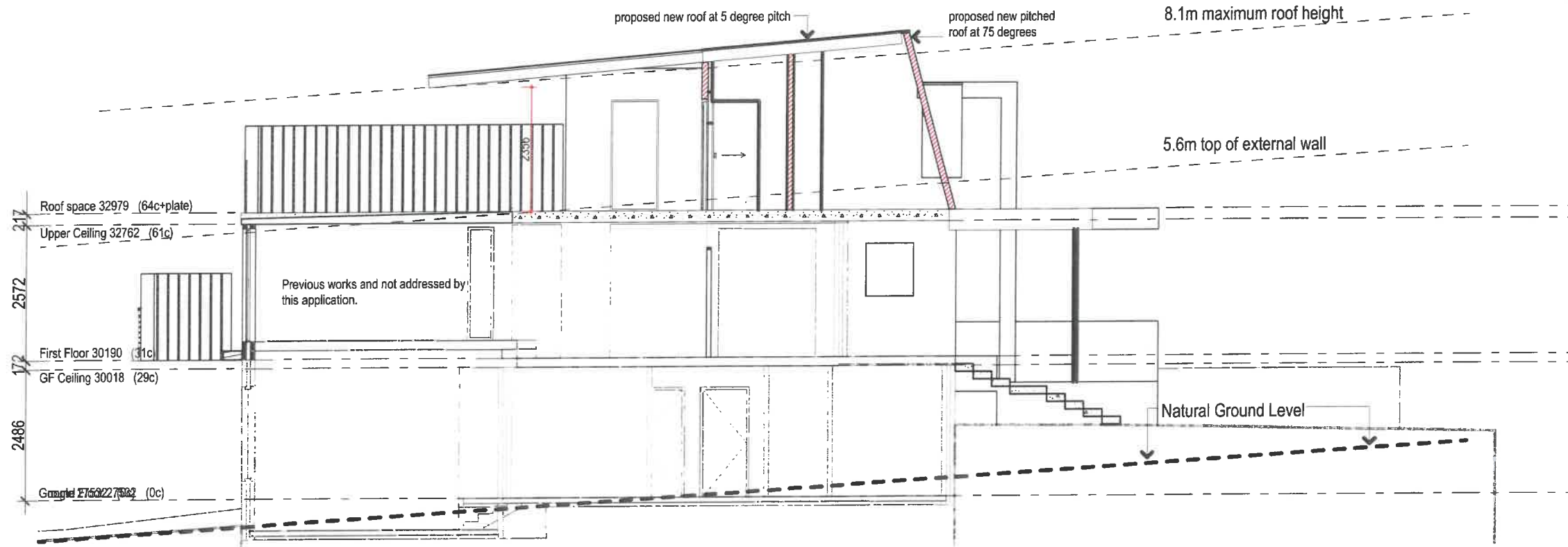
F Section
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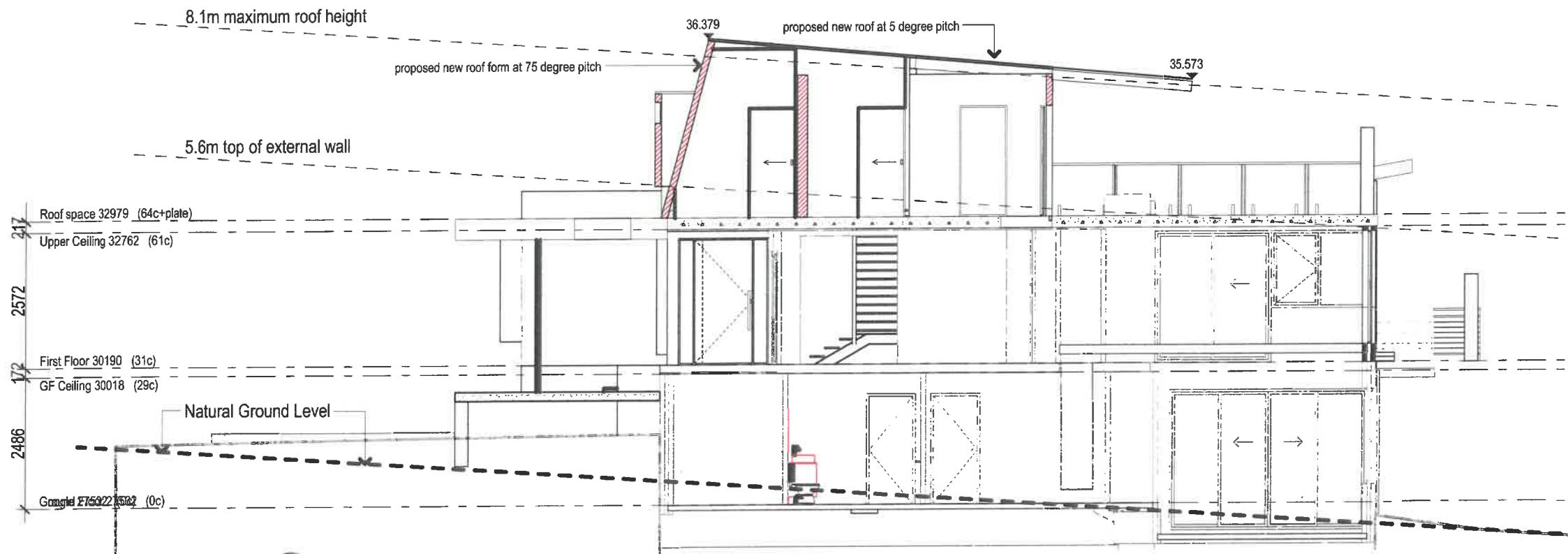
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REV	AMENDMENT	DATE

Date:	12/02/2018	Drwn:	jc
Job No:	1706	Dwg No.:	A403
		Rev	5

The builder must verify all dimensions on site before commencing any work or shop dwgs. **63**



G Section
1:100



H Section
1:100

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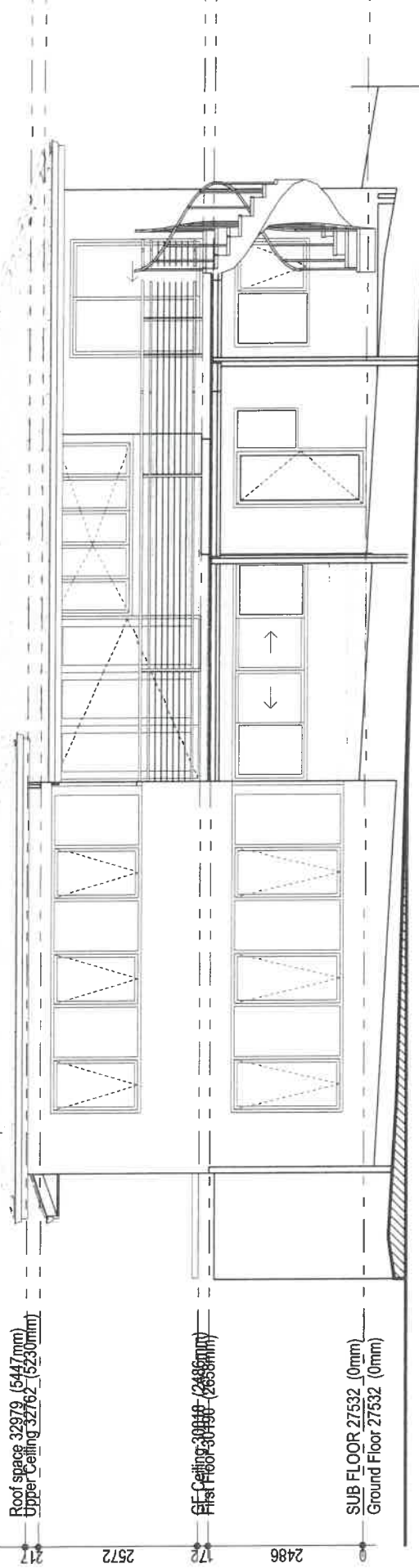
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		Rev	5

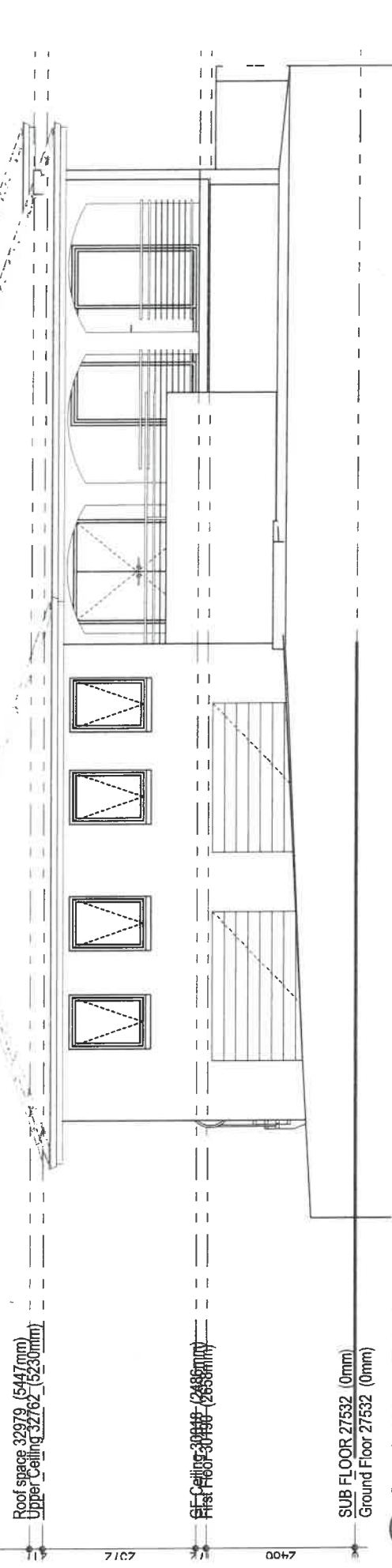
The builder must verify all dimensions on site before commencing any work or shop dwgs **64**

information

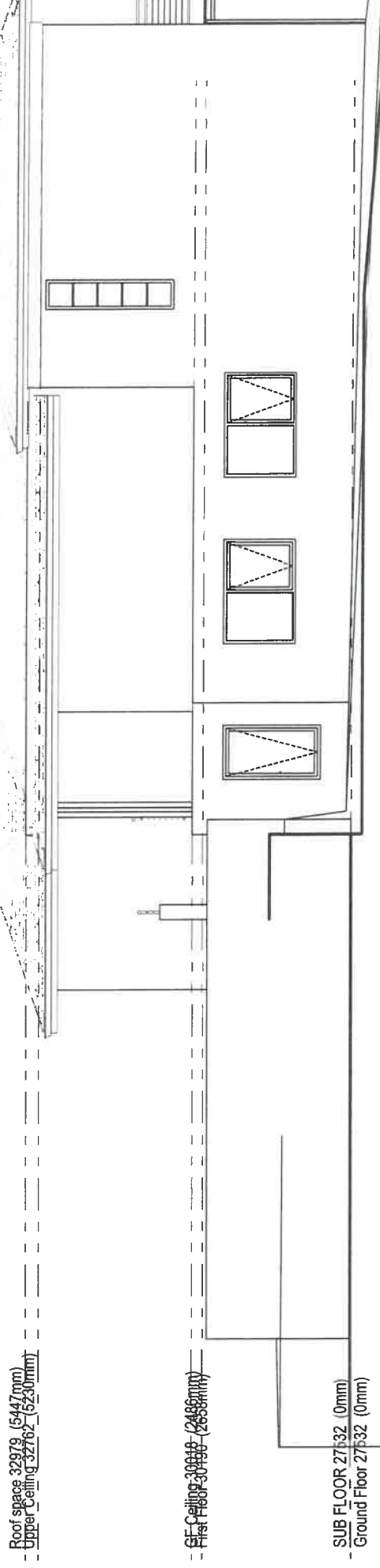
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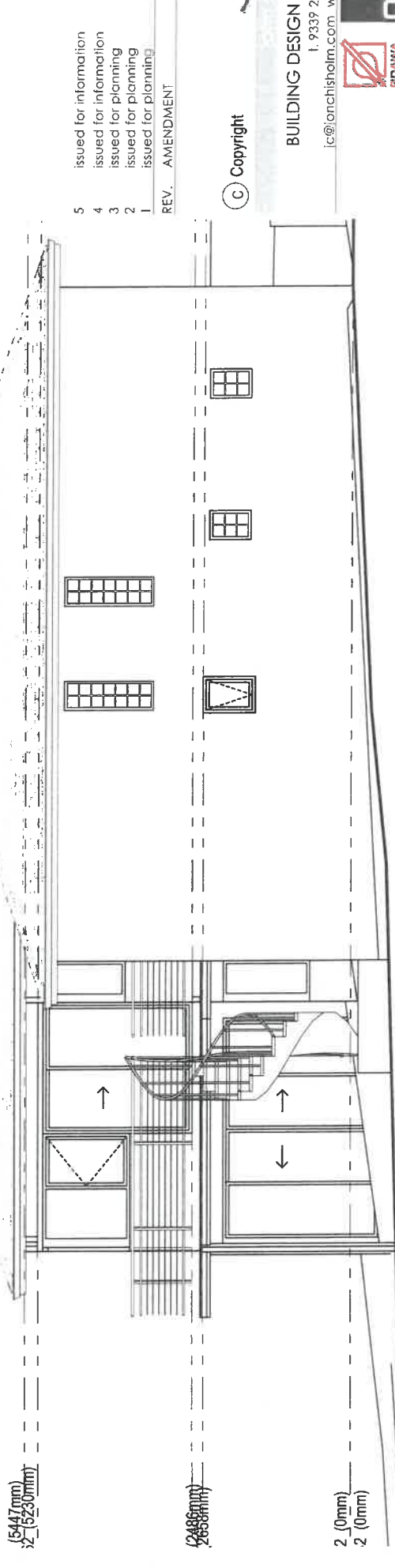
North East Existing
1:100



South West Existing
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South East Existing
1:100



North West Existing
1:100

REV.	AMENDMENT	DATE
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Alterations & Additions

Existing Elevations

Date: 12/02/2018
 Dwn: jc
 Job No: 1706
 Rev: EX301 5

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NO. 12 LOCKE CRESCENT, EAST FREMANTLE
DEVELOPMENT APPLICATION P104/17

SUBMISSION (1)

- Concerns regarding additions impacting views due to the 2m fall from the front to the back of the site.
- Disguising extra storey as “non-defined roof space.” Windows incorporated into design.
- Ground floor only partially excavated into the “Natural Ground Level.”
- Refers to the development already enjoying significant views and that a new storey would greatly diminish the views amenity of the immediate locality.
- Concerns regarding a widespread impact on the prevalence of over-height developments in Richmond Hill, greatly impacting a number of residences.
- Non-compliant roof pitching.
- Misleading compliance claims.

SUBMISSION (2)

- Differences in opinions regarding “flat” and “pitched” roofing presenting often conflicted information.
- Reserving comment until the Planning Assessment report is completed.

SUBMISSION (3)

- Against the development as there was very little change to the originally submitted plans.
- Residential Design Guidelines controls applied to their dwelling, owners were forced to conform and demolish upper storey- Sees heights to have increased from what they were originally.
- Concerns regarding excessive wall height.

SUBMISSION (4)

- Resident submits their concerns regarding the roof heights once the additions are completed.
- Wishes to see the roof go no higher than the neighbouring property.
- Seeking overall clarifications about the project.

SUBMISSION (5)

- Consultation of Planning and Design firm.
- Suggests the plans are contradictory to the Residential Design Guidelines and that a third storey is being disguised as non-defined roof space.
- Does not meet the prescribed bulk and scale of a views sensitive area.
- 300-600mm above the actual roof height and the roof and wall heights are suggested to be reduced further to mitigate the issues of excessive building on a sloping site.
- Recommends that more supporting information from the applicants be submitted alongside the plans in the application.
- The additions shown to visibly dominate the streetscape. Detrimental to overall character.
- Applicant looking for variations to Local Planning Policies for development.
- Mass alterations in roof pitching
- While no limit to the number of storeys the building heights reflect that of a double storey nature.
- Vastly exceeds the heights of the two directly neighbouring dwellings.

SUBMISSION (6)

- Supporting the development as the design greatly improved the original and is suggested to fit in the streetscape context by the submitter.
- Compliment the overall applicant consultation with the neighbours.
- Additions do not dominate the streetscape as bulk better compliments the surrounding properties.
- Only single storey of residence viewable from the front streetscape.
- Understands the seeking of a minor relaxation to the roof height to meet pitching requirements.
- Designs have significantly evolved from the originals through input from council, planners and residents to come to a compromise to satisfy all parties; in particular the removal of the pitched roof to open up views corridor to the north-west boundary is commended.
- High standard set for future projects in the vicinity.

SUBMISSIONS (7-17)

- Declares support for the development.
- On the same reasoning discussed in summary of the submission 6

SUBMISSION (18)

- Concerns regarding the development.
- Sees there as being a third storey added to the dwelling. Exceeding the bulk and scale of the immediate locality.
- Expresses concern that other residences have already been granted height variations, potentially impacting future development precedents.
- Detrimental to streetscape.
- Will not comply with Council regulations.
- Seen to be attempting to gain further views at the expense of others.
- Goes against Council policy attempting to protect views for residents in the immediate locality.

SUBMISSION (19)

- Object the development as the height will have a detrimental impact on the property.
- Third storey addition an extra 500mm higher than previous over height design.
- View the development as a threat to amenity protection and believe council are relaxing planning principles to support variations.
- Deem the concessions being pursued are excessive in an area where amenity is important for the locality.
- Worries regarding future precedent for the area due to the approval of other over height developments in the area.
- Believe owners in the locality are manipulating building heights to attain views and economic advantages and that this property is an example of that.
- Belief that No. 12 being higher than No.'s 10 & 14 create an unhealthy streetscape with the falling away of the natural ground level.

Submission 1
ITEM 11.8

ATTACHMENT 4
Town of East Fremantle



* I E M 6 3 8 9 8 *

Town of East Fremantle
Doc No: IEM63898
File: P/LOC12
Reg Date: 22 JAN 2018
Officer: LUKE SMITH

24 JAN 2018
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19 January 2018

The Chief Executive Officer

Town of East Fremantle

PO Box 1097

EAST FREMANTLE, WA 6958

Via Hard Copy Letter and E-mail: admin@eastfremantle.wa.gov.au

Attach:

Dear Sir,

NEIGHBOUR CONSULTATION SUBMISSION – NO. 12 (LOT 4993) LOCKE CRESCENT, EAST FREMANTLE

Thank you for your letter dated 2 January 2018 with regard to the above matter. We are very concerned neighbours residing at 4 Habgood Street East Fremantle. We are a young family, planning to raise our family in the area, and additionally have a small family business in residential building with a keen interest in the East Fremantle locality.

We have worked very closely with the Local Council recently during the design and approval process to transform our own property. We have always enjoyed an open and honest relationship with Local Council, and always ensure the information we provide is true and accurate. Our existing home, is one of many years of contention within the area due to its overall height, albeit that it was built prior to height controls. Our new design has combated the issues of the streetscape bulk and scale by reducing the front roofs by 1.0 & 1.5m. Due to the 5m fall on our site from front to back we have requested and been granted a building height discretion at the rear central part of the building. This discretion does not impact on streetscape or neighbours significant water views to the NE with the city behind. Our immediate neighbour's peripheral views were affected towards Mosman park however this is primarily due to the orientation of their site and since the recent zoning changes to R17.5 came into effect, the rear setbacks were reduced. We requested these height variations as part of our application, we were fully supported by the Design Advisory Panel, Planners & Councillors at our final Committee meeting.

#12's block, whilst it has the same orientation and similar attributes to ours only has 2m fall from front to back. We have grave concerns regarding the proposed third storey addition to the property at No. 12 Locke Crescent. This is already a large two-storey home that is endeavouring to add another storey on top of the existing upper floor, under the disguise of an over height, non-defined roof space. Whilst the home would appear to be single storey from the street with an under-croft garage, we know that the lower garage level is a full floor (under the upper floor) & is their ground floor. The ground floor includes bedrooms and living areas and is only partially excavated into the NGL in the front right-hand corner, later backfilled level with the verge to allow access to their front door via their upper floor. The entire ground floor sits primarily above NGL. Their upper floor already enjoys significant river and city views and their proposed third storey will be at the detriment of many

neighbouring properties significant views that should be protected as stated in your LPP & Scheme for the Richmond Hill Precinct. We are very concerned about the precedent this will create within the area since the recent completion of the well over height black house at #10 Locke, conveniently designed also by John Chisolm (JCD). We don't believe that this has any grounds to be supported at a Planning or Council level and should be refused.

Furthermore, the proposed pitched roof with an almost vertical 75-degree wall at the front and 90-degree walls at the side with a 5-degree skillion raking to the rear of the site is clearly not a pitched roof even by your definition in your design guide lines;

The DG's define a pitched roof as;

"The commonest roof usually one with two slopes at more than 20° to the horizontal, meeting at a central ridge. It may have gables or hips."

The proposed roof proposed two surfaces at 5° and 75°, with a central ridge. Based on these definitions and statements contained within the DG's, the proposed roof doesn't meet the definition of a pitched roof in our opinion.

Accordingly, the roof design requires an assessment under the 'Performance Criteria' for building height and with it the responsibility of the applicant to provide adequate justification to Council and the public for review and assessment.

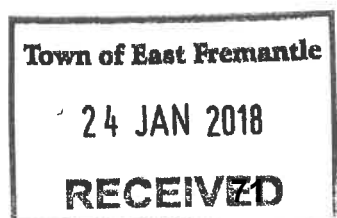
Thus, taking all this into consideration, the application from no. 12 Locke Crescent, which appears to state that it fits within the Local Policy Residential Design Guidelines of a pitched roof design, is misleading and incorrect. You cannot disguise a third storey within a roof space, no matter what you may creatively endeavour to label it. This is clearly an over height Skillion or flat roof design, where heights dictated by the Local Policy Residential Design Guidelines, A1.4, are as follows:

- ~~8.1m to the top of a pitched roof~~ - inapplicable as stated above
- 6.5m to the top of an external wall (concealed roof)
- ~~5.6m to the top of an external wall;~~ and where the following apply.

Our understanding is that these heights have been far exceeded and impact significantly on neighbouring views.

This proposal affects our views, not just to us, but also to all of our surrounding neighbours. Thus, section A 1.3 cannot be applied.

Thus considering A 1.3 and 1.4 are not complied with and as there is no wording that Performance Criteria is to be applied, it is therefore inferred that A 1.5 must be applied, which reverts to Category A of the Residential Design Codes of WA for maximum reduced building heights. Clearly, the proposal does not comply with required building heights in this category either.



Furthermore, we have grave concerns about this proposal meeting the Performance Criteria in the Residential Design Guidelines. New developments, additions and alterations are to be of a compatible form, bulk and scale to *traditional* development in the immediate locality. The proposed design does not fit within a traditional 'pitched roof' height limit, as defined in the Guidelines. The roof clearly presents as an additional floor in form, bulk and scale, and has windows NOT found in roofs. It reflects excessive bulk and scale, encompassing the majority of the front elevation. In our view, this proposal does not meet any of the Performance Criteria outlined in the Local Policy.

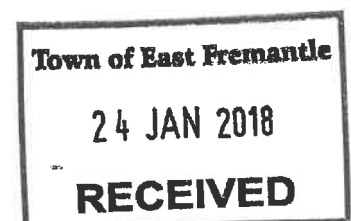
In conclusion, this proposal meets none of the Residential Design Guidelines for the Richmond Hill precinct. We are concerned. Concerned that this proposal has purported to be one thing, that is, a pitched roof design, when disguising to be another, being an additional third storey in a flat roof type design. The applicant has used a designer who knows the local planning laws and are manipulating them for convenience. It is confusing to all neighbours, whom don't understand their rights and local planning laws, and sets a poor precedent for a beautiful area where water views are to be enjoyed by all, not just a select few. Local Policy's intent is to clearly protect those views by limiting developments to two storeys, and these laws should be upheld and maintained.

We trust you will consider our concerns.

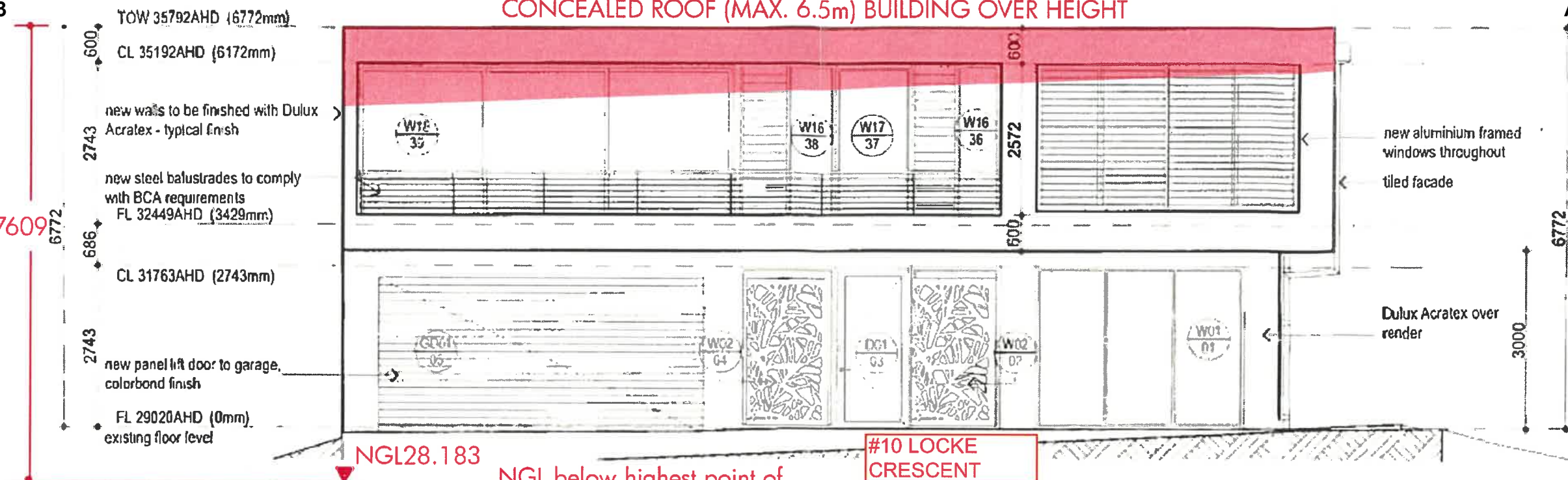
Kind Regards

Andre & Danielle Malecky

4 Habgood Street East Fremantle



ACTUAL BUILDING HEIGHT AT SETBACK ABOVE NGL



5 JULY 2016

Town of East Fremantle
 24 JAN 2018
 RECEIVED

#12 CURRENTLY HAS EXTENSIVE RIVER AND CITY VIEWS FROM ITS UPPER FLOOR. THE PROPOSED 3RD LEVEL CONCEALED WITHIN A NON CONFORMING ROOF SPACE IS AT THE DETRAMENT TO SURROUNDING NEIGHBOURS ONLY VIEWS WHICH GOES AGAINST THE INTENT OF THE LPP AND RDC'S.

no 12 proposed 587mm higher than existing overheight no 10 (black house)



Attachment 2: STREETSCAPE & VIEW IMPACT FROM 7 LOCKE CRESCENT

Mr Gary Tuffin
Chief Executive officer
Town of East Fremantle
P O Box 1097
East Fremantle WA 6959

By email – admin@eastfremantle.wa.gov.au

Dear Mr Tuffin

Proposed Development Approval Application – 12 Locke Cr (Lot 4993)

Thank you for your letter dated 2 January 2018 in relation to the amended development plans proposed for 12 Locke Cr, East Fremantle.

I visited Council offices last Friday to view the proposed significant alterations and additions to the existing dwelling, and met with Mr Andrew Malone, who I must say was again most helpful and patient.

My wife Michelle and I have also met again with the applicants Darren & Rachel Sargent (owners of 12 Locke Cr) as well as with Andre Malecky, the owner of 7 Locke Cr, East Fremantle.

There continues to be significant differences in opinion on a range of points between the applicant and Mr Malecky, most notably in relation to heights, the definition of 'pitched roof' versus 'flat roof' and general bulk and scale.

Mr Malecky is strident in his views and appears to have undertaken a considerable amount of detailed assessment work of his own accord.

Due to such conflicting information and given our lack of experience, it is difficult to develop a clear understanding and opinion on the proposed plans. For us, having access to an independent and objective assessment report produced by the Town of East Fremantle is vital. Mr Malone also advised that it is likely a view impact analysis will be produced. This would be helpful too.

Therefore we look forward to seeing the Planning Assessment Report when it is produced and will reserve our final comments on the proposed plans for 12 Locke Cr until that time. (On a related note, it is disappointing that the timeframe between the publishing of the report and the meeting of the Planning Committee is so short i.e. approx. 4 days/2 business days. I recommend Council revisit this policy some stage in the future).

Yours sincerely



19 JAN 2013

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Dear Andrew Malone

After viewing plans yesterday there has been very little changes to the bulk and Scale , only difference was a increase in height

In my opinion this a skillion roof

Wall hieghts 6.5m

I do not support this application and my existing non support stands

A handwritten signature in black ink, appearing to be 'M. J. ...', written over a horizontal line.

THIS OUTLINE
DEPICTS THE
PROPOSED
OUTLINE TO THE
BEST OF OUR
ABILITY BASED ON
INFORMATION WE
HAVE ON HAND.

WE HAVE RECENTLY ALSO LOST
SIGNIFICANT VIEW PATHS TO
THE TENNIS CLUB AND
PARKLANDS BECAUSE OF THIS
OVERHEIGHT BUILDING



PROPOSED IMPACTED VIEWS

#10

#12

#9

PICTURE TAKEN FROM #6 HABGOOD UPPER
FLOOR BALCONY. REMAINING VIEWS OF
BICTON BATHS WILL BE IMPACTED BY THIS
PROPOSED ADDITION

Attention: Andrew Malone

5 Locke Crescent, East Fremantle, 6158

15 January 2018

Gary Tuffin

Chief Executive Officer

Town of East Fremantle

135 Canning Highway

East Fremantle WA 6158



Town of East Fremantle
Doc No: ICORR63798
File: P/LOC12
Reg Date: 17 JAN 2018
Officer: GEORGINA

Attach:

Dear Mr Tuffin,

Re: Proposed Amended Plans for Significant Alterations and Additions to existing dwelling: No. 12 (lot 4993) Locke Crescent, East Fremantle.

Application : P104/17

File Ref: PLOC12

After examining the plans with Andrew Malone, I wish to submit my concern regarding the actual height to the top of the roof when the additions are made to No. 12 Locke Crescent.

Are you able to confirm that when the additions are completed the roof **will not be any higher at all** than the roof height of the adjoining property on No. 10 Locke Crescent .

Yours sincerely,

rb

Your Ref: P104-17
Our Ref: 12 Locke / EMPEFSBM



19th January 2018

The Chief Executive Officer
Town of East Fremantle
PO Box 1097
FREMANTLE WA 6959
Via E-mail: admin@eastfremantle.wa.gov.au

Town of East Fremantle

24 JAN 2018

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Attn: Andrew Malone

Dear Sir,

**NEIGHBOUR CONSULTATION SUBMISSION – NO. 12 (LOT 4993) LOCKE CRESCENT,
EAST FREMANTLE – ADDITIONS (THREE-STOREYS) TO A SINGLE HOUSE**

Thankyou for your letter dated 2 January 2018 regarding the above matter. Planning Outcomes WA in collaboration with Hex Design and Planning has been engaged by a neighbouring landowner (7 Locke Crescent) to the above property (the **Site**), to provide a submission raising concerns on several aspects of the proposal.

As an overview, we consider the proposal is for a third floor addition, being masqueraded as a 'roof space' addition (an attic). This is despite the whole roof being removed, and replaced with a square box featuring a bedroom, ensuite, walk in robe and deck, which exceed the permitted height limitations contained within Councils 'Residential Design Guidelines' (**RD Guidelines**), and we believe to be contrary to the objectives of the RD Guidelines.

Detail of our Clients concerns is raised in the following sections.

1. Building Height, Form, Scale & Bulk / Variation

The application falls within the *Richmond Hill Precinct* of the DG's, and hence assessment is to be undertaken in accordance with the provisions detailed in section 3.7.17. There are several objectives and criteria within Clause 3.7.17 (and sub sections) of the DG's. These are detailed below, with the primary argument being compliance with the Acceptable Development Criteria / Performance Criteria.

1.1 Objective of Precinct

"Dwellings that contribute positively to the character and significance of the Richmond Hill Precinct are generally of similar form, bulk and scale. The prevailing form is substantial single and double storey residences orientated towards the river. Residences with river views are such a strong characteristic that the scale of new developments should reflect the scale of the immediate locality.

Single and two storey dwellings are compatible in the Richmond Hill Precinct. Lot sizes and setbacks are also consistent throughout the Precinct. In any new development, the form, bulk and scale will need to be demonstrably compatible with the existing and surrounding residences. (Pg 66 DG's)

The proposed development comprises of a third storey and is not considered appropriate.

This is further confirmed by non-compliance with the desired outcomes as stipulated by the DG's;

"3.7.17.4.1.2. *i. New developments should reflect the prevailing form, bulk and scale of the immediate locality; and,
ii. New developments shall respect and follow the predominant street pattern in terms of roof pitch, orientation and articulation.*"

In our opinion it doesn't reflect the prevailing form and bulk of the immediate locality, proposing height that exceeds the acceptable parameters as prescribed by the DG's, is higher than abutting properties in the streetscape, and will look out of alignment with roof/building heights as they cascade down the hill/street.

1.1.1 Form

The upper floor with a 'roof' angle of 75 degrees is effectively vertical, clearly presents as a floor in terms of angle, bulk and scale, and has windows not found in roofs. It is highly unconventional and non-traditional.

The boxy shape is similar to the neighbouring property to the south-east (over-height property at No. 10 Locke), however it is not in keeping with traditional development in the immediate locality, which is a conventional pitched roof.

1.1.2 Scale

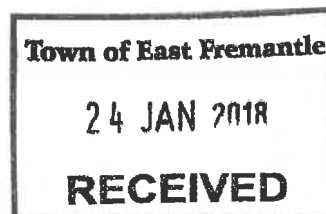
The proposal clearly presents as three-storeys, whereas neighbouring properties are predominantly two-storeys (and some single-storey).

1.1.3 Bulk & Scale

As seen in our elevation drawing and photograph (**Attachment 1-2**), the street slopes southeast to northwest on at a noticeable grade.

Despite being on lower ground, the proposed roof ridge is approximately 600mm above the dwelling on the right hand side (No. 10 Locke Crescent), and 2.3m above the dwelling on the left hand side (No. 14 Locke Crescent). Both these properties are two-storey dwellings. Accordingly, the proposal represents a noticeable departure from the 'rhythm' of the streetscape with incompatible bulk and scale.

Although the proposed front garden provides some relief, it is flat and level, where all other visual cues in the streetscape suggest it should be sloping. Accordingly, the front garden is clearly backfilling and out of character with the natural ground level and therefore streetscape.



Also, the proposed roof with angles of 75 degrees and 5 degrees represents a greater impact of bulk compared with a conventional roof design (approx 25 degrees).

1.1.4 Views

The intent of the building height provision is to protect views (Clause 7.17.4.1.1):

“The prevailing form is substantial single and double storey residences orientated towards the river. Residences with river views are such a strong characteristic that the scale of new developments should reflect the scale of the immediate locality.”

The proposed bulk and scale will impact upon views of significance, as demonstrated by our view loss photograph (**Attachment 1-3**). The lack of a viewscape analysis by the applicant does not comply with the intent / objective of the DG’s to protect amenity and view lines within the precinct.

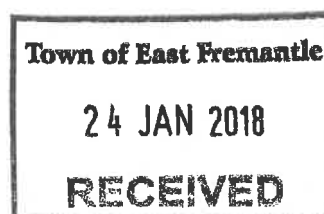
1.2 Assessment of Development Height

Noting that development is to be assessed against height criteria detailed in Clause 3.7.17.4.1.3 of the DG’s, we note that substantial variations will be required to the ‘Acceptable Development Provisions’.

As previously raised, without the extent of variation being requested by the applicant having been detailed to Council, and justification for variation, our comments and assessment on the plans that were available for viewing only, we make the following assessment and comments for Councils consideration.

Based on our interpretation of the DG’s and plans, we believe that the proposal does not comply with any of the ‘acceptable development provisions’ as detailed below. If the applicant or Council believe something to the contrary, we would request detail and justification be provided.

Performance Criteria	Comment	Acceptable Development Provisions	Comment
P1 New developments, additions and alterations to be of a compatible form, bulk and scale to traditional development in the immediate locality.	<ul style="list-style-type: none"> Does not comply. No justification supporting any of these criteria has been submitted, proposing a quantifiable variation from standards contained within ‘acceptable development provisions’. 	A1.1 Developments to comply with all design elements of this Local Planning Policy.	<ul style="list-style-type: none"> Does not comply. N/A



		<p>A1.2 Additions and alterations are single storey and located at the rear of the existing dwelling. The existing building remains intact.</p>	<ul style="list-style-type: none"> • Does not comply. • N/A
		<p>A1.3 Category 'B' provisions as set out within Table 3 – Maximum Building Heights of the Residential Design Codes are applicable as the 'Acceptable Development' standards where:</p> <ul style="list-style-type: none"> i. significant water views from neighbouring properties will not be affected ii. the 'Acceptable Development' standards of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy are met. iii. the subject site is not a battle axe lot. 	<ul style="list-style-type: none"> • Does not comply. Views to water are heavily impacted.
		<p>A1.4 In localities where views are an important part of the amenity of the area and neighbours existing views are to be affected, or the subject site is a 'battle axe' lot, then the maximum building heights are as follows:</p> <ul style="list-style-type: none"> .. 8.1m to the top of a pitched roof .. 6.5m to the top of an external wall (concealed roof) .. 5.6m to the top of an external wall; and where the following apply. <ul style="list-style-type: none"> i. The proposal demonstrates design, bulk and scale that responds to adjacent development and the established character of the area or other site specific circumstances; ii. The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; and, iii. Subject to the 'Acceptable Development' standards of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy being met. 	<ul style="list-style-type: none"> • Does not comply. • Height variations are being sought, though the extent of these variations have not been specified by the applicant. From plans prepared and forming part of this submission show large variations are being sought. • This is summarised in section 1.3 of submission.

Town of East Fremantle
24 JAN 2018
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		<p>A1.5 Category 'A' provisions as set out within Table 3 – Maximum Building Heights of the Residential Design Codes are applicable for development which does not meet the requirements of A1.3 and A1.4 above.</p>	<ul style="list-style-type: none"> • Proposal could be assessed against provisions of A1.5 given the non-compliance with A1.4. this would stipulate the maximum height of the pitched roof at 6m, which the application also does not adhere to.
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As the development does not meet any 'acceptable development provisions', we understand that Council may be forced to assess the application in accordance with the 'Performance Criteria' (P1), which is non-prescriptive. In this light it would be logical to assume that the 'acceptable criteria' forms the basis for assessment, and any variation is required to be justified and assessed by the applicant prior to consideration by Council.

1.3 Assessment Utilising A1.4 and Estimated Variation.

The proposed additions feature gabled walls, which extend up to the roof pitch, being a significant increase in height compared to the existing walls and conventional roof.

The heights specified by the DG's for pitched roof assessment are as follows;

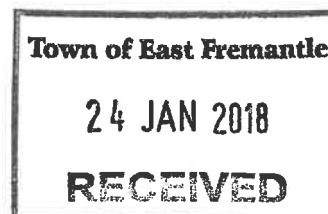
- 8.1m to the top of a pitched roof
- 5.6m to the top of an external wall (eaves);

Based on the plans submitted, and **Attachment 4**, a variation on wall height of 300mm (due to sloping site and flat roof ridgeline) above the 5.6m acceptable height limit. It is also noted that the height of the eaves at the rear of the property could be perceived at approximately 8.2m (given the proposed doors and the fact the rear wall where it meets the eave). A wall height of 8.2m is 2.6m above the acceptable development standard. This variation equates to a **46%** variation, which is considered excessive, especially given other variations sought.

Variation to the roof height is also proposed, being 300mm-600mm above the 8.1m height limit. Whilst this equates to a variation of 7%, this has eventuated by the proposal of a third storey, which appears contrary to the objectives of the Town of East Fremantle's DG's. The aspect of a third storey is further detailed in section 5 of this submission.

If the roof was to be considered a concealed roof (skillion) due to the 5° slope on the rear portion of the roof, this again would require variation to the acceptable standards. Based on the plans submitted, and **Attachment 5**, a variation on wall height of 1.3-1.6m (due to sloping site and flat roof ridgeline) above the 6.5m acceptable height limit.

The extent of variations being sought with respect to height is considered excessive, and will have direct impact of view lines from neighbouring properties, which is the aim of the DG's to protect.



4.4 DAC Opinion

It is noted that the application has previously been considered by the Town's Design Advisory Committee, with aspects of the design not support:

- *'...not supportive of design elements in respect to the streetscape';*
- *'Not a good design outcome for residential streetscape'; and*
- *'...do not support the over height component of the design or the scale and bulk of the building in respect to residential streetscape'.*

These elements have not been addressed and justified by the applicant, and the comments are considered to still be applicable to the current plans.

2. Application – Supporting Information

Based on the provisions contained within Council's Scheme (Clause 9.2) and Council's RD Guidelines (Clause 3.6), the Applicant is required to provide supporting information to justify the proposal, and any variation(s) that is sought to the standard provisions detailed as Acceptable Development Provisions, where these have not been met.

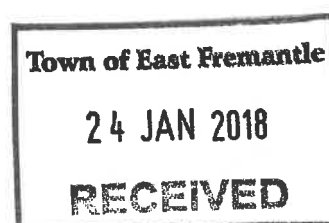
As Council is aware, the application submitted 'does not' comply with the 'Acceptable Development Criteria' detailed in the DG's, and hence justification to the variations being sought is paramount. The lack of justification means that the applicability of the variations being sought cannot accurately be assessed by Council.

In liaising with Council Technical Staff, when viewing plans during advertising, we have been advised that no justification documentation had been submitted with Council for assessment. We assume this means that no assessment against the DG's has been undertaken by the applicant, and no justification to 'any' variation being sought has been forthcoming.

With the lack of submitted documentation, there is also no detail on what the quantum of variation being sought by the applicant is. It is difficult to ascertain the quantum of variation being sought by the applicant, and also the cumulative effect that results by the amount of variation(s) being applied for. Without this information being submitted to Council, it is difficult for Council to assess the application and query whether the application submitted is able to be considered 'complete' and compliant with the DG's.

In accordance with provisions of the DG's, in our opinion the **minimum** amount of information that should be forthcoming to Council from the applicant, prior to any consideration / determination by Council should include;

- view analysis,
- streetscape analysis,
- detailed architectural plans (*);
- detail of variations being sought against acceptable criteria, and
- written justification of variations.



() We note that height information on various sections have been excluded, with only roof ridge height information (etc) being shown where the minimal variation is being sought. In our opinion these plans are misleading, as we consider all height information required for a complete and accurate assessment by Council have not been provided. The height of ridge shown against natural ground level as taken from No.10 boundary (high side), but excluded from plans showing elevation compared to natural ground level of No.14 (low side).*

Aside from the above information being a requirement for the Town to assist in the determination of the application, the plans (and associated information) are important information for the neighbours to make an informed and effective submission. We confirm that a request for plans and any associated documentation has been made to the applicant (via Council on our behalf), though confirm nothing has been received.

In the absence of such information, we have produced a streetscape elevation and view loss photograph prepared by a building company who has interpreted the available information (**Attachment 1 - 2**), which demonstrates the impact on the streetscape and views of significance. The accuracy of these is based on plans submitted, and site information.

If in the event the applicant provides said information, we request time to sight the plans and potentially provide further input.

Based on not having addressed the information requirements required to seek variation(s) to the acceptable standards, we request Council defer consideration of the application until adequate information / justification is provided for assessment.

3. Additions and Alterations to Existing Buildings

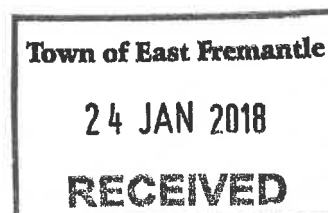
The DG's stipulate the *desired outcomes*' within the DG area, under Clause 3.7.2.

*"The Town supports well designed alterations and additions to existing buildings within the Policy Area. Lean-to additions are generally acceptable. **Second storey** additions are acceptable within the Policy Area."*

From what documentation has been presented to Council, and made available for public review, the above objective **has not been** adhered to by the proposal. The debate as to whether this is a 'roof addition' or 'third storey' is a primary concern of the assessment. The DG's contemplate the addition of a second storey throughout the East Fremantle area (LPP boundary), with a third storey extension not having been addressed in detail. This is detailed further in section 5 of this submission.

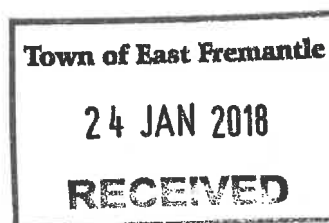
The proposed addition in our opinion appears dominant from the streetscape, and is out of character for the immediate area. It is also clear that the additions above the second storey are not contained within the existing roof space profile, leading to excessive height variations being sought.

In reviewing the application against the objectives contained within Clause 3.7.2.2 of the DG's, 'Desired Development Outcomes', the proposal appears to not meet these objectives.



<i>Desired / Acceptable Outcomes</i>	<i>Proposal</i>	<i>Compliance</i>
i. Additions and alteration should take into account the significance and character of the existing building and its contribution to the character of the Precinct;	Large roof structure, accommodating a third (3rd) storey). Ridge line runs parallel to street, with gables at either boundary.	The roof structure does not reflect those in the immediate area, and is not considered to contribute to the character of the area.
ii. Additions and alterations should be well designed with minimal interference to the existing building;	Minimal amendments to the existing lower floors is proposes.	Yes
iii. Single storey additions and second storey additions and alterations to existing dwellings are acceptable. Second storey additions shall be supported but are required to: a. Be constructed within the existing roof space, or towards the rear of the dwelling and must not impact upon significant fabric of the dwelling; and, b. Not be dominant from the primary street.	Proposal is for a third storey. Third storey exceeds the existing roof envelope, impeding on views from neighbouring properties. The proposed roof structure is considered dominant from the streetscape, with the long ridgeline occupying 2/3 of the property width.	Not compliant with objectives of DG Non-compliant, with large variations being sought for height. Non-complaint, with proposal being higher than neighbouring property on the height side of the street (No.10).
iv. Additions and alterations should visually contrast to a contributory dwelling. Differentiation may be major or subtle; and,		N/A
v. Additions and alterations should always respect scale, bulk and proportions of the existing dwelling.		Subjective. We believe the proposal does not respect the scale of the existing building, dramatically increasing its height from the streetscape.
<i>NOTE: All applications for planning approval for additions and alterations are to comply with all other design elements of this LPP.</i>		<i>Variation has been sought to many aspects of the DG's, so compliance has not been met. We note that the application may be assessed under Performance Criteria of the DG's, though it is also contested that these have not been addressed/met.</i>

Based on not having addressed the required information and meeting the objectives of the DG's, we request that Council refuse the current application.



4. Roof Form

Given the unusual form of the proposed roof by the applicant, it is not clear if this is to be defined as a 'pitched' or 'concealed' roof, and without detail provided or justification by the applicant, various assumptions have to be made.

The DG's contemplate that contemporary roof structures may be applied for and approved, provided they are considered compatible with the surrounding residences, and justified by the applicant accordingly.

Clause 3.7.8 of the DG's states;

"The Town's roof forms are predominantly gable, gambrel and hipped. Roofs have overhanging eaves and are pitched between 28° and 36°(approx.). The council shall approve contemporary roof forms, including skillion, flat roofs or parapet, on new developments where demonstrated to be compatible with the existing and surrounding residences."

The DG's define a pitched roof as;

"The commonest roof usually one with two slopes at more than 20° to the horizontal, meeting at a central ridge. It may have gables or hips."

The proposed roof proposed two surfaces at 5° and 75°, with a central ridge. Based on these definitions and statements contained within the DG's, the proposed roof doesn't meet the definition of a pitched roof in our opinion.

It is understood that a flat roof can be approved (and encouraged) in Clause 3.7.8.2 of the DG's, but this is an issue that is not interrelated with the height control.

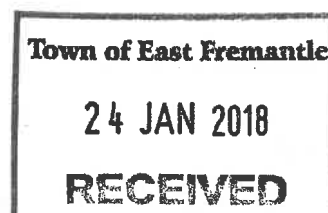
Accordingly, the roof design requires an assessment under the 'Performance Criteria' for building height, with it the responsibility of the applicant to provide adequate justification to Council and the public for review / assessment.

We request that Council consider refusing the application based on lack of justification / information to support the proposed variations, noting they exceed the acceptable development standards for the precinct.

5. Storey Height Control

The applicable height requirements do not limit the number of storeys that may be sought by the applicant, with a preliminary analysis suggesting that the number of storeys is irrelevant. However, planning case-law provides additional interpretation. In *Forte and Town of Claremont* [2013] WASAT 35 (*Forte, Attachment 6*):

- The proposal involved a three-storey dwelling with the upper floor contained within a roof-space with an angle of 60 degrees.

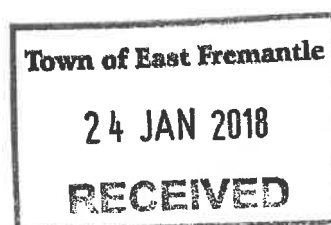


- A Local Planning Policy (LPP) on residential character was considered, which includes an objective referring to two-storey developments, and a linear height limit expressed in metres.
- Although there was no Acceptable Development standard or Performance Criteria limiting the number of storeys, the SAT found that because:
 - The objective referred to two-storey developments;
 - The height limits were effectively two-storeys; and
 - The proposed development presented as a three-storey dwelling; then
 - The number of storeys was still a relevant consideration.
- (Para 43) ***'Merely 'disguising' a final storey with a large roof-type structure or purporting to use the structure as 'roof space' (in any form and no matter how creatively, 'minimally' or ingeniously done) cannot defeat the admonition to count and observe the true number of storeys.'***
- The LPP considers bulk and scale.

The matter before the Town of East Fremantle is very similar to Forte, because it also has a LPP on residential character including reference to two-storey developments (cl. 3.7.17.4.1.1) and a height limit expressed in metres (cl. 3.7.17.4.1.1). The proposed development is also very similar with three levels proposed, with the third level included in a steep roof (actually steeper).

It is our contention that the proposed development clearly presents as a three-storey development, with the third storey 'disguised' within a roof-like structure:

- The ground floor is not an undercroft as it has a considerable floorspace, and although it only covers about half of the frontage, the additional brick build-up, steps and portico on the other half has a substantial height and presence in the streetscape.
- The middle floor is clearly a floor and cannot be in dispute.
- The upper floor with a 'roof' angle of 75 degrees is effectively vertical, and clearly presents as a floor in terms of angle, bulk and scale. Also, the height of the 'roof' is the same as the floors below, and therefore presents as a floor. Furthermore, the roof has windows on all sides not traditionally found in roofs, which draws unusual attention and alerts the viewer that the roof clearly has rooms within, just like a floor.
- The SAT found in Forte that *'the proposed development would be inconsistent with the current planning framework which effectively prohibited three storey developments'*. The Tribunal found that the proposed development was in fact to be regarded as three-storeys high, which was effectively prohibited through an interpretation of the LPP.



- The Tribunal found that approval of the development would be inconsistent with the valid aims and intent of the policy, notwithstanding that there were some examples of imposing residences scattered around the immediate vicinity (note Para [49] '*Whether or not the respondent has approved other development over the years 'in error' we are not bound to follow that lead....whether any proposed development 'makes the situation worse' is often relevant to the exercise of discretion in planning matters.*').
- The Tribunal found it unnecessary to go on to consider the interrelationship between height controls in the scheme and R-Codes; these '*should be read as complementing a planning framework intent on limiting height, bulk and scale*'.

It is our contention the facts in *Forte* are very similar to that of the current application, and thus this is a strong State Administrative law precedence to be considered and followed in the current application.

6. Other Neighbour Consultation Submissions

In liaising with other neighbours in Locke Crescent, it has come to our attention that neighbours were of the opinion that the proposal complies, resulting in letters of support potentially being presented to Council.

This we understand has come via the plans that have been provided by the applicant not providing a comparison of heights of abutting dwellings in the street, streetscape analysis plan, view plans, etc and the fact neighbours do not regularly read and interpret plans, or have consultants for advice.

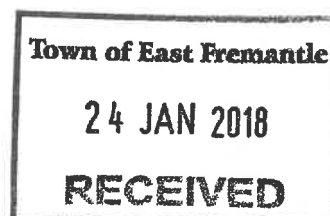
Whilst not applicable to assessment of plans by Council, we question the validity of any support that may have been received by Council from neighbours, and request that this be taken into consideration.

7. Submission to Council

We request that our submission be provided to the elected members in full, so detail of our Clients concerns can be understood, noting that not all comments directly relate to the quantities assessment of the proposal. Noting that this application is primarily around subjective assessment, it is open to interpretation and hence why we believe other items raised are of importance.

Conclusion

In light of the above we respectfully request that Council carefully consider the above application and seek confirmation on all queries raised, noting that information considered 'highly important' to inform Council as to what justifications are being sought, and the reasoning for these variations, is absent. We have provided comment on variations being sought for **height**, but confirm that we have not assessed **any** additional variations to setbacks that may be being sought, as we have been unable to determine this without copies of plans.



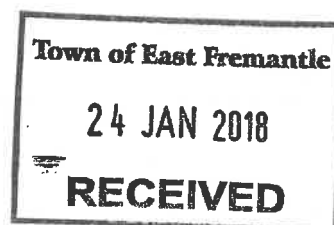
On the presumption that this information, should it be forthcoming, still would not be able to adequately address the intent or objectives of the DG's, or adhere to any of the quantitative assessment measures, we request that this application be refused on the basis of excessive variations, especially as no justification has been forthcoming.

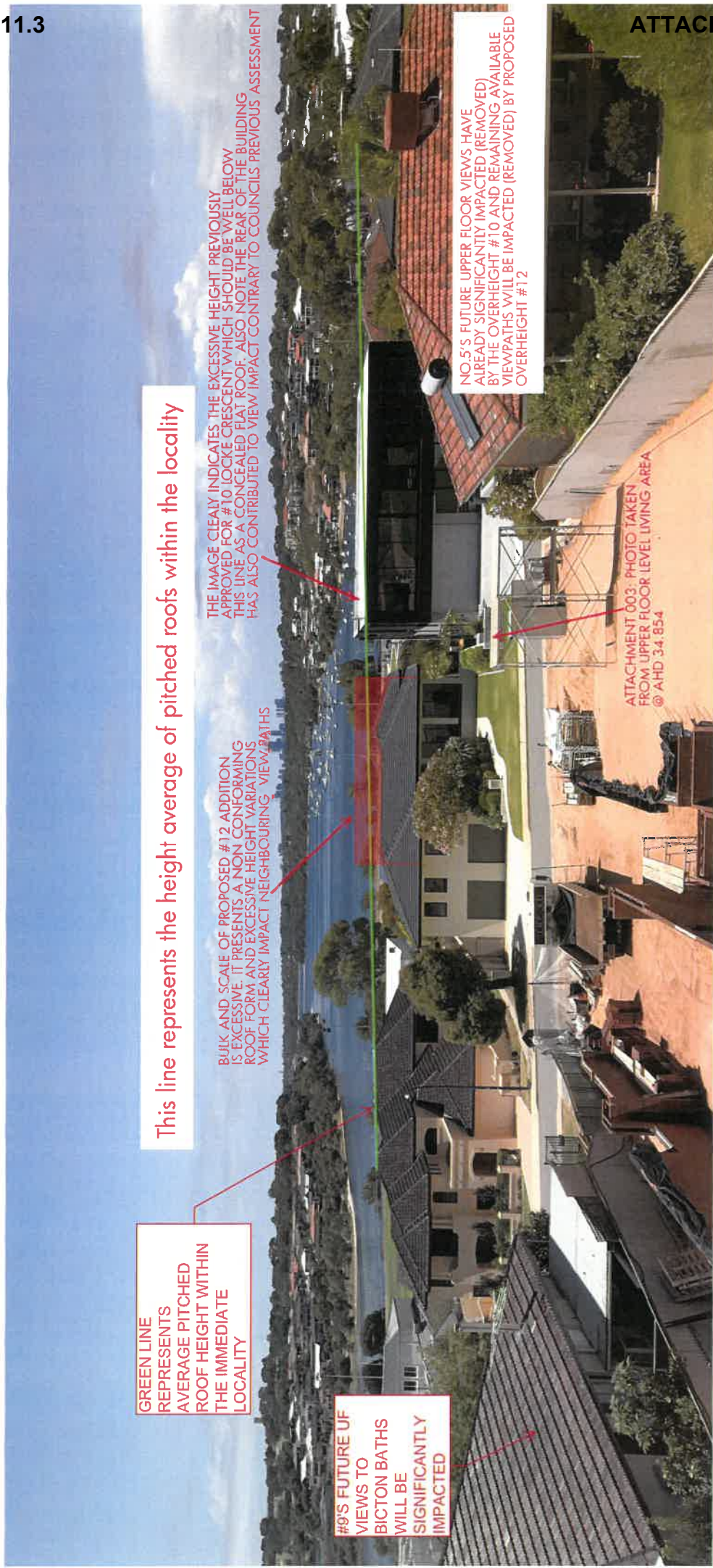
If you have any queries, or wish to discuss this matter further, please do not hesitate to contact me.

Yours sincerely



Sheldon Day
Director
Hex Design and Planning





GREEN LINE REPRESENTS AVERAGE PITCHED ROOF HEIGHT WITHIN THE IMMEDIATE LOCALITY

This line represents the height average of pitched roofs within the locality

BULK AND SCALE OF PROPOSED #12 ADDITION IS EXCESSIVE. IT PRESENTS A NON CONFORMING ROOF FORM AND EXCESSIVE HEIGHT VARIATIONS WHICH CLEARLY IMPACT NEIGHBOURING VIEWPATHS

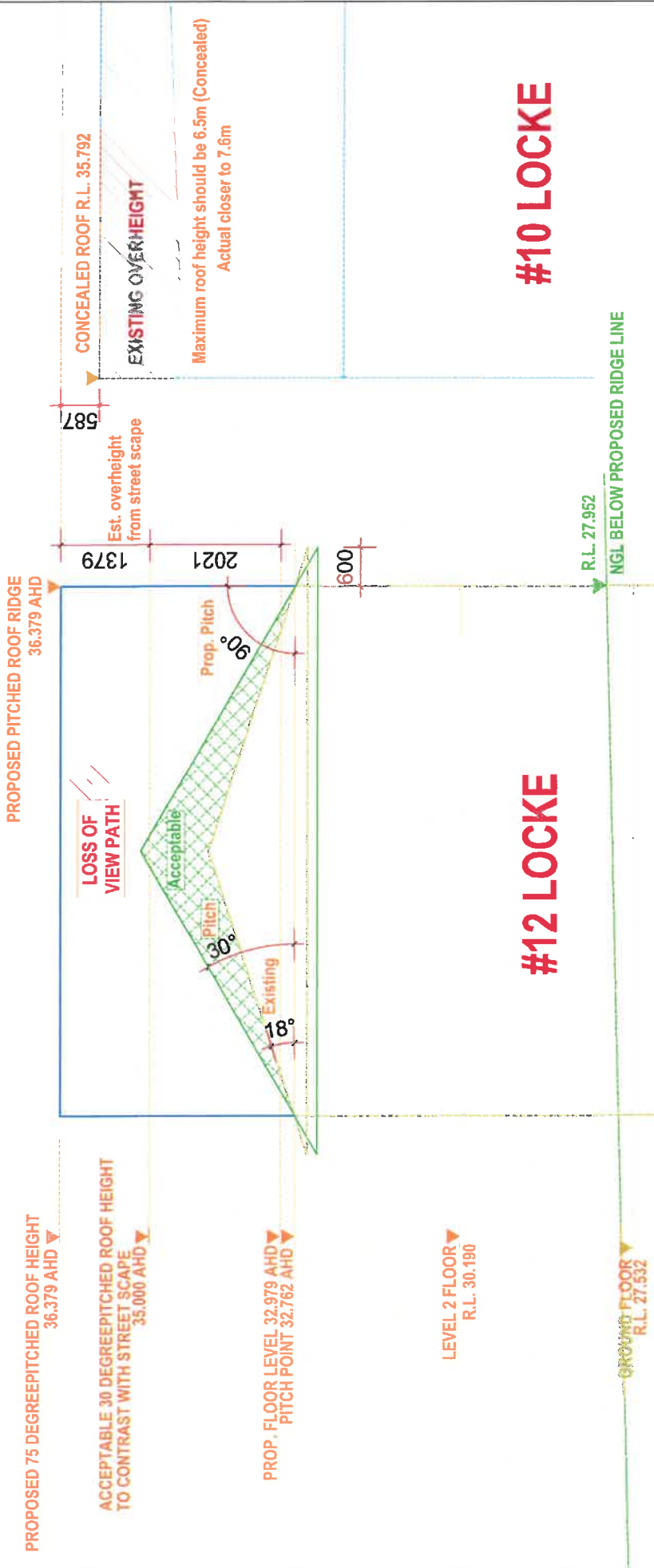
THE IMAGE CLEARLY INDICATES THE EXCESSIVE HEIGHT PREVIOUSLY APPROVED FOR #10 LOCKE CRESCENT WHICH SHOULD BE WELL BELOW THIS LINE AS A CONCEALED FLAT ROOF. ALSO NOTE THE REAR OF THE BUILDING HAS ALSO CONTRIBUTED TO VIEW IMPACT CONTRARY TO COUNCIL'S PREVIOUS ASSESSMENT

#9'S FUTURE UF VIEWS TO BICTON BATHS WILL BE SIGNIFICANTLY IMPACTED

NO.5'S FUTURE UPPER FLOOR VIEWS HAVE ALREADY SIGNIFICANTLY IMPACTED (REMOVED) BY THE OVERHEIGHT #10 AND REMAINING AVAILABLE VIEWPATHS WILL BE IMPACTED (REMOVED) BY PROPOSED OVERHEIGHT #12

ATTACHMENT.003: PHOTO TAKEN FROM UPPER FLOOR LEVEL LIVING AREA @ AHD 34.854

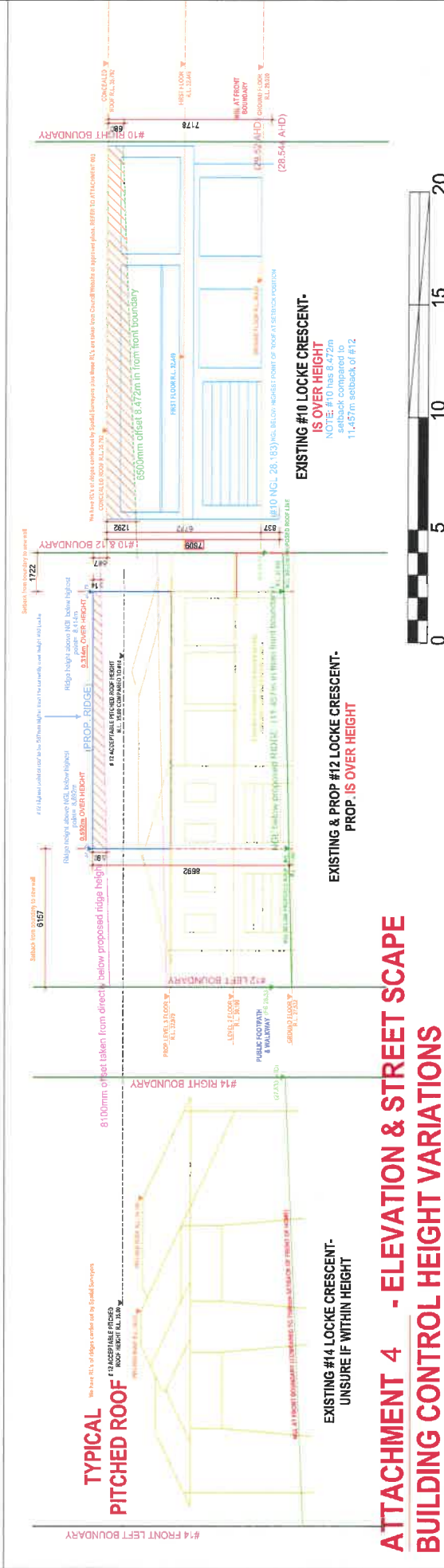
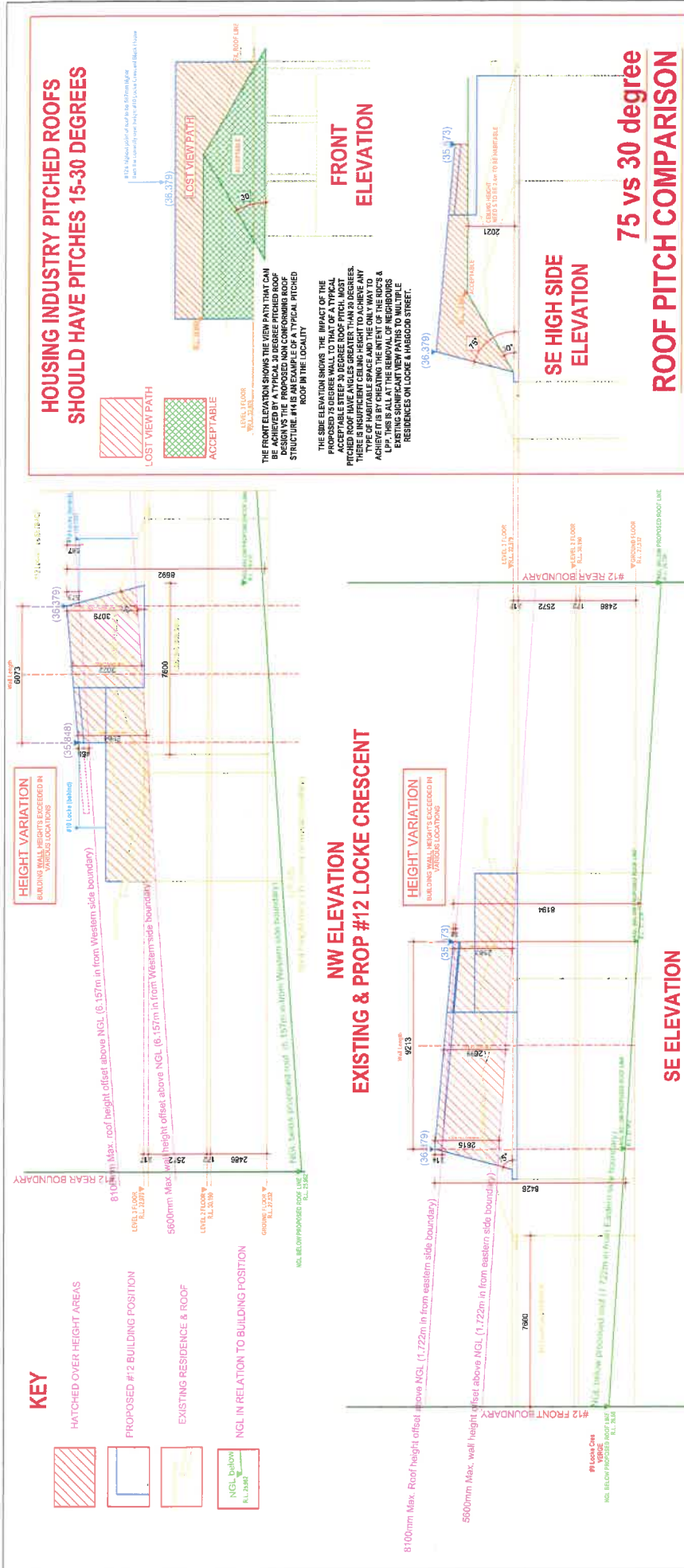
Attachment 1: LOCKE CRESCENT ROOF HEIGHT COMPARISON



#10 LOCKE

#12 LOCKE

ATTACHMENT 3: ROOF GEOMETRY- CROSS SECTION 17th January



ATTACHMENT 4 - ELEVATION & STREET SCAPE

BUILDING CONTROL HEIGHT VARIATIONS

PITCHED ROOF ASSESSMENT 8.1m 17th Jan. 2018

JURISDICTION : STATE ADMINISTRATIVE TRIBUNAL

STREAM : DEVELOPMENT & RESOURCES

ACT : PLANNING AND DEVELOPMENT ACT 2005 (WA)

CITATION : FORTE and TOWN OF CLAREMONT
[2013] WASAT 35

MEMBER : MR P McNAB (SENIOR MEMBER)
MS R MOORE (MEMBER)

HEARD : 27 NOVEMBER AND 20 DECEMBER 2012

DELIVERED : 6 MARCH 2013

FILE NO/S : DR 155 of 2012

BETWEEN : DANNE FORTE
Applicant

AND

TOWN OF CLAREMONT
Respondent

Catchwords:

Town planning - Development application - Height controls in residential areas - Large three level residence proposed - Earlier decision of Tribunal holding that town planning scheme effectively limited development to two storeys - Earlier decision of Tribunal nevertheless permitting development nearby where development of a three level residence presented as two storeys with use of loft - Present proposal on more prominent site with large roof-type structure covering third level - Extent to which earlier decision created controlling precedent - Written local policy aimed at controlling excessive bulk and scale particularly in relation to two storey developments - Policy not in existence when earlier decision made - Whether proposed development would be inconsistent with the

[2013] WASAT 35

current planning framework which effectively prohibited three storey developments - Whether policy inconsistent with width of planning discretion given under scheme - Whether policy undermined by examples of imposing residences built nearby - Relationship of scheme and policy to height controls found in Residential Design Codes - Tribunal finding proposed development was three storey development - Tribunal finding proposed development inconsistent with scheme and policy - Application for review dismissed - Words and phrases: 'storey'

Legislation:

Residential Design Codes of Western Australia 2010, cl 6.7

Town of Claremont Town Planning Scheme No 3, cl 26(3), cl 40, cl 46, cl 76, cl 77

Result:

Review dismissed

Summary of Tribunal's decision:

The applicant sought planning approval for a large three level residence proposed to be built on the corner of Victoria Avenue and Bay Road in the Town of Claremont. This reasonably prominent development would replace an existing two storey 'modern' residence built on the site. The proposed third level of the development presented as a sizeable roof-like structure.

The Tribunal found that the proposed development would be inconsistent with the current planning framework which effectively prohibited three storey developments. A previous decision of the Tribunal (decided by a Deputy President) had reached that conclusion in its interpretation of a clause of the Town Planning Scheme which regulated maximum building height in residential areas. In that earlier decision, the Tribunal had gone on to allow a three level development to be built on the opposite (the Swan River) side of Victoria Avenue, but one that 'presented' to Victoria Avenue as a two storey development, and which took advantage of the roof space as a loft.

Since that earlier decision, the Town of Claremont had published a written local policy, the specific aim of which was to limit height, bulk and scale, particularly as regards two storey and related residential development in the Town.

In this review, the Tribunal discussed planning law cases on the meaning of 'storey' and determined that the proposed development was in fact to be regarded as three storeys high. The Tribunal distinguished the approval given in

the earlier case as context specific but applied the effective prohibition on three storeys found in the planning scheme. In the Tribunal's view, this finding alone may well have been sufficient to warrant refusal of the proposed development.

In any case, approval of the development would be inconsistent with the valid aims and intent of the policy, notwithstanding that there were some examples of imposing residences scattered around the immediate vicinity. Such examples could influence, but not ultimately control, the characterisation of the desired neighbourhood character.

The Tribunal found it unnecessary to go on to consider the respondent's further arguments concerning the interrelationship between height controls in the scheme and the height controls found in the Residential Design Codes. The Tribunal expressed doubt that such controls could in any way assist the applicant's position. Rather, they should be read as complementing a planning framework intent on limiting height, bulk and scale, particularly as regards two storey and higher residential buildings in the Township.

The application for review was dismissed and the decision under review was affirmed.

Category: B

Representation:

Counsel:

Applicant	:	Ms Moharich
Respondent	:	Mr Slarke

Solicitors:

Applicant	:	Flint Moharich
Respondent	:	McLeods

Case(s) referred to in decision(s):

Archetype Design Studios and Town of Claremont [2006] WASAT 181
 Ferella v Otvosi [2005] NSWSC 962; (2005) 64 NSWLR 101
 Hawkins and City of Joondalup [2008] WASAT 64

[2013] WASAT 35

Health Resorts of Australasia Pty Ltd and Western Australian Planning
Commission [2007] WASAT 60; (2007) 51 SR (WA) 266
Kominos & Ors v Boroondara CC [2011] VCAT 982
Leichhardt Municipal Council v Daniel Callaghan Pty Ltd (1981) 46 LGRA 29
Piva v Stonnington CC [2009] VCAT 1089

REASONS FOR DECISION OF THE TRIBUNAL:

Introduction

1 This is a review of a deemed refusal of the Town of Claremont (Town or Council) arising out of a development application made on 10 February 2012 in connection with a proposed development at Lot 50 (No 59) Victoria Avenue, Claremont (subject land or site).

2 The proposed development may be described generally as a new, large, multi-level residence to be built on a corner site with accommodation spread over three levels. The details of the development are given below.

3 It is unnecessary to discuss at any length the evolution of the design of the proposed development, except to note at this point that the *original* iteration was for a three level building 'based on the fact that the third level could have been contained within a conventional pitched roof' (Joint Witness Statement of the Planning Experts, at [12]). The extent to which this matter of history is relevant, if at all, is an issue to which we will return below.

Issues

4 The two main issues before the Tribunal are:

- 1) is the proposed development consistent with the prescribed mandatory height provisions under the *Town of Claremont Town Planning Scheme No 3* (TPS 3); and
- 2) is the application acceptable in terms of its character, height, bulk, scale and form?

5 For convenience of reference we will refer to these two interrelated issues respectively as the 'Building height' issue and the 'Character, bulk and scale' issue.

6 The Tribunal has determined, for the reasons that follow, that the answers to both of these questions is 'No'.

The site and its planning context

7 The subject land and its context are conveniently summarised by the respondent as follows:

... The Site:

- (a) Is located at the northwest corner of the intersection between Victoria Avenue and Bay Road [in the Town of Claremont];
- (b) Has an area of approximately 740 square metres;
- (c) Has [currently] on it a [modern] two storey dwelling;
- (d) Is zoned 'Urban' under the Metropolitan Region Scheme; and
- (e) Is zoned 'Residential R15-R20' under TPS 3.

8 These matters are common ground between the parties.

9 The Tribunal had the benefit of a site visit (including visiting streets in the immediate vicinity of the subject land) accompanied by the parties, their counsel and the experts.

The detail of the proposed development

10 The proposed development is primarily orientated towards Victoria Avenue to the south, with a three car garage accessed from Bay Road (to the east). The overall height of the proposed development will be about 9.2 metres. The ground floor level accommodation includes two bedrooms, two bathrooms and a kitchen/dining/living area which opens onto a covered outdoor area and pool (to the north) and to another covered outdoor area (to the south). The second level contains a guest suite and a playroom, a home theatre/gym and a further bedroom, ensuite and associated balconies. There is a large void over the ground floor dining/living area. Finally, the third level contains a master bedroom with dressing room and ensuite, a study and a sitting room with kitchenette and associated terraces. There is lift access to all three levels.

11 The third level is set behind a metal-clad structure which is set back some 6 metres from the Victoria Avenue boundary and extends over the second level balconies. The perimeter 1.2 to 1.5 metres of this structure is pitched at 60 degrees. It starts at a height of approximately 6 metres above the ground floor level and rises to approximately 8.7 metres where it adjoins a flat section of roof. This flat section is approximately 20 metres by 12.3 metres in area. The pitched section of roofing is interrupted by four large 'dormer' openings ('reverse dormer windows'). The external wall, primarily glazed, to the upper level accommodation is set back approximately 3 to 4.5 metres behind these openings.

- 12 Certain screening to the western elevation (to prevent overlooking) was agreed between the parties, if the development were to be approved, and this matter is no longer in issue.

Planning framework

- 13 The low density residential zoning under TPS 3 ('Residential R15-R20') has already been referred to. See above under 'The site and its planning context'.

- 14 Also relevant are the following provisions from TPS 3: cl 26(3) (compliance with the *Residential Design Codes of Western Australia 2010* (R Codes)); cl 40 (building height, reproduced below); cl 46 (objectives of the Residential zone); cl 76 (design controls); and cl 77 (protection of townscape).

- 15 Clause 40 of TPS 3 is central to this review. So far as is relevant, cl 40 provides as follows:

HEIGHT OF BUILDINGS:

- (1) ... a building shall not be erected or added to so as to exceed the height prescribed or determined in accordance with this Clause.
- (2) For the purpose of this Clause the height of a building shall be the vertical distance between the top of the eaves, parapet or flat roof, whichever is the highest, and the natural ground level. Natural ground level shall be determined by connecting a point on the front boundary to a corresponding point on the rear boundary. Points are deemed to correspond when a line connecting such points is parallel to the nearest side boundary. ...
- (3) ... in the Residential Zone a building shall not exceed 6.6m in height.

- 16 So far as is relevant, the R Codes provide as follows:

6.7 Building height requirements

Objective

To ensure that the height of buildings is consistent with the desired scale in a given locality.

Performance criteria

New development should meet these criteria.

6.7.1 Building height

P1 Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenities of adjoining property, including, where appropriate:

- adequate direct sun to buildings and appurtenant open spaces;
- adequate daylight to major openings to habitable rooms; and
- access to views of significance.

Acceptable development

The acceptable development provisions illustrate one way of meeting the associated performance criteria

A1.1 Buildings which comply with table 3 for category B area buildings, except where stated otherwise in a local planning policy or equivalent.

...

Table 3 - Maximum building heights

Maximum building heights (i)			
	Category		
	A	B	C
Top of external wall (roof above) (ii)	3 m	6 m	9 m
Top of external wall (concealed roof)	4 m	7 m	10 m
Top of pitched roof (iii) (iv)	6 m	9 m	12 m

- i Category B will apply unless a local planning policy requires the application of category A (generally single level development) or category C (development on three levels) or an alternative standard.
- ii Gable walls above eaves height:
- less than 9 m long: exempted
 - greater than 9 m long: add one third of the height of the gable, between the eaves and the apex of the gable wall, to the eaves height.
- iii Applies to ridges greater than 6 m long. Short ridges: add 0.5 m height for each 2 m reduction in length.

- iv Applies to roof pitches up to 25 degrees. In some localities steeper pitches may be required and greater height permitted in accordance with the provisions of the scheme or local planning policy.

Local planning policy: residential character

- 17 Under TPS 3 the Town has adopted a local planning policy, namely, *Local Planning Policy No 107 - Retention of Residential Character* (LPP 107). That Policy is relevant to the review. The respondent drew our focus to the following passages which outline the purposes of the Policy:

Most complaints and objections to new development have centred around the form of two storey single dwellings, both new and additions to existing dwellings. While two storey dwellings are not objected to per se, concern has been regularly expressed about the excessive bulk of two storey developments, especially as viewed from the street, and the distribution of that building bulk at the upper level. Large, slab-sided two storey developments, with the bulk of the second floor thrust forward on the lot, are regarded as out of character with Claremont's existing and traditional housing forms.

In addition, roof forms play a significant role in the urban character of a streetscape. Within the Town of Claremont traditional roof forms predominate in single dwelling development, where there is a strong representation of similar housing styles and roof forms. The Council will encourage traditional roof forms in the older residential areas where these predominate.

The protection and enhancement of streetscapes and residential character are corner stones of TPS3. The purpose of this Policy, therefore, is to provide added protection for the established residential character of the areas within the Town of Claremont which are set aside for single residential development.

- 18 The respondent went on to make the following submissions about the alleged intent of LPP 107. It was submitted that the policy:
- (a) requires a new development to be comparable in scale and proportion to surrounding development in the immediate locality (which is defined as the five properties on either side of the proposed development on both sides of the street);
 - (b) requires building bulk to be distributed to ensure that a proposed two storey dwelling will not have an overpowering impact on neighbours and the streetscape;
 - (c) requires new two storey development to be designed so as to appear to be predominantly a single storey house when viewed

from the street, including a requirement for any two storey development to be located in the middle third of the lot, where the surrounding development in the immediate locality is predominantly single storey;

- (d) limits the maximum floor area of the second storey of a new single dwelling to 50% of the footprint of the ground floor, where surrounding development is predominantly single storey;
- (e) encourages traditional roof forms such as hipped and gable roofs for those parts of a single dwelling which contribute to the immediate streetscape; [and]
- (f) encourages roof pitches between 25 degrees and 35 degrees.

19 On the other hand, the applicant's position is that LPP 107 is fairly generalised (as appears to some degree from the passages reproduced above) and should, in any case, be given little weight when read against the discretion given to any decision-maker under TPS 3, particularly having regard to some of the approved surrounding developments. We will return to this debate below.

Archetype Design Studios case

20 However, before proceeding to the parties' respective cases on the two issues, it is necessary to note some observations about the decision of Judge Chaney (as his Honour then was) in *Archetype Design Studios and Town of Claremont* [2006] WASAT 181 (*Archetype*). The applicant, in particular, relies heavily on the conclusions reached in that review.

21 His Honour was there dealing with two grouped dwellings proposed for Lot 18 (No 56) Victoria Avenue, immediately to the south-west of the subject land. The issues in that review are broadly similar to the issues before the Tribunal in this review. His Honour found, at [18] and [19]:

In my view, it is not possible to construe cl 40 [of TPS 3] as being designed to limit building to two storeys, without any capacity to use roof space above the two storeys. That is what [the design in the case] does. It does allow for a substantial use of the roof space, though in my view, it is nevertheless properly construed as a use of roof space, rather than as an additional storey.

Critical to this issue is the presentation of the development to Victoria Avenue, which has been the focus of the evidence at the hearing, and is the focus of the concerns expressed by the respondent and by its witnesses. It is accepted, quite properly, that the presentation to Victoria Avenue is of a two-storey building with a loft, the dormer windows on that side of the building being somewhat less substantial than

on the river side view of the building. In my view, there is clear scope for that type of development within the parameters found within [TPS 3], when read with the [R Codes].

22 Importantly, his Honour also noted in *Archetype*, at [8], that the effect of the relevant clauses of TPS 3 was as follows:

The effect of those provisions is to limit in practical terms the height of buildings to two storeys, but the provisions of [TPS 3] are otherwise silent as to the absolute height of a building, taking into account its roof.

23 See also his Honour's discussion at [18] of *Archetype*, set out above.

24 It should be noted that this site (No 56), unlike the subject land (No 59), is on the southern side of Victoria Avenue and on a site which historically slopes steeply down to the Swan River. Further, grouped dwellings were proposed for the site and a substantial setback (approximately 14 metres) was envisaged from Victoria Avenue; there also existed a substantial retaining wall.

25 It is also convenient to note at this point that in our view the site (No 56) was clearly to be construed in the context of a proposed development that was seen as compatible with other substantial residential developments *on that side* of Victoria Avenue, especially when viewed from the Swan River. We note also that a different structure exists on the site now, as opposed to what was originally approved by his Honour in that review. In addition, LPP 107 was not in existence when that decision was made.

26 We turn to discuss the parties' respective positions regarding the first issue of 'Building height'.

Building height: respondent's contentions

27 In summary, the respondent contends as follows:

- 1) The proposed development differs substantially from the development approved in *Archetype* because:
 - a) the development the subject of this review was originally conceived as a three storey development (see, for example, the earlier plans filed in the review dated 17 January 2012, prepared by Zuideveld Hur Architects);

[2013] WASAT 35

- b) there is substantially more habitable floor area here than in *Archetype*;
 - c) the percentage of floor area covered by the proposed pitched roof is 'nowhere near 50%', (compare *Archetype*, at [25]: 'constitute[d] a coverage of roughly half of the footprint of the building').
- 2) The proposed pitched roof neither presents as, nor functions as, a roof. The pitched element (that is, the perimeter) 'mimics' a roof. This is because the roof is substantially open on two elevations; will need a drainage system on the 'balcony' areas behind the openings; and these openings are not themselves recessed dormer windows.
 - 3) Further, the perimeter form could be described as a 'metal shroud' imitating a roof element. In any case, this structure does not substantially conceal the existence of a third storey behind it.
 - 4) The pitched element in effect 'hides' a flat roof and the height measurement under cl 40 of TPS 3 from either the top of the eaves or the flat roof itself exceeds 6.6 metres. This height limitation cannot be varied under TPS 3.
 - 5) If it were necessary to assess the proposed development against the R Codes then this development would be probably regarded as a 'concealed roof' within the meaning of Table 3, Category B, and therefore exceed the maximum building height. In any event, the rationale for the restriction of height for concealed or flat roofs is to prevent excessive bulk.
 - 6) Likewise, the R Codes' performance-based objectives could not be met because of the bulk and scale created by the roof form.

28 The evidence given by Mr A Pawluk, an expert town planner called by the respondent, is generally consistent with these contentions and those below on character bulk and scale.

Building height: applicant's contentions

29 The applicant responded as follows:

- 1) Relying upon *Archetype*, at [8] (reproduced above), there is no absolute maximum building height prescribed under TPS 3.
- 2) When assessing any proposal the Tribunal must look at cl 6.7 and Table 3, Category B of the R Codes to establish the maximum building height, namely 9 metres for a 'pitched roof', which is applicable here.
- 3) The Tribunal should also apply the concept of a mansard roof as appears at [15] and [16] of *Archetype*:

The expression 'flat roof' is not defined either in the [TPS 3] or in the [R Codes]. Clause 9 of the [TPS 3] provides that words and expressions used in [TPS 3], but not defined in Part 1 of [TPS 3], elsewhere in the [TPS 3], or in the [R Codes], shall have their normal and common meanings. In my view, applying that test it cannot be said that the proposed roof can be properly described as a flat roof, notwithstanding that an element of it is, in effect, flat. Rather I think that it is, if one needs a label, far closer to describe the roof as similar to a mansard roof.

[The Tribunal] was provided during the course of closings with a glossary of building terms published jointly by the National Committee on Rationalised Building and Standards Australia. That document is of some assistance in giving substance to the ordinary or common meaning of these expressions. A review of that document supports the conclusion which I have reached, that this roof form cannot be properly described for the purposes of the [TPS 3] as a flat roof. There is unmistakably a visible portion of roof above the wall of the upper or first floor level, which, to an external viewer and in terms of function, in my view, can only be described as a visible roof or a roof element.

- 4) Further, the internal recessed dormer openings proposed are consistent with the conceptual notion of a mansard roof and provide light and ventilation to the rooms within the roof space.
- 5) On the question of whether the proposed development's roof functions as a roof, the applicant submits as follows:

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... The pitch of this roof is the same as in the *Archetype* decision at 60 per cent. In the *Archetype* decision the area of the angled roof area, that is the non-habitable space, was roughly half the area of the floor plate below, meaning that the habitable spaces [were] also approximately half and this is what is proposed in this case, as set out in ... Mr Zuideveld's [witness] statement. (T:7; 20.12.12)

- 6) The applicant submits that it is not open to the Tribunal to take previous iterations of the design of the proposed development into account. The applicant's counsel says:

[We submit] that [that] kind of design process goes on in all development, sometimes before the [T]ribunal and sometimes prior to lodgement but those [previous] proposals aren't before the [T]ribunal now and it is only the application and the plans that are now before the [T]ribunal that are to be assessed. (T:8; 20.12.12)

- 7) On the question of whether the structure looks like a roof, the applicant submits that the situation is again similar to *Archetype*. The applicant relies on *Archetype*, at [16]:

There is unmistakably a visible portion of roof above the wall of the upper or first floor level, which, to an external viewer and in terms of function, in my view, can only be described as a visible roof or a roof element.

The applicant also draws attention to *Archetype*, at [25]:

In my view, that leads to the conclusion that the pitched portion of the roof functions as a roof, and that is how the building would appear from the street, or indeed from the river. The sloping of the element of the roof is, I think, unmistakably roof and is not concealed.

- 8) On the question of whether the roof space can or should be characterised as a loft, the applicant says:

We do not accept that there is a need for this roof space to be characterised as a loft for it to be approvable. In *Archetype*, the roof space included the master bedroom and en suite. They could not be considered incidental rooms in a house, obviously, and the area, whilst smaller than what is proposed in this circumstance, was still quite substantial. It's about 70 square metres. (T:9; 20.12.12)

- 9) The applicant points out that there are many houses constructed with a roof pitch greater than 25 degrees in the locality. In fact, the property immediately to the north has a roof pitch greater than 25 degrees.

30 The evidence given by Mr Caddy, an expert planner called by the applicant, is generally consistent with these contentions and those below on character bulk and scale.

31 We now turn to the second related issue which is an assessment of the character, bulk and scale of the proposed development.

Character, bulk and scale: respondent's contentions

32 The respondent submits as follows:

- 1) There is an overarching connection between overall height and roof pitch. The respondent contends that the relevant provisions of the planning framework cannot be met and, in any case, do not contemplate a roof design of this type.
- 2) Much of the roof of the proposed development is concealed, 'spreading its bulk out'. The element which is not concealed has an 'extremely high' roof pitch. This tends to maximise the bulk.
- 3) Therefore the 'inevitable and undesirable' effect of these factors 'is to maximise the bulk and impact of the third level'.
- 4) Where, as here, even if a minimum setback is achieved, nevertheless the upper level begins 6 metres from Victoria Avenue and reduces down to approximately 2 metres, at the corner of Bay Road.
- 5) Here, there has been 'no attempt to push the upper level back', as occurred in *Archetype* and therefore the proposed development's impact is 'quite different' from that which was approved in *Archetype*.
- 6) To the extent that the performance criteria of the R Codes are relevant, that task 'requires consideration of whether the building height is consistent with the desired height in a locality'. To determine what is the desired scale and

height, the Tribunal must look at both TPS 3 and LPP 107. Accordingly, Mr Slarke contended that:

While a 9.2 metre height to the top of a traditional pitched roof could be acceptable in this location, it's manifestly unacceptable where the majority of the roof structure is in fact flat and concealed and the external pitched element serves to spread out that building bulk. The desired height of a building with this type of design would be closer to the seven metre standard, which the [R Codes] have for concealed rooves or even the 6.6 metres for a flat roof contemplated by [TPS 2].

[This position] is reinforced by [LPP 107] which encourages traditional roof design, gabled or hipped rooves are mentioned expressly, with roof pitches between 25 and 35 degrees. [LPP 107] also encourages second storeys of buildings to be located in the middle third of the lot because that has an impact on the bulk as well. (T:26; 20.12.12)

- 7) Thus, neighbouring properties, for example, No 42 Bay Road and No 56 Victoria Avenue, are not relevantly comparable with the subject lot.

Character, bulk and scale: applicant's contentions

33 The applicant contended that, in effect, if LPP 107 were applicable to the extent that the respondent suggested then there would be four relevant elements that might have to be addressed. The elements identified were:

- 1) scale and proportion;
- 2) design standards for two storey residential development;
- 3) front setbacks; and
- 4) roof forms.

34 On the first element the applicant submits that there are a number of larger two storey residences in the immediate locality - except for the neighbouring properties to the west - which are all single storey. On the second element, the applicant says that the house approved at No 42 Bay Road is of a similar scale to the proposed development and suggests that the Town accepts 'that this is an appropriate level of bulk and scale for this locality'. Further, the proposed development is more consistent with the alleged policy intent as, when compared to No 42,

there are more architectural features (for example, the 'verandahs') which diminish bulk and scale.

35 On the third element, dealing with front setbacks, the applicant submits that there is less impact here given the corner location and impact on only one neighbour (to the west). As to the final element of roof form, the applicant submits that whilst the development does not achieve a 'traditional' roof-form, this mansard roof-type could be considered as 'innovative'.

36 On the weight to be given to LPP 107, the applicant notes that the policy is not area-specific and covers the whole Town. The applicant reiterates that any 'character of the area' must be assessed in light of previous approvals, including No 42 Bay Road and No 56 Victoria Avenue (with its height and steep roof pitch) and matters such as street vegetation, variation of building stock, proximity to the Swan River and consequent redevelopment cycles.

Analysis and discussion of the case

37 With respect to Ms Moharich, counsel for the applicant, we do not accept the central tenet of her case. In our view, the proposed development, when assessed objectively from a planning and design perspective, is plainly, and presents plainly as, a large three storey building.

38 If this is correct then the applicant faces an immediate and perhaps insurmountable hurdle, as it will be recalled that in *Archetype* his Honour said, at [8], that the effect of the relevant clauses of TPS 3 'is to limit in practical terms the height of buildings to two storeys' even if the provisions of TPS 3 'are otherwise silent as to the absolute height of a building, taking into account its roof'.

39 We commence by noting another decision of Judge Chaney (as his Honour then was) which dealt with the concept of a 'storey' in planning law: *Health Resorts of Australasia Pty Ltd and Western Australian Planning Commission* [2007] WASAT 60; (2007) 51 SR (WA) 266 (*Health Resorts*). In that case, and insofar as is relevant, his Honour observed, at [45] - [48]:

There are several definitions of 'storey' in ... legislative instruments. The *Building Codes* [sic] of Australia (BCA) defines storey as follows:

Storey means the space within a building which is situated between one floor level and the floor level next above or if there is not floor above the ceiling or roof [...]

The applicant also observes that the *City of Mandurah Local Planning Policy No 12* entitled 'Development Height Policy' provides that 'use of the room space as a room(s) shall not be considered to constitute "a storey" providing that height standards applicable to the site are not exceeded'.

The term storey is defined in s 7 of the *State Planning Policy 2.6 'State Coastal Planning Policy'* (SPP 2.6) to mean:

In this Policy, unless the context otherwise requires:

...

'[S]torey' when used in relation to a development that if for residential purposes has the same meaning as in the *Residential Design Codes*, when used in relation to other development means a space within a building which is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above [...]

The definition contained in SPP 2.6 raises the question of whether or not a development is one which is for 'residential purposes', in which case the definition the *Residential Design Codes of Western Australia* (2002) (the Codes) applies, or is some other development. The definition of storey in the Codes is 'that part of a building between floor levels. If there is no floor above, it is the part between the floor level and the ceiling'.

The effective difference between the Codes' definition and the definitions under both the BCA and SPP 2.6 in relation to 'other developments' is that the latter two exclude a 'mezzanine' from being a storey.

40 In *Leichhardt Municipal Council v Daniel Callaghan Pty Ltd* (1981) 46 LGRA 29, Glass JA said, at 35:

The word storey, it seems, is always used to denote a structural feature of a building ... [One] determines the number of floors or storeys in a building not by counting the number of different levels in it but by counting the number of levels of approximately similar floor area ranged above the ground floor in a vertical plane and incorporated in its structure and then adding one.

41 Justice Hamilton wrote in *Ferella v Otvosi* [2005] NSWSC 962; (2005) 64 NSWLR 101 (*Ferella*), at [18] - [20]:

There are not a lot of decisions on whether a building contains more than x storeys or is more than x storeys in height. A storey is conveniently defined as 'each of the stages or portions one above the other of which a

building consists': Shorter Oxford English Dictionary (5th ed, 2002); *Leichhardt Municipal Council v Daniel Callaghan Pty Ltd* (1981) 46 LGRA 29 per Samuels JA at 37.

In the *Daniel Callaghan* case, the NSW Court of Appeal held that a building 'contained' more than three storeys, where it had seven storeys, but nowhere were there more than three storeys superimposed on each other, because the building was stepped back progressively on a sloping site. This was followed in a similar context by Crispin J in the Supreme Court of the ACT in *Hughes v ACT Planning and Land Authority* [2004] ACTSC 132; (2004) 136 LGERA 420. See also the decision of Bignold J in the Land and Environment Court in *Druitts Developments Pty Ltd v Gosford City Council* [2001] NSWLEC 96; (2001) 114 LGERA 61.

However, provisions that a building not exceed x storeys in height have a rather different incidence. In a number of US cases expressions in terms of x storeys in height have been found ambiguous and uncertain ... But the expression 'not more than one storey ... high' did not occasion difficulty for Bryson J in *Kirby v Esplin* NSWSC 26 May 1989 unreported. His Honour took that expression to refer to a building that was one storey high above ground level at the site of the building. This concept was encompassed by the description in the *Daniel Callaghan* case by Glass JA at 33 of a building 'no part of ... which rose from the ground in the vertical plane for a distance of more than three storeys' (although the *Daniel Callaghan* case, as already noted, dealt with a provision which required a building to contain no more than x storeys).

42 Here, the task of 'counting the number of levels of approximately similar floor area ranged above the ground floor in a vertical plane and incorporated in its structure' (per Glass JA) must, of course, be modified to meet the case where the next level to be counted contains only part of a habitable area with associated sheltered living areas so as to make it a floor. So modified, a count results in three storeys. In any event, applying the current R Codes' definition (which is the same as that which appears above in *Health Resorts*) namely '[t]hat part of a building between floor levels[;] [i]f there is no floor above, it is the part between the floor level and the ceiling' produces, when read purposively, the same result. So too, applying the ordinary dictionary meaning of the word 'storey' (see, for example, the dictionary definition found in *Ferella*, above: '[E]ach of the stages or portions one above the other of which a building consists').

43 Merely 'disguising' a final storey with a large roof-type structure or purporting to use the structure as 'roof space' (in any form and no matter how creatively, 'minimally' or ingeniously done) cannot defeat the admonition to count and observe the true number of storeys. Any attempt

to use the 'roof space', as eventually succeeded in *Archetype*, must bear in mind that His Honour only permitted the proposed development there because it was '[c]ritical' how in fact the development 'presented' to Victoria Avenue. His Honour found that it was 'accepted, quite properly, that the presentation to Victoria Avenue *is of a two-storey building with a loft*, the dormer windows on that side of the building being somewhat less substantial than on the river side view of the building' (at [19]). That is a far cry from the case here where in form the proposed development presents as three storeys placed, we note, on a more prominent corner site on the other side of Victoria Avenue.

44 In our view, the history of the proposed development is also relevant to this question of the characterisation of the number of storeys. As we are a Tribunal 'not bound by the rules of evidence' that can 'inform itself on any matter as it sees fit', we are entitled to consider that history if it is 'logically probative' of the issue to be determined. Plainly, the history referred to above points also to an evolution from and based upon addressing three storeys.

45 On these grounds alone refusal of the development would seem to be warranted.

46 In any case, the respondent's relevant policy (LPP 107), when read fairly and allowing for its level of aspirational generality, if applied, would also create hurdles for the applicant. Of course, in planning law and practice the validity of the use of such policies to guide the exercise of discretion is trite. The disquiet expressed in LPP 107 about *two* storey developments (for example, 'concern has been regularly expressed about the excessive bulk of two storey developments, especially as viewed from the street, and the distribution of that building bulk at the upper level') necessarily implies that three storey developments will be problematic *per se*, a position entirely consistent with his Honour's views in *Archetype* - a case, we note, which was decided before that policy was ever in existence.

47 We also accept the respondent's related arguments to the effect that sufficient textual indications can be found in LPP 107 to support the argument that the proposed development, if approved, would defeat the central premise of the policy, that is the minimising of bulk and scale for two storey and related development to preserve the 'character [of] Claremont's existing and traditional housing forms'. Whilst it is true that generally to the east there are a number of imposing residences scattered about, immediately to the west on Victoria Avenue (and on the same side

as the subject land) there are a number of single storey residences or developments, some with 'traditional' roof forms.

48 In addition, the upper third level of the proposed development which extends over the lower floor balconies, has a maximum setback of 6 metres to Victoria Avenue, reducing down at the corner of Bay Road to only a 2 metre setback. In contrast, the third level of the proposal approved in *Archetype* had a setback of approximately 14 metres to Victoria Avenue.

49 Whether or not the respondent has approved other development over the years 'in error' we are not bound to follow that lead, although we acknowledge that such results must influence (but not control) judgments to be made as to the surrounding character of the immediate neighbourhood. However, whether any proposed development 'makes the situation worse' is often relevant to the exercise of discretion in planning matters (cf, for example, *Piva v Stonnington CC* [2009] VCAT 1089 at [36]; *Kominos & Ors v Boroondara CC* [2011] VCAT 982 at [35]). And, in *Hawkins and City of Joondalup* [2008] WASAT 64 the Tribunal noted, at [66] - [67]:

... [A]s the Tribunal said in *Hopkin v Shire of Serpentine-Jarrahdale* (2006) 46 SR (WA) 84 (at 91):

[51] Even if examples could be provided of departure by the respondent Shire from its policies such cases would not justify a further departure. In *Smart v Barossa Council* [1999] SAERDC 29 (cited with approval in this Tribunal in *Spectator Investments Pty Ltd and City of Joondalup* [2006] WASAT 232, at [40] and *Sweeney v Shire of Busselton* [2006] WASAT 277 at [39]) the court said, at [9]:

Trite as it may be to say so, 'two wrongs do not make a right', or to put it another way, the Court cannot use existing bad examples of development as justification for proposals which are contrary to a Plan's provisions.

Further, the Tribunal has emphasised that it can be a proper regulatory response to 'hold the line' against further inroads to a planning standard (if there be any): see *Tooth v City of Subiaco* (2005) 41 SR (WA) 198.

50 In this review, given the policy's obvious relevance and intent (and the validity of its planning objectives), we would apply LPP 107 to refuse the applicant's proposed three storey development on the grounds of its excessive height, bulk and scale particularly having regard to the

proposed development's location on a prominent corner site. We accept counsel for the respondent (Mr Slarke's) contentions on this point.

51 In such circumstances, it is unnecessary for us to go on to explore the proposed development's consistency, if any, with the R Codes, read with cl 40 of TPS 3 (particularly the injunction that 'in the Residential Zone a building shall not exceed 6.6 [metres] in height'), having regard also to the related issue of the proper characterisation of the proposed development's roof form. However, we very much doubt that these additional regulatory standards can be invoked in aid of the applicant's position. They are clearly intended to *complement* and not contradict a planning framework which we have found is plainly designed to limit and otherwise regulate height, bulk and scale in the Town of Claremont.

52 We would therefore refuse the applicant's development proposal and dismiss the review.

Orders

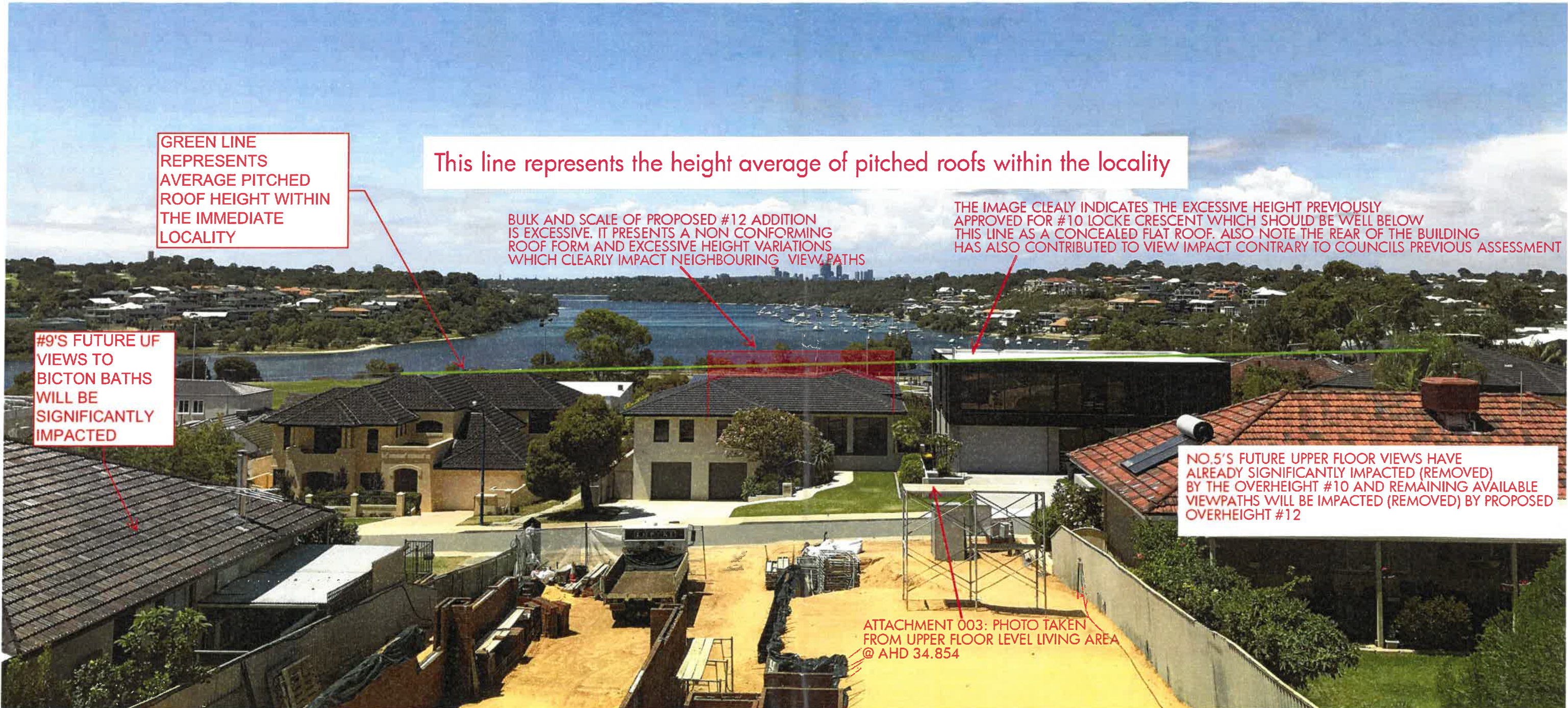
53 For these reasons we make the following orders:

1. The application for review is dismissed.
2. The decision under review is affirmed.

I certify that this and the preceding [53] paragraphs comprise the reasons for decision of the State Administrative Tribunal.

MR P McNAB, SENIOR MEMBER

Town of East Fremantle
 24 JAN 2018
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GREEN LINE REPRESENTS AVERAGE PITCHED ROOF HEIGHT WITHIN THE IMMEDIATE LOCALITY

This line represents the height average of pitched roofs within the locality

BULK AND SCALE OF PROPOSED #12 ADDITION IS EXCESSIVE. IT PRESENTS A NON CONFORMING ROOF FORM AND EXCESSIVE HEIGHT VARIATIONS WHICH CLEARLY IMPACT NEIGHBOURING VIEW PATHS

THE IMAGE CLEARLY INDICATES THE EXCESSIVE HEIGHT PREVIOUSLY APPROVED FOR #10 LOCKE CRESCENT WHICH SHOULD BE WELL BELOW THIS LINE AS A CONCEALED FLAT ROOF. ALSO NOTE THE REAR OF THE BUILDING HAS ALSO CONTRIBUTED TO VIEW IMPACT CONTRARY TO COUNCIL'S PREVIOUS ASSESSMENT

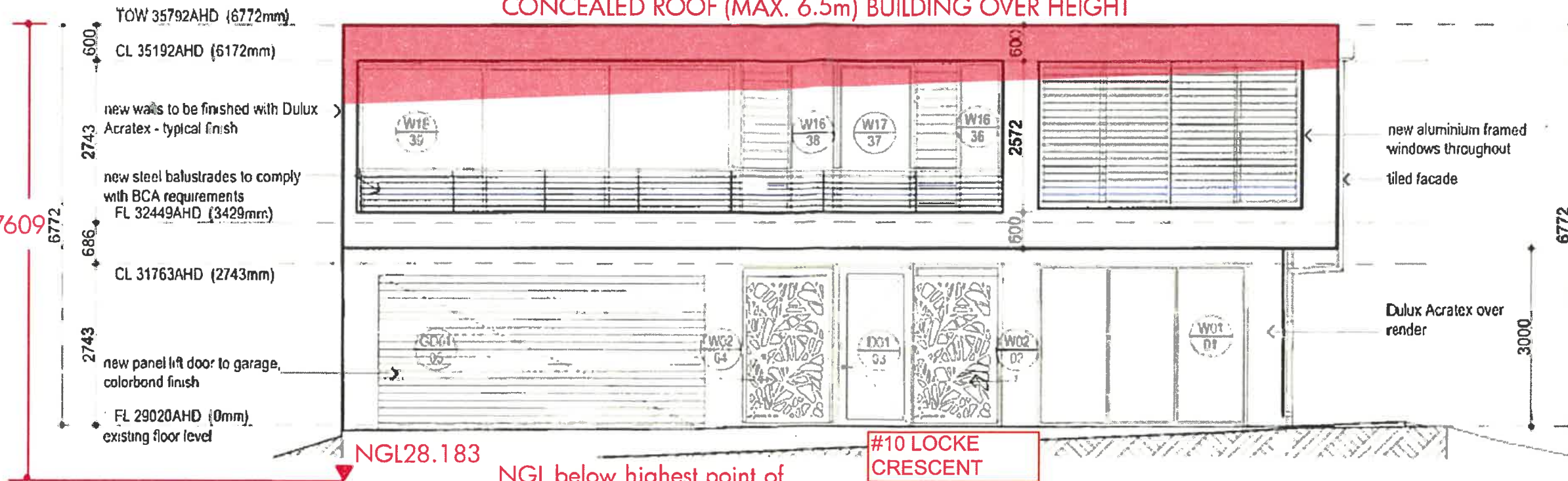
#9'S FUTURE UPPER FLOOR VIEWS TO BICTON BATHS WILL BE SIGNIFICANTLY IMPACTED

NO.5'S FUTURE UPPER FLOOR VIEWS HAVE ALREADY SIGNIFICANTLY IMPACTED (REMOVED) BY THE OVERHEIGHT #10 AND REMAINING AVAILABLE VIEWPATHS WILL BE IMPACTED (REMOVED) BY PROPOSED OVERHEIGHT #12

ATTACHMENT 003: PHOTO TAKEN FROM UPPER FLOOR LEVEL LIVING AREA @ AHD 34.854

Attachment 1: LOCKE CRESCENT ROOF HEIGHT COMPARISON

ACTUAL BUILDING HEIGHT AT SETBACK ABOVE NGL



South West 1:100

5 JULY 2016

Town of East Fremantle
24 JAN 2018
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Attachment 2: STREETSCAPE & VIEW IMPACT FROM 7 LOCKE CRESCENT

PROPOSED 75 DEGREE PITCHED ROOF HEIGHT
36.379 AHD

ACCEPTABLE 30 DEGREE PITCHED ROOF HEIGHT
TO CONTRAST WITH STREET SCAPE
35.000 AHD

PROP. FLOOR LEVEL 32.979 AHD
PITCH POINT 32.762 AHD

LEVEL 2 FLOOR
R.L. 30.190

GROUND FLOOR
R.L. 27.532

PROPOSED PITCHED ROOF RIDGE
36.379 AHD

LOSS OF
VIEW PATH

Acceptable

Existing
18°
30° Pitch

Prop. Pitch
90°

1379

2021

600

Est. overheight
from street scape

587

CONCEALED ROOF R.L. 35.792

EXISTING OVERHEIGHT

Maximum roof height should be 6.5m (Concealed)
Actual closer to 7.6m

#12 LOCKE

#10 LOCKE

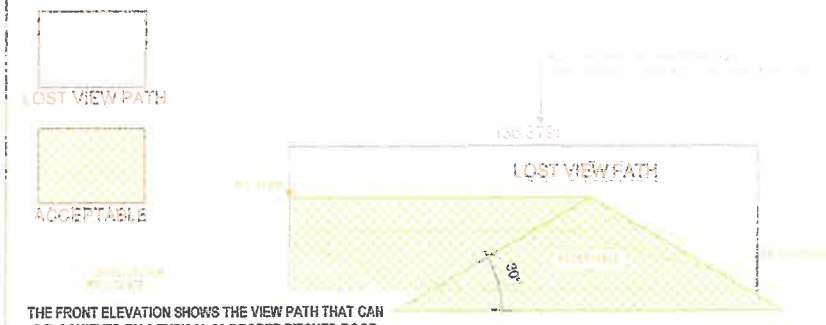
R.L. 27.952

NGL BELOW PROPOSED RIDGE LINE

ATTACHMENT 03 ROOF GEOMETRY- CROSS SECTION 18th January

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24 JAN 2018
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HOUSING INDUSTRY PITCHED ROOFS SHOULD HAVE PITCHES 15-30 DEGREES



THE FRONT ELEVATION SHOWS THE VIEW PATH THAT CAN BE ACHIEVED BY A TYPICAL 30 DEGREE PITCHED ROOF DESIGN VS THE PROPOSED NON CONFORMING ROOF STRUCTURE. #14 IS AN EXAMPLE OF A TYPICAL PITCHED ROOF IN THE LOCALITY

THE SIDE ELEVATION SHOWS THE IMPACT OF THE PROPOSED 75 DEGREE WALL TO THAT OF A TYPICAL ACCEPTABLE STEEP 30 DEGREE ROOF PITCH. MOST PITCHED ROOF HAVE ANGLES GREATER THAN 20 DEGREES. THERE IS INSUFFICIENT CEILING HEIGHT TO ACHIEVE ANY TYPE OF HABITABLE SPACE AND THE ONLY WAY TO ACHIEVE IT IS BY CHEATING THE INTENT OF THE RDC'S & LPP. THIS IS ALL AT THE REMOVAL OF NEIGHBOURS EXISTING SIGNIFICANT VIEW PATHS TO MULTIPLE RESIDENCES ON LOCKE & HABGOOD STREET.

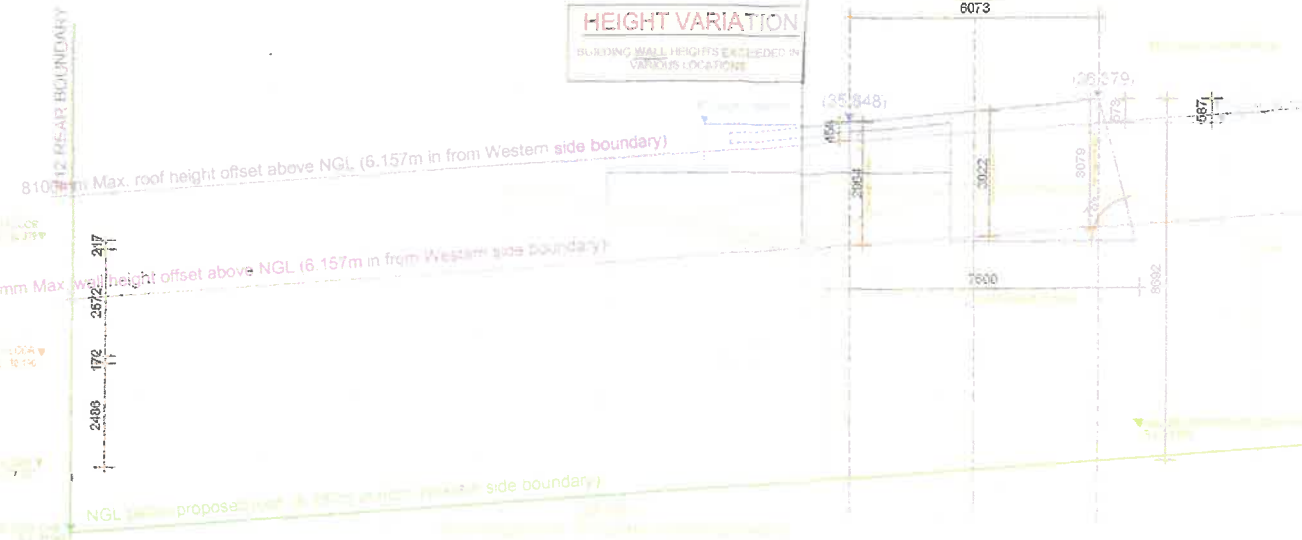
FRONT ELEVATION

SE HIGH SIDE ELEVATION

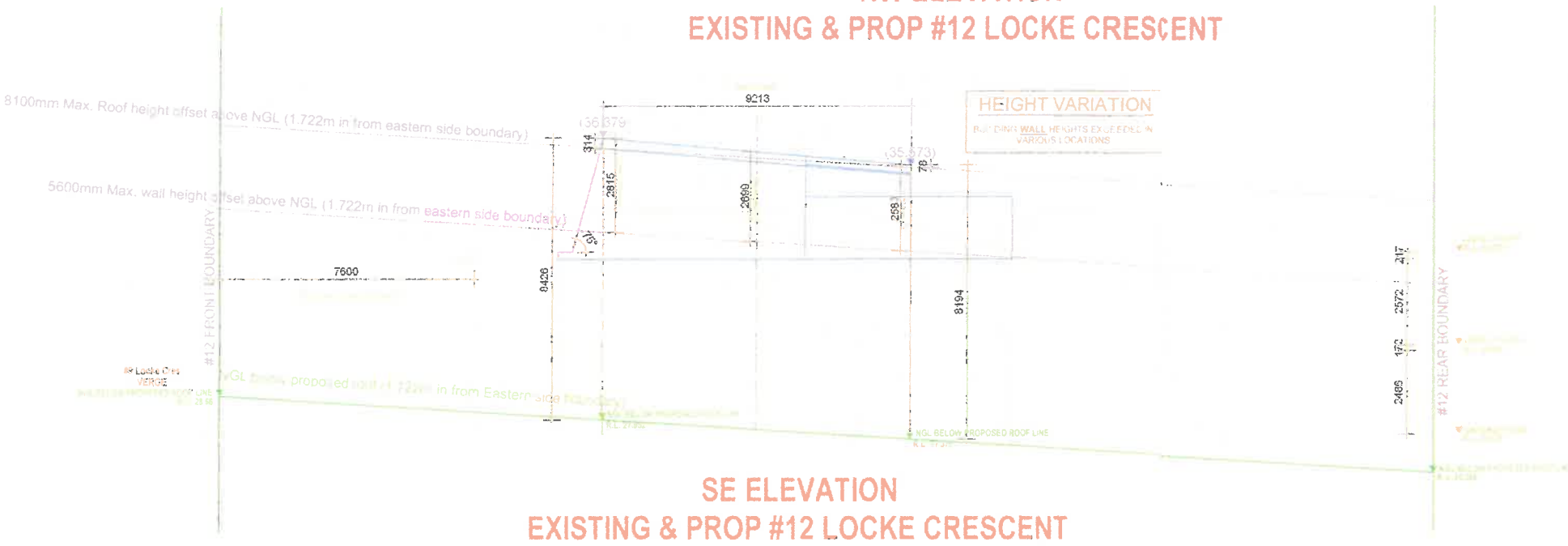
75 vs 30 degree ROOF PITCH COMPARISON

ITEM 11.3 KEY

- HATCHED OVER HEIGHT AREAS
- PROPOSED #12 BUILDING POSITION
- EXISTING RESIDENCE & ROOF
- NGL IN RELATION TO BUILDING POSITION

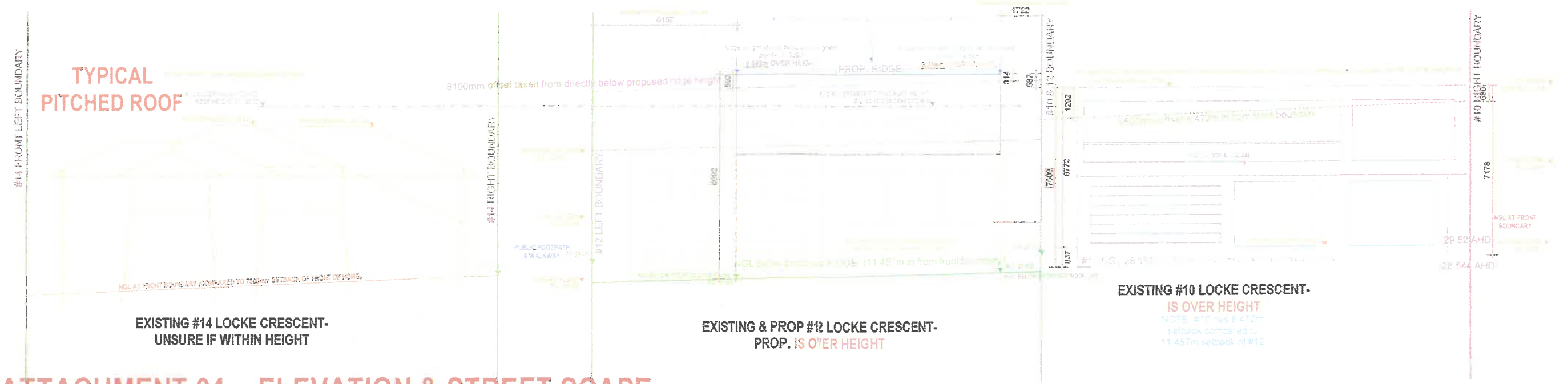


NW ELEVATION EXISTING & PROP #12 LOCKE CRESCENT



SE ELEVATION EXISTING & PROP #12 LOCKE CRESCENT

TYPICAL PITCHED ROOF

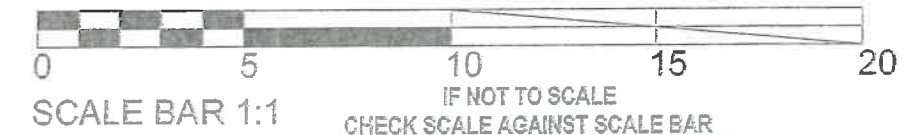


EXISTING #14 LOCKE CRESCENT- UNSURE IF WITHIN HEIGHT

EXISTING & PROP #12 LOCKE CRESCENT- PROP. IS O'ER HEIGHT

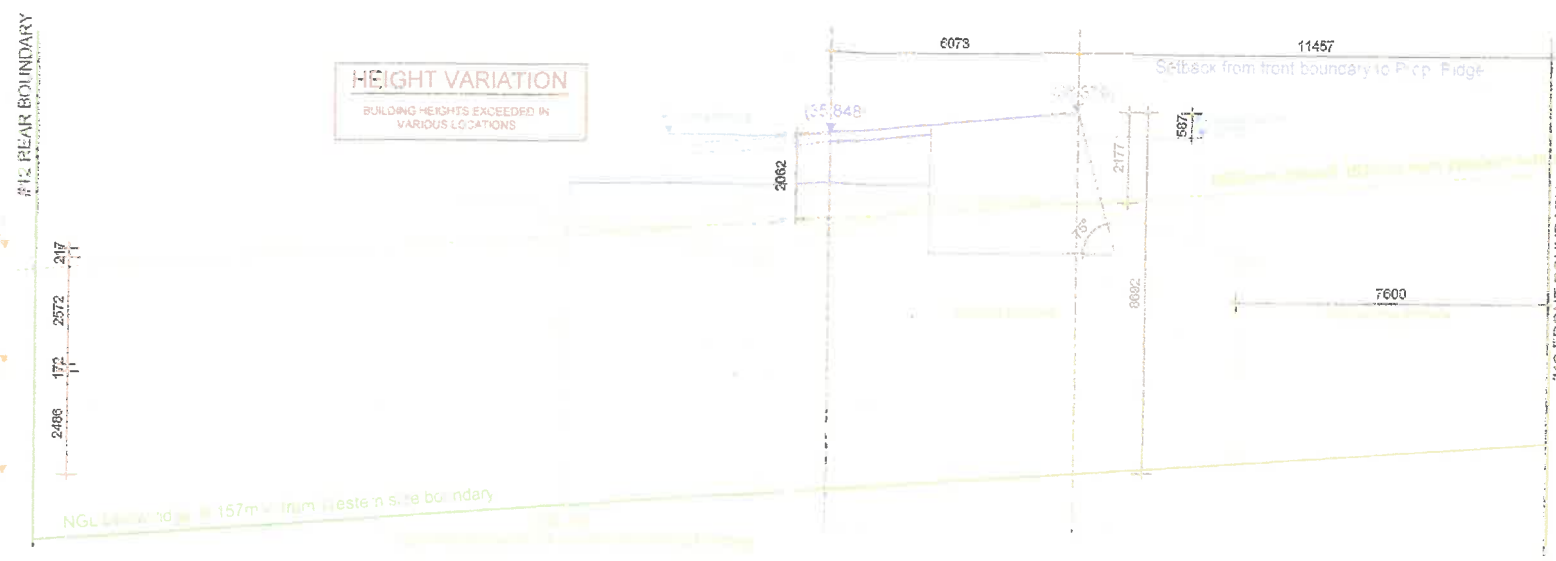
EXISTING #10 LOCKE CRESCENT- IS OVER HEIGHT
NOTE: #10 has 6.42m setback compared to 11.457m setback of #12

ATTACHMENT 04 - ELEVATION & STREET SCAPE BUILDING CONTROL HEIGHT VARIATIONS PITCHED ROOF ASSESMENT 8.1m 18th Jan. 2018

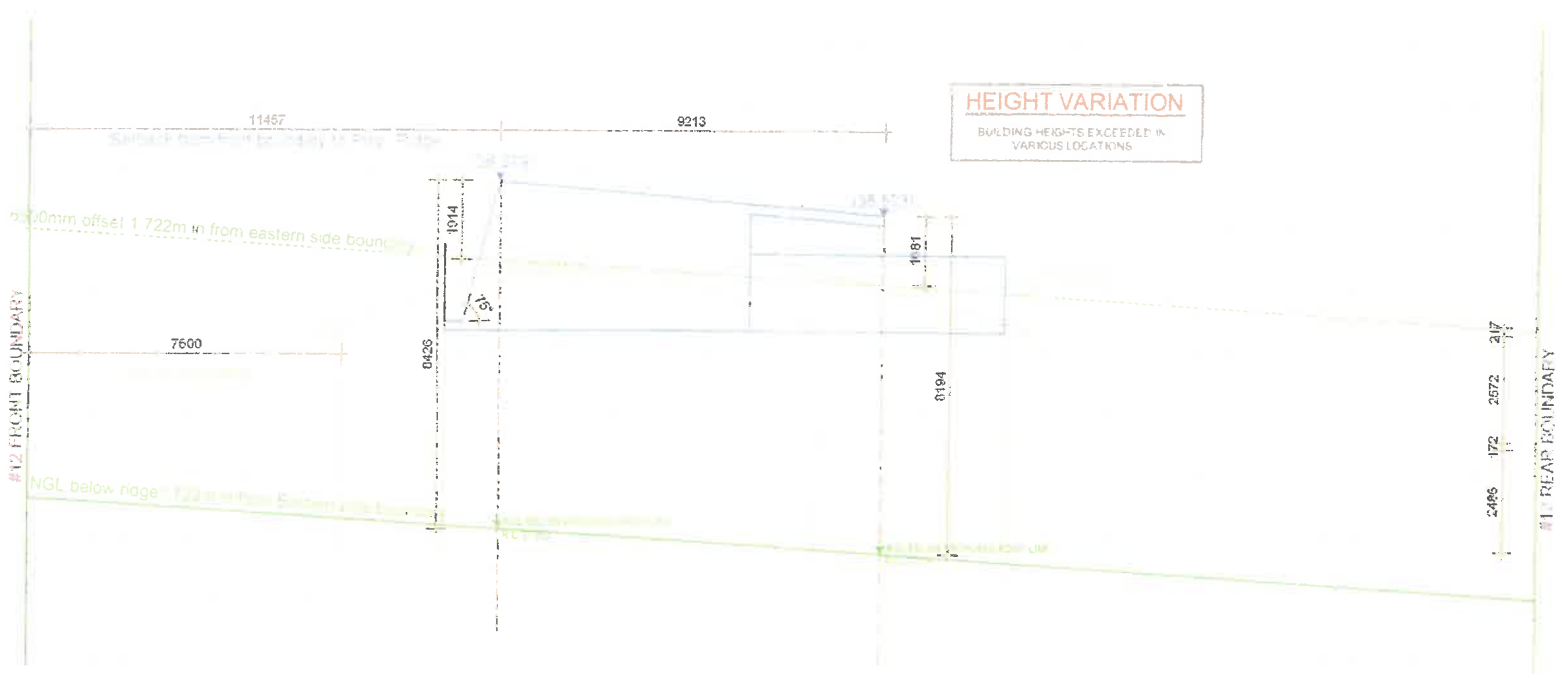


Town of East Ferrisville
24 JAN 2018
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NW ELEVATION
EXISTING & PROP #12 LOCKE CRESCENT



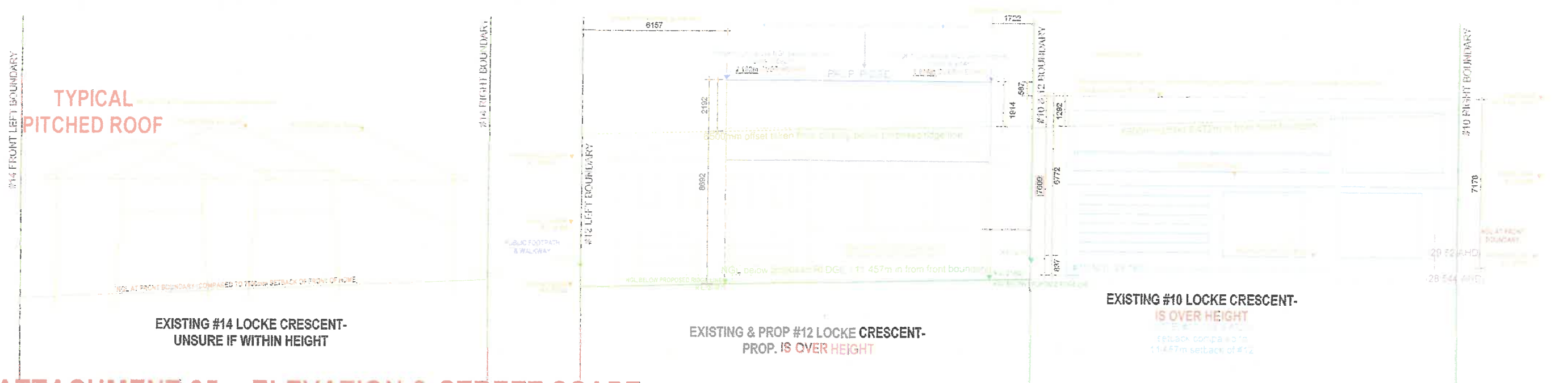
SE ELEVATION
EXISTING & PROP #12 LOCKE CRESCENT



KEY

-  HATCHED OVER HEIGHT AREAS
-  PROPOSED #12 BUILDING POSITION
-  EXISTING RESIDENCE & ROOF
-  NGL IN RELATION TO BUILDING POSITION

TYPICAL
PITCHED ROOF

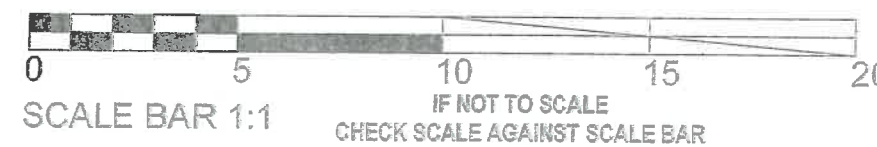


EXISTING #14 LOCKE CRESCENT-
UNSURE IF WITHIN HEIGHT

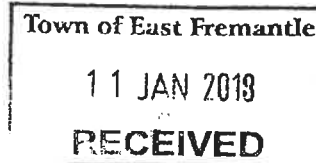
EXISTING & PROP #12 LOCKE CRESCENT-
PROP. IS OVER HEIGHT

EXISTING #10 LOCKE CRESCENT-
IS OVER HEIGHT

ATTACHMENT 05 - ELEVATION & STREET SCAPE
BUILDING CONTROL HEIGHT VARIATIONS
CONCEALED/SKILLION ROOF 6.5m 18th Jan. 2018



Town of East Fremantle
24 JAN 2018
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December 2017

Mr Andrew Malone
Executive Manager of Regulatory Services
Town of East Fremantle
135 Canning Highway
East Fremantle 6158



* I C O R R 6 3 7 1 0 *

Town of East Fremantle

Doc No: ICORR63710
File: P/LOC12
Reg Date: 12 JAN 2018
Officer: GEORGINA

RE: 12 Locke Crescent

Attach:

Dear Mr. Malone, Planning Commissioners and Councillors.

I am writing to express my support for the revised proposed addition for 12 Locke Crescent East Fremantle with plans dated December 2017 as it has been presented. We are happy with the improved design and the benefits to neighbours this will provide in comparison to the initial design.

During the process, we have found the owners of 12 Locke Crescent to very straight forward in their presentation, responsive to our questions and inclusive in their outreach. This process started with their initial concepts and has evolved, in part, because of input from ourselves, the council, and external town planners. I understand they have involved surrounding neighbours and we are glad to see the design evolve with everyone's input, especially the removal of the pitched roof on the north western boundary to improve the viewing corridor for those behind.

Specifically, we like the standard of design and construction proposed. We feel it will set a high standard for future projects which will only improve our changing neighbourhood.

I support the project for many reasons and here are a few for your consideration:

- This project being proposed is sensitive with the neighborhood as we see it evolving. It is sensitive to scale and bulk of surrounding properties of the streetscape and the architectural design compliments current building design in the area such as that opposite, adjacent, and recent projects in neighbouring streets
- The design of the scale and bulk being retained on the southern boundary is definitely preferred over the initial design. We like the idea that the viewing corridor will be increased through the north western boundary, even more so that the existing roof design allows.
- The addition is being kept to the single storey aspect of the existing residence as it viewed from the front streetscape.
- We acknowledge that the owners are seeking a minor relaxation of the maximum roof height at the northern western aspect of the addition to assist compliance with the pitched roof design.

ATTENTION: Andrew Malone for GARY TUFFIN

Referring to your letter dated 2 January, 2018 in relation to the proposed development above, we would like to make a few observations and hope you will consider in evaluating the proposed development.

We understand that written comments for the above application should have been lodged on or before Friday 19 January, 2018. We were away during that time and obviously missed that deadline.

We made some inquiries recently and as a result believe that the proposal is still under consideration by the Council.

There are a number of items we would like to comment on:

- The Bulk and Scale of the addition is not in keeping with other buildings in the area. It appears that a 3rd storey is being added to an already two story home.
- The building to the East of this one (#10) is also higher than what it should be however this was allowed by council when this was redeveloped. If this proposal is approved the current building will be higher than the next door building which is on the higher side of the street.
- Streetscape will be an issue and therefore will not comply with council regulations.
- It appears the overall building height of this proposal does not comply with council regulations.

The neighbouring building (#10) was obviously granted a height variation , and the proposed building (#12) is higher again, despite also being on lower ground. As a result of the proposed building being over-height, significant views will be lost to properties in the locality, which the Town's policy explicitly tries to protect. The property already has significant views of the river and City beyond from its upper level, and the proposal seeks to gain more views at the expense of neighbouring landowners. Views relate to landscape as well as water.

With height variations being granted to the neighbouring property recently, and this property possibly being granted greater height variations, future developments may be built higher again at the expense of other's views and streetscape.

We hope common sense prevails so that the landscape and river views can be protected and enjoyed by more rather than less landowners in the area. In this way the whole area can look balanced by way of Bulk & Scale and Streetscape.

Georgina Cooper

Wednesday, 28 February 2018 2:38 PM

Regards



p @ g
g

Please consider the environment before printing this e-mail

From: Jane Vallance [mailto:Jane.Vallance@dmirs.wa.gov.au]
Sent: Wednesday, 28 February 2018 2:33 PM
To: TOWN OF EAST FREMANTLE; Andrew Malone; Christine Catchpole
Cc: Home (mbjv@westnet.com.au); Leach, Michael
Subject: Objection 12 Locke Crescent

To East Fremantle Planning Committee

Re: Proposal for 12 Locke Crescent

We live at 16 Woodhouse Road in a direct line south of 12 Locke Crescent. We will be interstate from 1 March and therefore will not receive the report of the Planning Dept on this proposal so we are writing without knowing what might be recommended to the Planning Committee.

We object to the proposed development as the proposed third floor addition is 500mm higher than the previously submitted over height Mansard design. The attached photo shows clearly the impact on view amenity for us. However, our greatest concern is the Council using discretion to support variations or relaxations on the current town planning scheme that allow unacceptable erosion of the principles of the scheme in terms of amenity protection. This proposal is completely unacceptable due to the huge concession it seeks in height and bulk in a precinct where height relaxation really matters to current home owners.

In the absence of the technical assessment report, all we can really say is, by any consideration of the natural ground level of this proposal, the overall height (however you define the roof) will have a detrimental impact on the amenity of our property. Additionally, as with any substantial relaxation on height, it sets a precedent of height concession creep. This has clearly occurred already by the approval of 10 Locke Crescent, also allowed significant variation on height via Council discretion. Where will this end? The continual significant height concessions granted for alterations of "existing" homes is being leveraged by savvy homeowners to gain views and economic advantage at the cost of existing homeowners. You only have to look from the street at the height of the compliant No 14 Locke Crescent to see that No 12's ridge height should be only slightly higher and at the eastern end of No 12 no higher than No 10. How then does this proposal get to be higher than No 10 (already non-compliant) when the natural ground level is falling away? Why would the Council want to continue to use discretion to erode the amenity of existing owners to support unacceptable height creep?

We are unable to attend the Planning meeting so we would like our objection to this proposal to be noted.



**NO. 12 (LOT 4993) LOCKE CRESCENT,
EAST FREMANTLE**

**PLANNING ASSESSMENT:
PROPOSED ALTERATIONS AND ADDITIONS
TO EXISTING SINGLE HOUSE**

February 2018

EXECUTIVE SUMMARY

This report provides a planning assessment of proposed alterations and additions to the existing single house at No. 12 (Lot 4993) Locke Crescent, East Fremantle.

The proposal meets all of the applicable deemed-to-comply requirements of the R-Codes. The proposal complies with the vast majority of the Acceptable Development Provisions of the Residential Design Guidelines; the Council is requested to exercise its discretion to approve variations to the Acceptable Development Provisions under the following elements:

- Additions and Alterations to Existing Buildings;
- Richmond Hill Precinct – Building Height, Form, Scale and Bulk.

The subject site is located within the locality referred to as the Richmond Hill Precinct in the Town of East Fremantle Residential Design Guidelines. The precinct comprises a range of building heights, scale and built forms. The character of the locality is undergoing change, with older dwellings being replaced with large, modern houses orientated towards the river. The precinct is now characterised by substantial houses of a mix of architectural styles; there is little traditional development remaining. Many dwellings present to the streets as two or two and a half storeys, including undercrofts or semi-basement garages and floor space.

The proposed development seeks to modify the existing residence in a contemporary architectural style so that the house is of a scale that is compatible with the locality. As such, the proposal is consistent with the desired future character of the Richmond Hill Precinct. The proposal is supported by the Town of East Fremantle's Community Design Advisory Committee, which considered the current plans at its meeting on 5 February 2018.

The overall height of the proposed addition is compatible with existing development in the surrounding area. It is noted the Council has recently approved a number of development applications in the immediate locality that exceed the deemed-to-comply maximum building heights, but were considered to satisfy the objectives of the Residential Design Guidelines.

The applicant's view analysis demonstrates that the proposed minor variation in building height will not have a substantially greater impact on views than a fully compliant development. It is acknowledged there will be some impacts on neighbours' views, in particular properties directly opposite at No. 7 Locke Crescent and No. 4 Habgood Street, which currently enjoy 'borrowed' views over the subject site due to the existing house being significantly lower than the 'deemed-to-comply' building height. A fully compliant development would have a similar, if not greater, impact on views from these properties. No. 7 Locke Crescent and No. 4 Habgood Street will retain significant views either side of the subject site. Significant water and city views from adjacent properties in Habgood Street and Woodhouse Road will also be retained. The proposed design increases the existing view corridor through the north-western part of the site.

The assessment concludes that the proposed development is considered to meet the Council's objectives for residential development within the Town of East Fremantle generally, and for the Richmond Hill Precinct in particular.

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1 INTRODUCTION

This report provides a planning assessment of proposed alterations and additions to the existing single house at No. 12 (Lot 4993) Locke Crescent, East Fremantle.

The report describes the subject site, the established neighbourhood character, the applicable statutory planning framework and the proposed development. The report also addresses how the proposal meets the planning requirements for the site and locality, and provides a response to submissions received during the advertising period.

2 SUBJECT SITE

The site at No. 12 (Lot 4993) Locke Crescent, East Fremantle is located on the north-eastern side of the street, between Wauhop Road and Woodhouse Road.

The site is 706 square metres, with a frontage of 19.29 metres. The land slopes down from the Locke Crescent frontage to the rear of the site, and south to north across the site.

Due to the topography of the subject lot, the existing dwelling that occupies the site is effectively single storey in height when viewed from the street, with a semi-basement level comprising a garage and other floor space that are mostly below ground level and without openings addressing the street.

A pedestrian access way abuts the north-western side boundary of the site. A two storey house is located at No. 14 Locke Crescent on the other side of the pedestrian access way. The adjoining site to the south-east at No. 10 Locke Street is occupied by a contemporary two storey house. The abutting site to the rear at No. 152 Preston Point Road is occupied by a single storey house.

3 ESTABLISHED NEIGHBOURHOOD CHARACTER

The subject site is located within the locality referred to as the Richmond Hill Precinct in the Town of East Fremantle Residential Design Guidelines. The Richmond Hill Precinct comprises a range of building heights, scale and built forms. The character of the locality is undergoing change, with older dwellings being replaced with large, modern houses orientated towards the river.

The precinct is now characterised by substantial houses of a mix of architectural styles; there is little 'traditional' development remaining. Many dwellings present to the street as two or two and a half storeys, including undercrofts or semi-basement garages and floor space.

Roof designs in the area vary from flat to curved and various types of pitched roofs, including:

- No. 10 Locke Crescent – flat roof;
- No. 12B Philip Street – flat roof;
- No. 49B Pier Street – skillion roof;
- No. 10 Habgood Street – curved roof;
- No. 16A Woodhouse Road – curved roof;

- No. 150 Preston Point Road – butterfly roof;
- No. 1 Woodhouse Road – two levels of floor space within steeply pitched roof form.



No. 49B Pier Street, East Fremantle.



No. 10 Habgood Street, East Fremantle.



No. 150 Preston Point Road, East Fremantle – image from the Town's Residential Design Guidelines.



Residence at No. 1 Woodhouse Road, East Fremantle, with two levels within the roof space.

A search of Council minutes indicates there are several recently approved, substantial houses in the locality that exceed the 'deemed-to-comply' height requirements of the Town's Residential Design Guidelines, including at:

- No. 1 Locke Crescent;
- No. 7 Locke Crescent;
- No. 10 Locke Crescent;
- No. 46 Locke Crescent;
- No. 4 Habgood Street;
- No. 12B Philip Street;
- No. 65B View Terrace;
- No. 66 Clayton Street.



No. 1 Locke Crescent, East Fremantle.

4 PLANNING FRAMEWORK

The following describes the planning framework applicable to the proposed development. Sections 6 and 7 of this report explain how the proposal meets the relevant development requirements.

4.1 Metropolitan Region Scheme

The land is zoned 'Urban' under the Metropolitan Region Scheme.

4.2 Town of East Fremantle Local Planning Scheme No. 3

The site is zoned 'Residential R17.5' under the Town of East Fremantle Local Planning Scheme No. 3.

4.3 State Planning Policy 3.1: Residential Design Codes (R-Codes)

Pursuant to clause 5.2.2 of Local Planning Scheme No. 3, "Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of those Codes."

4.4 Local Planning Policy 2.1.1: Residential Design Guidelines

Local Planning Policy 2.1.1: Residential Design Guidelines provides guidance for the consideration of residential development proposals throughout the Town of East Fremantle. The policy supplements, and includes local variations to, the deemed-to-comply requirements and design principles of the R-Codes. The subject site is located within the Richmond Hill Precinct under this policy.

5 PROPOSAL

The proposed alterations and additions to the existing residence include the following external works:

- at ground floor level, a new bathroom extension of 5m² to the south-eastern lot boundary (and internal alterations to incorporate a new laundry);
- at the front of the residence, new steps from ground level to a new entry door at the second level;
- the addition of 65.5m² of floor space within a contemporary, pitched roof form, including a master bedroom and ensuite bathroom, and a new rooftop deck at the rear;
- in total, the proposal adds 70.5m² of floor space to the existing 369.5m² house, an increase of 19%.

6 PLANNING ASSESSMENT

6.1 R-Codes

The following table provides an assessment of the proposal against each of the elements of the R-Codes. The proposal meets all of the applicable deemed-to-comply requirements of the R-Codes.

Table 1: R-Codes Assessment

5.1 Context	Deemed-to-Comply Requirements (Summary)	Proposed	Status
5.1.1 Site area	Minimum 500m ² , average 571m ² required.	Existing lot size of 706m ² (no change to existing proposed).	Complies.
5.1.2 Street setback	Primary street: minimum 6m (can be 'averaged').	7.7m (no change to existing proposed).	Complies.
5.1.3 Lot boundary setbacks	South-east side lot boundary: 1.7m.	1.7m, nil (refer to boundary wall comments below).	Complies.
	North-west side lot boundary: 1.5m.	1.6m (3.6m to centre of PAW).	Complies.
	Rear lot boundary: 4m	6.35m	Complies.
	Boundary walls: walls not higher than 3.5m, average of 3m or less for two-thirds length of balance of lot boundary behind front setback, to one side boundary only.	New bathroom wall on south-eastern side lot boundary is 2.4m high (ave) for a length of 2.97m, which is 9.7% of balance of lot boundary behind front setback.	Complies.
5.1.4 Open space	Minimum 50%.	72%	Complies.
5.1.5 Communal open space	Not applicable.	No communal open space proposed.	Not applicable.
5.1.6 Building height	Substituted by clause 3.7.17.4.1.3 of Residential Design Guidelines – refer to Table 2 below.		
5.2 Streetscape	Deemed-to-Comply Requirements	Proposed	Status
5.2.1 Setback of garages and carports	Garage: 4.5m from primary street.	7.7m existing (no change to existing proposed).	Complies.
5.2.2 Garage width	Substituted by 3.7.18.3 of Residential Design Guidelines – refer to Table 2 below.		
5.2.3 Street surveillance	Dwellings address the street with clearly definable entry points visible and accessed from the street; at least one major opening from a habitable room faces the street and pedestrian/vehicular approach.	Dwelling addresses the street with clearly defined entry, porch and habitable room windows.	Complies.

5.2.4 Street walls and fences	Not applicable.	No street wall or front fence proposed.	Not applicable.
5.2.5 Sight lines	Walls, fences etc no higher than 0.75m within 1.5m of where walls, fences etc adjoin vehicle access points where a driveway meets a public street.	No new wall proposed within the subject area.	Complies.
5.2.6 Appearance of retained dwelling	Not applicable	Not a grouped or multiple dwelling development.	Not applicable.
5.3 Site planning and design	Deemed-to-Comply Requirements	Proposed	Status
5.3.1 Outdoor living areas	36m ² behind the street setback area, etc.	326m ² .	Complies.
5.3.2 Landscaping	Contributes to appearance, amenity, safety, security and streetscape.	Established landscaping retained.	Complies.
5.3.3 Parking	Two spaces.	Existing double garage retained.	Complies.
5.3.4 Design of car parking spaces	Designed and provided in accordance with AS2890.1 (as amended).	Existing double garage retained.	Complies.
5.3.5 Vehicular access	Access from primary street frontage where no secondary street or right-of-way exists.	Existing vehicle access from Locke Crescent retained; no secondary street or ROW.	Complies.
	No driveway wider than 6m at the street boundary.	Existing 6m driveway retained.	Complies.
	Driveways no closer than 0.5m from a side lot boundary or street pole; aligned at right angles to the street; located so as to avoid street trees; paved and drained.	Existing driveway retained.	Complies.
	Driveways designed for two way access to allow for vehicles to enter the street in forward gear where serves five or more dwellings.	Single house only.	Not applicable.
	Driveways where the number of dwellings is five or more...	Single house only.	Not applicable.
5.3.6 Pedestrian access	Not applicable.	Single house only.	Not applicable.
5.3.7 Site Works	Excavation/filling between street and building or within 3m of street alignment shall not exceed 0.5m. Excavation/filling behind street setback line limited by compliance with building height limits and building setback requirements. All excavation/filling behind street setback line and within 1m of a lot	Minimal site works required.	Complies.

	boundary, not more than 0.5m above natural ground level at lot boundary except where otherwise stated in local policy.		
5.3.8 Retaining Walls	Set back from lot boundaries in accordance with the setback provisions of Table 1. Where retaining wall less than 0.5m high required on lot boundary, may be located up to the lot boundary or within 1m of the lot boundary to allow for an area assigned to landscaping.	New retaining walls set back 6.5m from street and 1.7m from south-east side boundary.	Complies.
5.3.9 Stormwater Management	All stormwater to be contained on-site.	All stormwater will be contained on-site.	Complies.
5.4 Building design	Deemed-to-Comply Requirements	Proposed	Status
5.4.1 Visual privacy	Major openings and unenclosed outdoor habitable spaces to be setback or suitably screened.	Privacy screens and highlight windows provided.	Complies.
5.4.2 Solar access for adjoining sites	No more than 25% of the site area of an adjoining property is to be affected by a shadow cast on 21 June.	9.1%.	Complies.
5.4.3 Outbuildings	Not applicable.	No new outbuildings proposed.	Not applicable.
5.4.4 External fixtures	Not applicable.	No external fixtures proposed.	Not applicable.
5.4.5 Utilities and facilities	Storage areas for grouped or multiple dwellings.	Single house only.	Not applicable.
	Bins to be collected from streets immediately in front of the development.	Bins to be collected from street (no change proposed).	Complies.
	Clothes-drying areas screened from the street.	Clothes drying area to rear.	Complies.

6.2 Residential Design Guidelines

The following table provides an assessment of the proposal against the 'Acceptable Development Provisions' of the Town of East Fremantle Residential Design Guidelines (Local Planning Policy 2.1.1).

The proposal complies with the vast majority of the Acceptable Development Provisions of the Residential Design Guidelines. Where the Council's discretion is sought to approve variations to the Acceptable Development Provisions, justification is provided in section 7 of this report, having regard for the relevant Statements, Desired Development Outcomes and Performance Criteria contained in the Residential Design Guidelines.

Table 2: Residential Design Guidelines Assessment

General Standards	Acceptable Development Provisions (Summary)	Status
3.7.2 Additions and Alterations to Existing Buildings	Single storey additions behind primary dwelling, not visible from the primary street.	Not applicable.
	Second storey additions: i within the existing roof; and ii behind existing building, not visible from opposite side of street. Minor variation may be permitted on the basis of impact on streetscape.	Discretionary – refer below.
	New openings to primary façade of vertical Proportion.	Complies.
3.7.3 Development of Existing Buildings	Not applicable – not a contributory building.	Not applicable.
3.7.4 Site Works	Not applicable – existing site levels retained.	Not applicable.
3.7.5 Demolition	Not applicable – not a contributory building.	Not applicable.
3.7.6 Construction of New Buildings	Comply with all design elements of this LPP and compatible with context in terms of bulk, scale, materials and design.	Complies.
	Demonstrate compatibility with existing view sheds.	Complies.
3.7.7 Building Setbacks and Orientation	Match existing front and side setbacks of immediate locality.	Complies.
	Developments at right angle to street.	Complies.
	A wall may be situated closer to adjoining residential boundary than standards prescribed in R-Codes.	Not applicable.
	Orient development towards the river.	Complies.
3.7.8 Roof Form and Pitch	Additions and alterations to contributory building match original roof pitch.	Not applicable.
	Eaves are unlined.	Complies.
	Size and overhang of eaves match immediate locality.	Complies.
	Richmond Hill Precinct: provide relevant information demonstrating impact of roof on immediate locality.	Complies.
3.7.9 Materials and Colours	For alterations to existing dwellings materials should match materials of original dwelling.	Complies.
	For additions to existing dwellings the materials should be compatible but distinguishable from existing.	Complies.
3.7.10 Landscaping	DAs accompanied by site survey including location of existing mature trees, shrubs, hedges, other significant vegetation.	Complies.
	Not applicable – no proposal to remove existing significant vegetation.	Complies.
3.7.11 Front Fences	Not applicable – no front fence proposed.	Not applicable.
3.7.12 Pergolas	Not applicable – no pergola proposed.	Not applicable.
3.7.13 Incidental Development Requirements	Not applicable – no incidental structures proposed.	Not applicable.
3.7.14 Footpaths and	Not applicable – existing crossover retained.	Not applicable.

Crossovers		
3.7.18.3 Garages, Carports and Outbuildings	Not applicable – existing garage retained.	Not applicable.
3.7.17 Richmond Hill Precinct	Acceptable Development Provisions (Summary)	Status
3.7.17.2 Access, Parking and Rights-of-Way	Not applicable – existing access and garage retained.	Not applicable.
3.7.17.3 Garages, Carports and Outbuildings	Not applicable – existing access and garage retained, no outbuildings proposed.	Not applicable.
3.7.17.4.1 Building Height, Form, Scale and Bulk	Where views are an important part of the amenity of the area and neighbours existing views are to be affected...maximum building heights are as follows: - 8.1m to top of a pitched roof - 6.5m to top of an external wall (concealed roof) - 5.6m to top of an external wall; and where the following apply. i. proposal demonstrates design, bulk and scale that responds to adjacent development and established character of area or other site specific circumstances; ii. landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; and, iii. subject to 'Acceptable Development' standards of R-Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.	Discretionary – refer below.
3.7.17.4.2 Verandahs and Porches	New developments include a verandah or porch that address primary street and comprises the primary access to the building.	Complies.
	Relevant drawings to demonstrate impact on immediate locality.	Complies.
	Additions and alterations to contributory building retain or reinstate existing verandah or porch.	Not applicable.
3.7.17.4.3 Fremantle Port Buffer	Not applicable – site located outside buffer area.	No applicable.

7 PLANNING JUSTIFICATION

As noted above, the proposal complies with all of the deemed-to-comply requirements of the R-Codes and with the overwhelming majority of the Acceptable Development Provisions of the Town of East Fremantle Residential Design Guidelines.

The Council is requested to exercise its discretion to approve variations to the Acceptable Development Provisions under the following elements of the Residential Design Guidelines:

- Additions and Alterations to Existing Buildings;
- Richmond Hill Precinct – Building Height, Form, Scale and Bulk.

These considerations are discussed below, having regard for the desired future character of the Richmond Hill Precinct.

7.1 Desired Future Character

The objectives of clause 5.1 of the R-Codes include:

To ensure that development and design is appropriately scaled, particularly in respect to bulk and height, and is sympathetic to the scale of the street and surrounding buildings, or in precincts undergoing a transition, development achieves the desired future character of the area identified in local planning framework.

The Town of East Fremantle Residential Design Guidelines form part of the local planning framework and describe the desired future character of the Richmond Hill Precinct at clause 3.7.17.1.1 as follows:

The desired future character of Richmond Hill is the maintenance of its traditional buildings, cohabiting with developments that are river orientated, a sympathetic scale and are of contemporary architectural style.

The proposed scale of development is sympathetic to existing development in the Locke Crescent streetscape and wider locality. There are a number of two and three level developments (existing and recently approved) within the immediate locality that provide guidance in respect to what the Council considers to be appropriate in respect to the desired future character of this area, including:

- No. 1 Locke Crescent;
- No. 7 Locke Crescent;
- No. 10 Locke Crescent;
- No. 19 Locke Crescent.
- No. 6 Habgood Street;
- No. 10 Habgood Street;
- No. 15 Habgood Street.



No. 1 Locke Crescent (left) and No. 15 Habgood Street (right), East Fremantle.

It is important to note that when viewed in the streetscape, due to the property sloping down from street and across the site, the residence will appear similar in scale to existing two and two and a half storey residences within the Locke Crescent streetscape and in the immediate locality. The proposal presents to the street as a two storey dwelling with a partial undercroft garage (two and a half storeys); the lower floor contains no doors or windows addressing the street (other than the undercroft garage doors). Further, the new roof form does not extend over the whole of the lower floors or across the entire width of the front elevation. The height of the proposed addition is discussed further in the following section.



Perspectives of the proposed development at No. 12 Locke Crescent, East Fremantle.

The proposed development seeks to modify the existing residence in a contemporary architectural style so that the house is of a scale that is compatible with the locality, and is oriented towards the river to the rear of the site, while also improving the way it addresses Locke Crescent. As such, the proposal is consistent with the desired future character of the Richmond Hill Precinct.

7.2 Additions and Alterations to Existing Buildings

The proposed alterations and additions involve replacing the existing roof with floor space within a new, contemporary roof form. Strictly speaking, this aspect of the proposal seeks the Council to exercise its discretion to approve a variation to Acceptable Development Provision A1.2 of clause 3.7.2.3 of the Town's Residential Design Guidelines, which requires:

Second storey additions that are:

- i. Accommodated within the existing roof (without changes to the roof geometry); and,*
- ii. Built behind the existing building and not visible from the opposite side of the street. A minor variation to this may be permitted on the basis of its impact on the streetscape.*

It is clear, however, that clause 3.7.2 of the Residential Design Guidelines is intended to apply to contributory buildings, which the existing building is not. The relevant Statement at clause 3.7.2.1 states:

The Town supports well designed alterations and additions to existing buildings within the Policy Area. Lean-to additions are generally acceptable.

Second storey additions are acceptable within the Policy Area. For traditional contributory buildings additions must either be accommodated within the existing roof space or not be dominant from the primary street [underline added].

The associated Desired Development Outcomes at clause 3.7.2.2 also clearly seek to ensure proposed alterations and additions do not adversely impact on the heritage significance of contributory buildings, as follows:

- i. *Additions and alteration should take into account the significance and character of the existing building and its contribution to the character of the Precinct;*
- ii. *Additions and alterations should be well designed with minimal interference to the existing building;*
- iii. *Single storey additions and second storey additions and alterations to existing dwellings are acceptable. Second storey additions shall be supported but are required to:*
 - a. *Be constructed within the existing roof space, or towards the rear of the dwelling and must not impact upon significant fabric of the dwelling; and,*
 - b. *Not be dominant from the primary street.*
- iv. *Additions and alterations should visually contrast to a contributory dwelling. Differentiation may be major or subtle; and,*
- v. *Additions and alterations should always respect scale, bulk and proportions of the existing dwelling. [Underlines added.]*

Further, the Performance Criteria at clause 3.7.2.3 specifically refer to “contributory buildings” and “the heritage value of a particular place”, as follows:

- P1.1 Additions and alterations to contributory buildings are designed to ensure that the existing building remains the dominant element when viewed from the primary street and to ensure that the existing building’s contribution to the streetscape is maintained. The council shall allow additions to be located in the front setback zone where there is no other option and the addition is demonstrably compatible with the existing streetscape character and not impact on the heritage value of a particular place. All applications to include site plans, plans and street elevations. [Underline added.]*
- P1.2 Replacement of, or construction of, elements such as carports shall not obscure the original dwelling.*
- P2 Alterations to openings, or new openings, facing the street to have a vertical profile (refer glossary) or to be composed of vertical modules.*

In view of the above, it is considered the Acceptable Development Provisions for additions and alterations to existing buildings are not relevant to the proposal, as these are intended to apply to contributory buildings, which the existing building the subject of the proposal is not.

In any event, as previously discussed and further below, the proposed development meets the general objectives of this element of the Residential Design Guidelines, given the proposal is well designed, and compatible with the bulk, scale and mixed character of the streetscape and surrounding area.

7.3 Building Height, Form, Scale and Bulk

We note that the proposal would meet the standard deemed-to-comply building heights of the R-Codes, but also respect that the Acceptable Development Provisions of the Town's Residential Design Guidelines identify lesser heights for the subject area. Clause 3.7.17.4.1.3 of the Residential Design Guidelines identifies the following Acceptable Development Provisions for building heights within the Richmond Hill Precinct:

In localities where views are an important part of the amenity of the area and neighbours existing views are to be affected, or the subject site is a 'battle axe' lot, then the maximum building heights are as follows:

- 8.1m to the top of a pitched roof
- 6.5m to the top of an external wall (concealed roof)
- 5.6m to the top of an external wall; and where the following apply.
 - i. *The proposal demonstrates design, bulk and scale that responds to adjacent development and the established character of the area or other site specific circumstances;*
 - ii. *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; and,*
 - iii. *Subject to the 'Acceptable Development' standards of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

The proposal involves minor variations to the Acceptable Development Provisions for external roof heights. The proposed roof height ranges from 8.225m to 8.742m, which is 125mm to 642mm above the Acceptable Development Provision of 8.1m.

Minor variations are also proposed to the 'deemed-to-comply' external wall height of 5.6m, identified on the submitted plans as follows:

- Section F – new slab over the existing kitchen over by 260mm (however, the existing alfresco roof in this area is already over by 440mm);
- Section G – new slab over the existing living room over by 379mm;
- Section H – same slab over the existing living room over by 256mm.

As such, consideration against the Performance Criteria and Desired Development Outcome is required. Under clause 3.7.17.4.1.2, the Desired Development Outcomes are identified as:

- i. *New developments should reflect the prevailing form, bulk and scale of the immediate locality; and,*
- ii. *New developments shall respect and follow the predominant street pattern in terms of roof pitch, orientation and articulation.*

The related Performance Criteria P1 states:

New developments, additions and alterations to be of a compatible form, bulk and scale to traditional development in the immediate locality.

As previously described, the character of the Richmond Hill Precinct is continually changing and there is little traditional development remaining in the area, as acknowledged in the

Town's Residential Design Guidelines. There is no predominant roof pitch in this locality, and the area is certainly not characterised by 'traditional' roof forms. Roof types in the area range from flat (including 10 Locke Crescent next to the subject site), to curved and various types of pitched forms. Hence the Town's Residential Design Guides are explicit in not limiting the Richmond Hill Precinct to traditional roof forms (refer to clause 3.7.8.3 of the Residential Design Guidelines).

The overall height of the contemporary pitched roof addition is mostly within the deemed-to-comply 8.1m roof height, with only a relatively minor section of the roof exceeding that height. It should be noted that the building heights noted on the submitted plans are relative to the natural ground level of the subject land as of 2002, prior to subsequent, approved site works that raised the ground level, mostly at the rear of the site but also at the front.

The overall height of the proposed addition is compatible with existing development in the surrounding area, where much of the traditional development has been replaced by contemporary developments of substantial bulk and scale over two or two and a half levels. We note that the Council has approved recent development applications in the immediate locality that exceed the deemed-to-comply maximum building heights, but were considered to satisfy the objectives of the Residential Design Guidelines, including at:

- No. 1 Locke Crescent;
- No. 7 Locke Crescent;
- No. 10 Locke Crescent;
- No. 46 Locke Crescent;
- No. 4 Habgood Street;
- No. 12B Philip Street;
- No. 65B View Terrace;
- No. 66 Clayton Street.



No. 10 Locke Crescent, East Fremantle.



No. 1 Locke Crescent (left) and No. 15 Habgood Street (right), East Fremantle.

As previously noted, due to the slope of the land, when viewed from the street the proposed development presents as two and a half levels, and will be of a similar scale to existing development on adjoining sites and within the immediate locality. The roof addition is relatively modest compared to other substantial developments in the locality, comprising floor space of only 65.5m². The addition does not extend fully over the building below and does not extend across the full width of the front elevation. The bulk of the roof addition is set back at least 2.5m from the front façade below, and angles further back, thereby limiting its impact on the streetscape. The front setback of the dwelling (minimum of 6m permitted; 7.7m proposed/existing) also mitigates bulk and scale impacts.



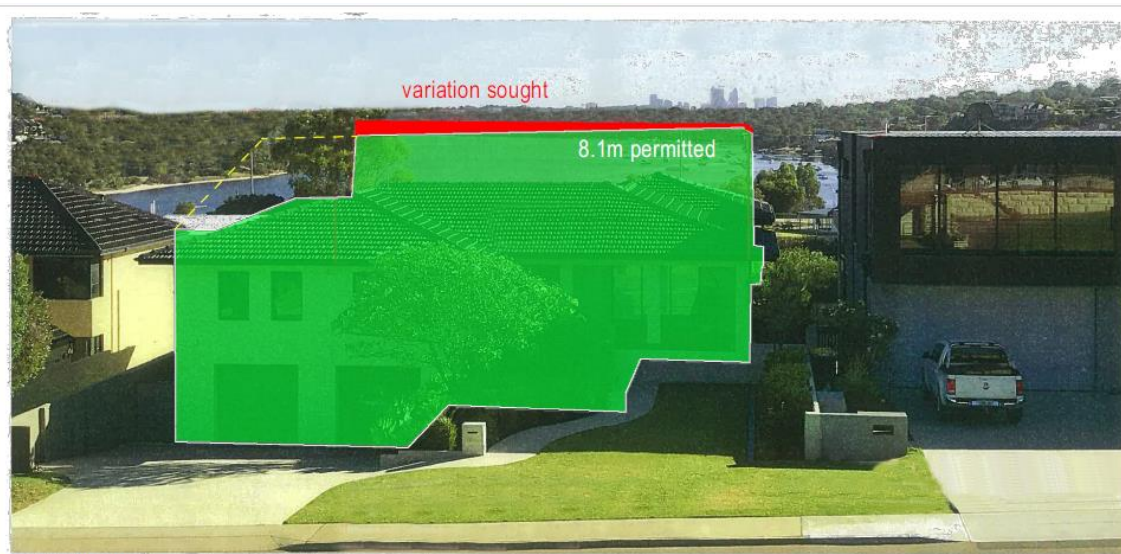
Perspectives of the proposed development at No. 12 Locke Crescent, East Fremantle.



Photographs from the Town of East Fremantle Residential Design Guidelines showing examples of desired development outcomes for the Richmond Hill Precinct.

The applicant's streetscape perspectives show that the proposed development is compatible with the scale of existing developments either side, and in the surrounding area, and will sit comfortably in the streetscape. The positioning of the new roof addition over the south-eastern side of the site means that the building heights in the streetscape will follow the topography, stepping down from east to west.

The applicant's view analysis demonstrates the impact of the proposed development on neighbours' existing views. The analysis shows that the proposed minor variation in building height will not have a substantially greater impact on views than a fully compliant development.



12 locke composite

The green shaded area indicates the proposed design at its permitted 8.1m height as a pitched roof (Current Design)

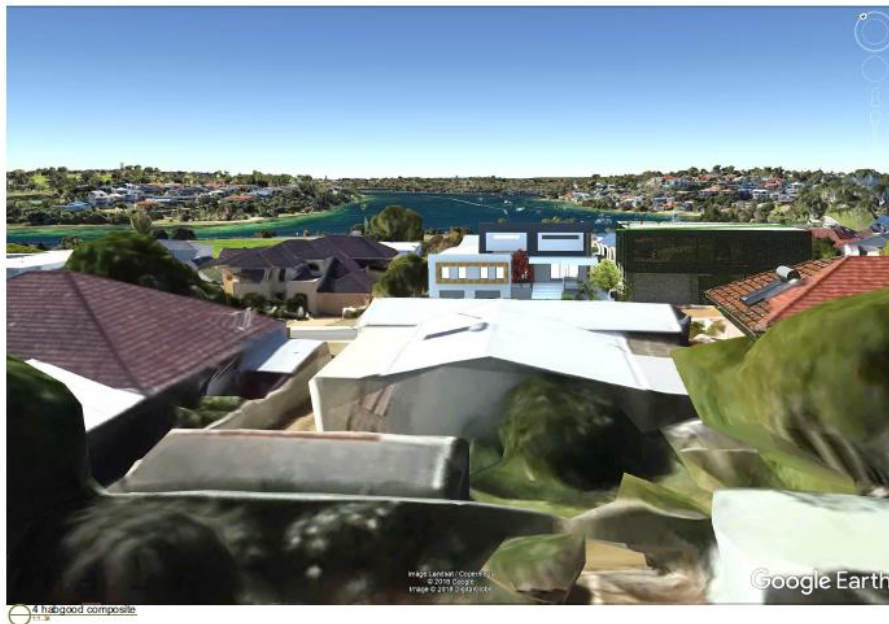
Please Note: A 45 degree pitched roof with Dormer windows / gables would extend to the full left hand side of No. 12 Locke Cr.

View analysis for 7 Locke Crescent

It is acknowledged that there will be impacts on views, in particular from properties directly opposite at No. 7 Locke Crescent and No. 4 Habgood Street. These properties, however, currently enjoy 'borrowed' views over the subject site due to the existing house being significant lower than the 'deemed-to-comply' building height under the Town's Residential Design Guidelines. A fully compliant development of the subject site would have a similar, if not greater, impact on views from these properties, as demonstrated by the applicant's view analysis. The properties at No. 7 Locke Crescent and No. 4 Habgood Street will still enjoy significant views beyond either side of the subject site. There will also be some minor impacts on views of the low lying scarp and Bicton Bath area from adjacent properties in Habgood Street and Woodhouse Road, however their significant water and city views will be retained.

The proposed design increases the existing view corridor through the north-western part of the site given the changes to the existing roof, and provides for a significantly greater view

corridor through this part of the site than a fully compliant 'traditional' roof structure addition would allow. As such, Nos. 5 and 9 Locke Crescent will enjoy improved view corridors.



View analysis for 4 Habgood Street.

In accordance with the requirements of the Residential Design Guidelines, far more than 50% of the site is landscaped, and the proposal meets the requirements of the R-Codes for visual privacy and solar access for adjoining sites.

7.4 Community Design Advisory Committee

The current plans for the proposed alterations and additions to the existing residence were considered by the Town of East Fremantle's Community Design Advisory Committee at its meeting on 5 February 2018. The proposal is supported by the Committee, which advised as follows in respect to the overall built form merits:

- *The modified design of the front façade is considered to have less impact than the previous proposal.*
- *The design is considered to be in keeping with other building designs within the area.*
- *Reasonable proposition for the area.*
- *The applicant is considered to have addressed the previous concerns of the Committee in respect to design and streetscape.*

8 RESPONSE TO SUBMISSIONS

The Town of East Fremantle has provided a summary of the submissions received during the advertising period. The applicant gives the following responses:

Submission (1)

- *Concerns regarding additions impacting views due to the 2m fall from the front to the back of the site.*
- *Disguising extra storey as “non-defined roof space.” Windows incorporated into design.*
- *Ground floor only partially excavated into the “Natural Ground Level.”*
- *Refers to the development already enjoying significant views and that a new storey would greatly diminish the views amenity of the immediate locality.*
- *Concerns regarding a widespread impact on the prevalence of over-height developments in Richmond Hill, greatly impacting a number of residences.*
- *Non-compliant roof pitching.*
- *Misleading compliance claims.*

Response from Applicant

The applicant has prepared view analysis showing the impacts of the proposed development on properties in Locke Crescent and Habgood Street. It is acknowledged the proposal will affect existing views, in particular from properties directly opposite at No. 7 Locke Crescent and No. 4 Habgood Street. These properties, however, currently enjoy ‘borrowed’ views over the subject site due to the existing house being significant lower than the ‘deemed-to-comply’ building height under the Town’s Residential Design Guidelines. The applicant’s view analysis shows that the proposed minor variation in building height will not have a substantially greater impact on views than a fully compliant development. A fully compliant development of the subject site would have a similar, if not greater, impact on views. The properties at No. 7 Locke Crescent and No. 4 Habgood Street will also retain significant views beyond either side of the subject site. There will also be some minor impacts on views of the low lying scarp and Bicton Bath areas from adjacent properties in Habgood Street and Woodhouse Road, however their significant water and city views will be retained. The proposed design increases the existing view corridor through the north-western part of the site given the changes to the existing roof, and provides for a significantly greater view corridor through this part of the site than a fully compliant ‘traditional’ roof structure addition would allow. As such, Nos. 5 and 9 Locke Crescent will enjoy improved viewing corridors.

There has been no attempt to ‘disguise’ any aspect of the proposed development. The proposal involves the addition of only 65.5m² of floor space within a new, contemporary pitched roof, including a master bedroom and ensuite, as clearly shown on the submitted plans. The proponent has responded appropriately to the Town’s Residential Design Guidelines, which encourage well designed, contemporary architecture within the Richmond Hill Precinct.

Due to the topography of the site and surrounds, the existing house presents to the street as a single storey development with a semi-basement, with much of the lower floor below ground level at the front of the site.

The existing house on the subject site currently has only interrupted views of the river and city skyline. These views would be significantly affected if a compliant development was undertaken on properties between the subject site and the river, in particular at No. 152 Preston Point Road, as shown on the architect's view analysis.



The proposal is similar in height and scale to existing and recently approved developments within the immediate locality, consistent with the objectives and desired development outcomes of the Town's Residential Design Guidelines.

As noted in clause 3.7.3 of the Residential Design Guidelines, Richmond Hill Precinct "retains a small amount of original building fabric." The immediate locality contains a number of contemporary houses (existing and under construction) with varying roof forms, including flat roofs, pitched roofs, mansard-style roofs and curved roofs. Hence, clause 3.7.8.3 of the Residential Design Guidelines states that within the Richmond Hill Precinct, "Roof forms [are] not to be restricted to traditional roof forms."

Sections 6 and 7, above, provide an assessment of the proposal against the relevant development requirements. The proposal complies with all of the requirements of the R-Codes and with the overwhelming majority of the Acceptable Development Provisions of the Town's Residential Design Guidelines. Where variations are proposed, the relevant Performance Criteria of the Residential Design Guidelines are considered to be met, as previously discussed.

We understand that the submitter is in the building industry and recently obtained approvals for new developments at No. 7 Locke Crescent and No. 4 Habgood Street. As such, the submitter would be aware of the development standards for the locality and that any new development on the subject site could affect views from these properties.

Submission (2)

- *Differences in opinions regarding "flat" and "pitched" roofing presenting often conflicted information.*
- *Reserving comment until the Planning Assessment report is completed.*

Response from Applicant

The proposal involves a contemporary pitched roof form, which is encouraged in the Richmond Hill Precinct by the Town's Residential Design Guidelines. It is noted that the submitter wishes to reserve further comments.

Submission (3)

- *Against the development as there was very little change to the originally submitted plans.*
- *Residential Design Guidelines controls applied to their dwelling, owners were forced to conform and demolish upper storey- Sees heights to have increased from what they were originally.*
- *Concerns regarding excessive wall height.*

Response from Applicant

The development proposal has evolved and been revised to reduce potential impacts on neighbours. At its meeting on 5 February 2018, the current proposal was supported Town of East Fremantle's Community Design Advisory Committee.

The proposal involves only minor variations to the maximum wall and roof heights permitted under the Acceptable Development Provisions of clause 3.7.17.4.1.3 of the Residential Design Guidelines. As previously discussed in this assessment, the proposal is consistent with the Desired Development Outcomes and Performance Criteria for building height, form, scale and bulk.

Submission (4)

- *Resident submits their concerns regarding the roof heights once the additions are completed.*
- *Wishes to see the roof go no higher than the neighbouring property.*
- *Seeking overall clarifications about the project.*

Response from Applicant

The proposal involves only a minor variation to the maximum roof height permitted under the Acceptable Development Provisions of clause 3.7.17.4.1.3 of the Residential Design Guidelines. As previously discussed in this assessment, the proposal is consistent with the Desired Development Outcomes and Performance Criteria for building height, form, scale and bulk within the Richmond Hill Precinct. The proposed roof is only marginally higher than the neighbouring property at No. 10 Locke Crescent. The applicant's streetscape perspectives show that the proposed development is compatible with the scale of existing developments either side, and in the surrounding area, and will sit comfortably in the streetscape. The positioning of the new roof addition over the south-eastern side of the site means that the building heights in the streetscape will follow the topography, stepping down from east to west.

Submission (5)

- *Consultation of Planning and Design firm.*
- *Suggests the plans are contradictory to the Residential Design Guidelines and that a third storey is being disguised as non-defined roof space.*

- *Does not meet the prescribed bulk and scale of a views sensitive area.*
- *300-600mm above the actual roof height and the roof and wall heights are suggested to be reduced further to mitigate the issues of excessive building on a sloping site.*
- *Recommends that more supporting information from the applicants be submitted alongside the plans in the application.*
- *The additions shown to visibly dominate the streetscape. Detrimental to overall character.*
- *Applicant looking for variations to Local Planning Policies for development.*
- *Mass alterations in roof pitching.*
- *While no limit to the number of storeys the building heights reflect that of a double storey nature.*
- *Vastly exceeds the heights of the two directly neighbouring dwellings.*

Response from Applicant

There has been no attempt to 'disguise' any aspect of the proposed development. The proposal involves the addition of only 65.5m² of floor space within a new, contemporary pitched roof, including a master bedroom and ensuite, as clearly shown on the submitted plans. The proponent has responded appropriately to the Town's Residential Design Guidelines, which encourage well designed, contemporary architecture that respects the existing scale and character of development within the Richmond Hill Precinct.

The proposal is consistent with the height and scale of existing and recently approved developments within the immediate locality, consistent with the Town's Residential Design Guidelines. The overall height of the proposed addition is compatible with existing development in the surrounding area, where much of the traditional development has been replaced by contemporary developments of substantial bulk and scale over two or two and a half levels. We note that the Council has approved recent development applications in the immediate locality that exceed the deemed-to-comply maximum building heights but were considered to satisfy the objectives of the Residential Design Guidelines, including at:

- No. 1 Locke Crescent;
- No. 7 Locke Crescent;
- No. 10 Locke Crescent;
- No. 46 Locke Crescent;
- No. 4 Habgood Street;
- No. 12B Philip Street;
- No. 65B View Terrace;
- No. 66 Clayton Street.

The applicant has prepared view analysis showing the impacts of the proposed development on properties in Locke Crescent and Habgood Street. It is acknowledged the proposal will affect existing views, in particular from properties directly opposite at No. 7 Locke Crescent and No. 4 Habgood Street. These properties, however, currently enjoy 'borrowed' views over the subject site due to the existing house being significant lower than the 'deemed-to-comply' building height under the Town's Residential Design Guidelines. The applicant's view analysis shows that the proposed minor variation in building height will not have a substantially greater impact on views than a fully compliant development. A fully compliant development of the subject site would have a similar, if not greater, impact on views. The

properties at No. 7 Locke Crescent and No. 4 Habgood Street will also retain significant views beyond either side of the subject site. There will also be some minor impacts on views of the low lying scarp and Bicton Bath area from adjacent properties in Habgood Street and Woodhouse Road, however their significant water and city views will be retained. The proposed design increases the existing view corridor through the north-western part of the site given the changes to the existing roof, and provides for a significantly greater view corridor through this part of the site than a fully compliant 'traditional' roof structure addition would allow. As such, Nos. 5 and 9 Locke Crescent will enjoy improved viewing corridors.

The proposal involves only minor variations to two elements of the Acceptable Development Provisions of the Town's Residential Design Guidelines, and no variations to the R-Codes. It is noted the Council has recently approved a number of residential developments in the immediate area that involved a greater number of variations to the development requirements.

Sections 6 and 7, above, provide an assessment of the proposal against the relevant development requirements. The proposal complies with all of the requirements of the R-Codes and with the overwhelming majority of the Acceptable Development Provisions of the Town's Residential Design Guidelines. Where variations are proposed, the relevant Performance Criteria of the Residential Design Guidelines are considered to be met, as previously discussed in this assessment.

The applicant's streetscape perspectives show that the proposed development is compatible with the scale of existing developments either side, and in the surrounding area, and will sit comfortably in the streetscape. The positioning of the new roof addition over the south-eastern side of the site means that the building heights in the streetscape will follow the topography, stepping down from east to west.

We note the submitter has provided attachments showing their assessment of the proposed and existing roof heights. Their analysis, however, does not appear to be based on confirmed site levels that have previously been accepted by the Town. The use of unverified site data would therefore present an inaccurate and misleading interpretation of the proposal.

As noted in clause 3.7.3 of the Residential Design Guidelines, Richmond Hill Precinct "retains a small amount of original building fabric." The immediate locality contains a number of contemporary houses (existing and under construction) and varying roof forms. Hence, clause 3.7.8 (Roof Form and Pitch) of the Town's Residential Design Guidelines encourages contemporary roofs in the Richmond Hill Precinct, and Performance Criteria P5 of clause 3.7.8.3 states that, within the Richmond Hill precinct, "Roof forms [are] not to be restricted to traditional roof forms [underline added]." As such, the submitter's reference to housing industry roofs having pitches of 15-30 degrees is not relevant to the assessment of this proposal.

The submitter references the State Administrative Tribunal case of *Forte and Town Claremont* regarding a proposed development at No. 59 Victoria Avenue, Claremont. The submitter suggests this case is very similar to the proposal and sets a precedent for the consideration floor space within a roof, with the Tribunal finding that the Claremont development would be inconsistent with local policy that "effectively prohibited three storey

developments". We contend that this case is not similar to the subject proposal, given it was for a substantial third level over the full extent of the development, on a flat, corner site, which would have resulted in an obvious third level. Another development referenced in the *Forte* case, at No. 56 Victoria Avenue, is more relevant to the proposed development at No. 12 Locke Crescent. This involved floor space within the roof of a development on a sloping site, and was approved by the Tribunal as it was construed as the use of roof space, not an additional storey, and presented to the street primarily as a two storey dwelling.

The current plans for the proposed alterations and additions to the existing residence are supported by the Town of East Fremantle's Community Design Advisory Committee. At its meeting on 5 February 2018, the Committee advised as follows in respect to the overall built form merits:

- *The modified design of the front façade is considered to have less impact than the previous proposal.*
- *The design is considered to be in keeping with other building designs within the area.*
- *Reasonable proposition for the area.*
- *The applicant is considered to have addressed the previous concerns of the Committee in respect to design and streetscape.*

We consider that the applicant has now submitted all the information that is necessary to support the proposal, including detailed architectural plans (previously submitted), view and streetscape analysis, and details of variations to the Acceptable Development Provisions and justification for these (this report).

Submission (6)

- *Supporting the development as the design greatly improved the original and is suggested to fit in the streetscape context by the submitter.*
- *Compliment the overall applicant consultation with the neighbours.*
- *Additions do not dominate the streetscape as bulk better compliments the surrounding properties.*
- *Only single storey of residence viewable from the front streetscape.*
- *Understands the seeking of a minor relaxation to the roof height to meet pitching requirements.*
- *Designs have significantly evolved from the originals through input from council, planners and residents to come to a compromise to satisfy all parties; in particular the removal of the pitched roof to open up views corridor to the north-west boundary is commended.*
- *High standard set for future projects in the vicinity.*

Response from Applicant

The support of this submitter is noted.

Submissions (7-17)

- *Declares support for the development.*
- *On the same reasoning discussed in summary of the submission 6*

Response from Applicant

We note that in total, 12 of the 17 submissions received support the proposal, and one other reserved making comment (Submission 2). Of the four remaining submissions, it is understood that two submissions were received from, or on behalf of, one landowner who owns two properties directly opposite the subject site and whose concerns appear to be mostly in respect to the affect on views, as discussed above. As such, it is evident that the proposal has the overwhelming support of local landowners and residents.

9 CONCLUSION

As outlined in this report, the proposed development is considered to meet the Council's objectives for residential development within the Town of East Fremantle generally, and for the Richmond Hill Precinct in particular. As such, the Council is respectfully requested to approve the proposal.

ITEM 11.3

ATTACHMENT 6
Town of East Fremantle

13 FEB 2018

RECEIVED

11 February 2018

The Chief Executive Officer

Town of East Fremantle

PO Box 1097

EAST FREMANTLE WA 6158

Via Hard Copy Letter and email: admin@eastfremantle.wa.gov.au

Dear Sirs,

SUBMISSION – NO. 12 (LOT 4993) LOCKE CRESCENT, EAST FREMANTLE

Thank you for the opportunity for us to present to you our proposed addition to our family home at 12 Locke Crescent, East Fremantle.

We are long term residences of the Town of East Fremantle, with my wife, my two daughters and I having lived in Clayton Street for some 10 years and now nearly 6 years in 12 Locke Crescent.

I have a strong affinity for the area with both my mother and I being Woodside Hospital babies, my mother and grandparents living in Walter Street for some 50+ years, and both my mother and my two daughters having attended Richmond Primary School.

As you can see we have a great love for the area and the Richmond Hill Precinct in particular.

This is relevant as the addition we seek is to enable our home to better serve our growing family needs and to secure our long term future to remain in this wonderful street and this home in particular.

Our brief for design was to:

- Obtain a laundry as we currently do not have a laundry area. This currently sits in our only external narrow thoroughfare to the backyard.
- Acknowledging that the property in front at Preston Point Road with a fully compliant development addition will grossly obstruct over nearly 90% of our already partially obstructed view.
- This addition is important to secure the long term viability of us to be able to remain at this address.
- Minimise the footprint and impact of the addition whilst recognising the current building height of 12 Locke Crescent is well below the permissible building envelope of Local Planning Policy Residential Design Guidelines of 8.1m.

The proposed design upon completion will result in still only a modest 4 bedroom family home consistent with modern houses and well short of the amenities and scale enjoyed by boutique homes in the immediate area.

We have worked extensively with all key stakeholders over many months.

The process started with initial concept designs that were presented to 7 Locke Crescent on 2 August 2017. This has then evolved, in part, from appreciated feedback from neighbours, working closely with feedback from the East Fremantle Town Council, external town planners and designers to produce a sensitive design to the street and immediate neighbourhood.

Following feedback from neighbours and local council on the previous submission, we again willingly significantly altered our design to reduce scale and bulk and are very pleased to present a design that we and also many surrounding residences are pleased with.

It is important and pleasing to note multiple comments from neighbour's supporting the design:

"This project being proposed is sensitive with the neighbourhood as we see it evolving. It is sensitive to scale and bulk of surrounding properties of the streetscape and the architectural design complements current building design in the area such as that opposite, adjacent and recent projects in the neighbouring streets."

"The design of scale and bulk being retained over the southern boundary is definitely preferred over the initial design. We like the idea that the viewing corridor will be increased through the north-western boundary, even more so than the existing roof design allows."

We are also very grateful for the positive feedback and acknowledgement of consideration from the East Fremantle Community Design Advisory Committee (DAC). The DAC comments being;

- The modified design of the façade is considered to have less impact than the previous proposal.
- The design is considered to be in keeping with the other building designs within the area.
- Reasonable proposition to the area.
- The applicant is considered to have addressed the previous concerns of the committee in respect to design and streetscape.

Completion of the proposed addition would see the residence be considered a 2.5 storey modest family home including undercroft garage. Our current floor level enjoys interrupted river views obscured by the front property on 152 Preston Point Road. As previously mentioned, a future compliant development of this property would all but remove such views. The adjacent development at 154 Preston Point Road (as seen in the image of the house to the right) is a completed development example of case in point.



152 preston point rd
152 Preston Point Road is located in front of #12 Locke Cr.
Existing conditions shown



152 preston point rd
152 Preston Point Road with potential compliant first floor addition,
approximately 5.6m plate heights and 8.1m ridge height

As indicated on our submitted plans, we are seeking permission of a contemporary pitched roof design and seeking minor relaxation of "deemed to comply" height.

The discretion being sought in respect to the "deemed to comply height" is very much consistent with that permitted by East Fremantle Town Council to surrounding approved developments of the last 24 months which include (but are not limited to):

- 1 Locke Crescent, East Fremantle

- 46 Locke Crescent, East Fremantle
- 7 Locke Crescent, East Fremantle
- 10 Locke Crescent, East Fremantle
- 65B View Terrace, East Fremantle
- 4 Habgood Street, East Fremantle
- 2 Phillip Street, East Fremantle
- 66 Clayton Street, East Fremantle



1 Locke Crescent



10 Locke Crescent



7 Locke Crescent

The contemporary roof structure presents a central ridge. Whilst slightly unconventional in design, it is in keeping with the existing and evolving neighbouring house designs. For example and not limited to:

- 10 Habgood Street, East Fremantle.
- 49B Pier Street, East Fremantle.
- 16a Woodhouse Street, East Fremantle.
- 150 Preston Point Road, East Fremantle (as exemplified in LPP DSG page 24).



10 Habgood Street



49B Pier Street



150 Preston Point Road

We feel we have successfully achieved a roof design of less scale and bulk that is encouraged by the design guidelines, in contrast to that of a bulky, large scale, compliant traditional pitched roof design.



Perspective of a compliant house design

Due to the challenging nature of the sloping block (front to back and right to left) we are seeking consideration for only minor relation of height to assist this. We have not excessively exceeded "deemed to comply" heights and meet the overall objectives of the design guidelines.

The contemporary design also presents a pleasing streetscape with bulk and scale consistent with surrounding properties and developments. The scale and bulk are consistent with examples in the area being:

- 1 Locke Crescent
- 7 Locke Crescent
- 10 Locke Crescent

- 19 Locke Crescent
- 46 Locke Crescent
- 4 Habgood Street
- 6 Habgood Street
- 10 Habgood Street
- 15 Habgood Street
- 2 Chauncy Street
- 106 Preston Point Road (as illustrated page 63 Town of East Fremantle Local Policy Residential Design Guidelines – Richmond Hill)



1 Locke Crescent



10 Locke Crescent



7 Locke Crescent



19 Locke Crescent



15 Habgood Street



6 Habgood Street



Photographs from the Town of East Fremantle Residential Design Guidelines showing examples of desired development outcomes for the Richmond Hill Precinct.

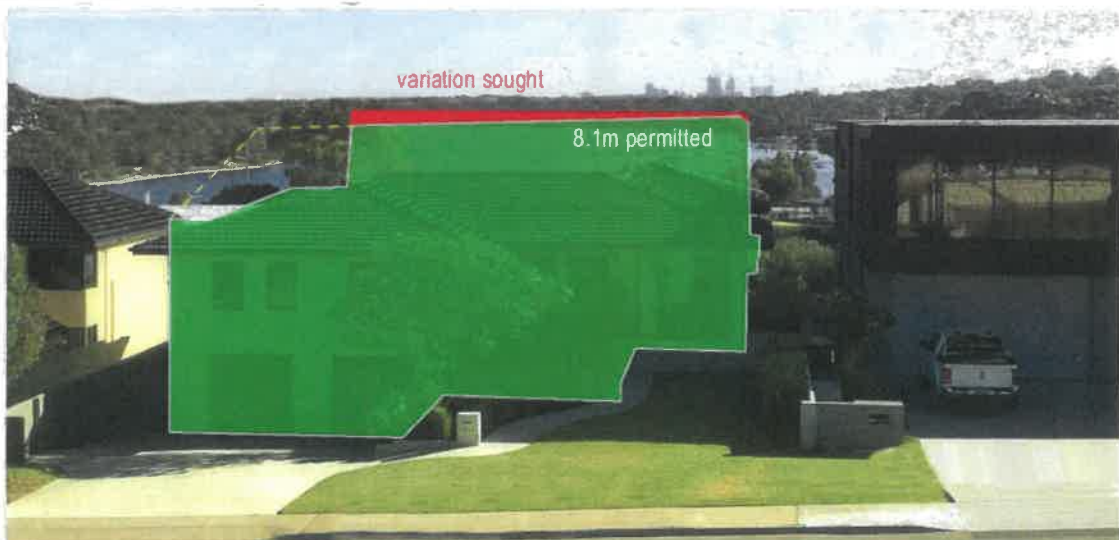


Perspectives of the proposed development at No. 12 Locke Crescent, East Fremantle.

I also draw attention to policy guidelines that suggest the streetscape should present as a terraced roof height. 12 Locke Crescent currently sits below 10 Locke Crescent and 14 Locke Crescent. Completion of the proposed design would in fact unify the neighbouring properties and present as a terraced streetscape as seen from Locke Crescent.

I am pleased to present that the proposed addition will have marginal impact of surrounding neighbouring views. We have included images of the existing residence and proposed addition to give some clarity as to the effect of the proposal on access to views.

Our surrounding neighbours have enjoyed “borrowed views” over our house for many years. In its current form, the roof height sits well below the permissible building envelope compliant design height of 8.1m.



12 Locke composite
12.26.11

The green shaded area indicates the proposed design at its permitted 8.1m height as a pitched roof (Current Design)
Please Note: A 45 degree pitched roof with Dormer windows / gables would extend to the full left hand side of No. 12 Locke Cr.

Whilst our neighbours have enjoyed these borrowed views for some time, we are seeking to partially reclaim some of this entitlement to ensure the long term security and viability of us to remain in our family home.

This addition once completed, as shown in images below, will be of minimal disruption to the "significant views" that residences of Habgood Street and Woodhouse Road currently enjoy.

Images below show the completed addition of 12 Locke Crescent in place.



18 Woodhouse composite
18.8.11

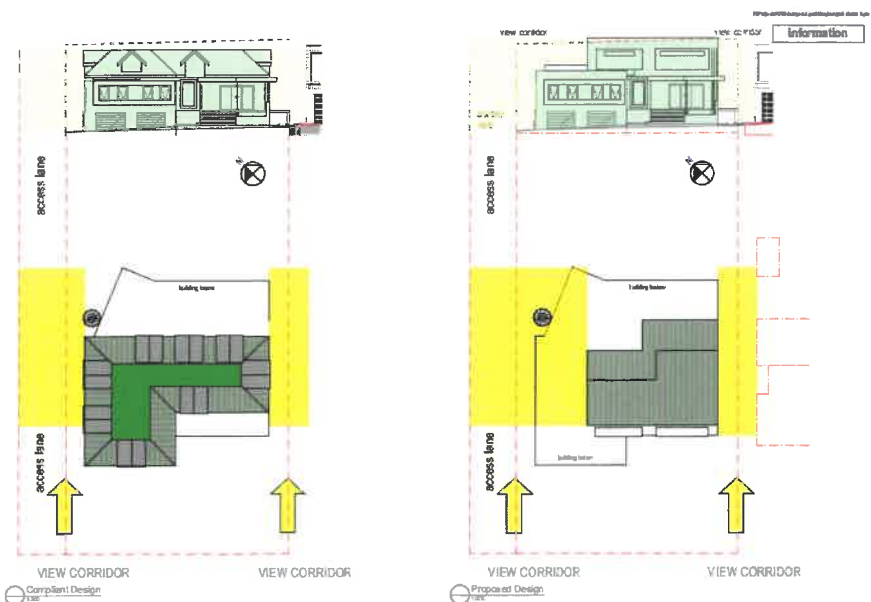
Proposed Outlook



We acknowledge that there will be some minor impact to the views of Habgood Street and Woodhouse Road residences by way of view of the low lying scarp and low lying Bicton Bath area, however this falls well out of what would be considered significant water and city views that they will still continue to currently enjoy as shown above.

It is important and relevant to note that with our proposed design the viewing corridor will be increased through the north western boundary, even more so than the existing roof design allows, and significantly more so that what a compliant normal roof structure addition would allow.

This will enable 9 Locke Crescent and 5 Locke Crescent to enjoy improved viewing corridors both currently and with any future height additions they may undertake. View Cone corridor images are presented with our submission.



We wish to again draw to council's attention our desire to have a minimal footprint of this addition, with floor space of the addition being a meagre 65.5m², representing only a 19% increase to total residence floor space. We would suggest the removal of the roof structure of the north western boundary and 'giving back' of potential viewing corridors is a genuine show of goodwill, interest and concern for our surrounding neighbours.

We acknowledge that there will be an impact to the view corridor of the project being undertaken at 7 Locke Crescent. It is important to note that a compliant pitched roof design within an acceptable "deemed to comply" building envelope would still provide significant impact, and if not greater impact than that of the current proposed submission.

We understand the site of 7 Locke Crescent has had some of its land willingly reclaimed resulting in its reduced lot size, and the design of the development for 7 Locke Crescent having been done to protect and enhance the viewing corridor of the same owner who resides behind at 4 Habgood Street. Whilst we acknowledge and respect that this project, being built and marketed by a commercial building company, is ultimately being undertaken for commercial profit and understandably the main motive for their concern.

In our opinion alternative building design of 7 Locke Crescent to optimise the site would possibly allow significantly improved viewing corridor opportunities for this site.

We acknowledge neighbours submissions and comments, however exaggerated commentary suggesting a disguised third level (which we dispute), presumptuous opinion of existing views of 12 Locke Crescent, together with some conflicting and seemingly unjustified site data, would appear to possibly represent as misguided opinion to create confusion and a somewhat unfair intent to protect own personal/commercial interests.

Furthermore, continued reference to the height compliance of 10 Locke Crescent is irrelevant to our submission. Any concern re height requirements should be addressed outside of our submission. The only relevant involvement of 10 Locke Crescent is with reference to streetscape, which we have addressed previously.

It is our opinion that for council to consider and allow unjustified evidence into consideration would be misfeasance as council has a duty to not assess conjectural, inadmissible and irrelevant survey evidence.

The site datum being used in our design and referenced is from accepted historical survey data from 2002. Since then multiple submissions to council have been accepted on this accurate survey data and council holds on record. The site of 12 Locke Crescent has been significantly altered since then. The use of the 2002 survey is in fact to our detriment as new survey data is highly likely to represent an elevated site and advantageous state in contrast to what we have worked to and presented.

Our computer generated images are based on verified and accepted data and reflect true building positions.

We have always enjoyed a warm and wonderful relationship with our neighbours in Locke Crescent, both immediate neighbours and those further along the length of the street. We have a wonderful street, both in location and also with persons. Protecting these relationships are important to us and we hope that we have shown commitment to communication, transparency and consideration during this process.

We have willingly made numerous changes to our design application to gain the necessary support of neighbours, the town planners, Design Advisory Committee and now respectfully ask that of council.

Our consultant planner, MW Urban, has assessed the proposal and considers it meets all the 'deemed-to-comply' requirements of the R-Codes and the overwhelming majority of 'Acceptable Development Provisions' of the Town of East Fremantle Residential Design Guidelines. Where variations to the Acceptable Development Provisions are requested, the proposal is considered to meet the relevant 'Design Principles', 'Desired Development Outcomes' and overarching objectives of the Residential Design Guidelines. Refer to the MW Urban report, attached.

In conclusion we would like to summarise the following points to support our request;

- The proposal is in keeping with the scale of new and existing homes as a presenting facade to the street.
- The roof form is consistent with many homes in the area.
- A fully compliant roof design would be less in keeping with the current streetscape and would have presented a more solid dominant construction facade than what is proposed. We note that whilst we are requesting a variation to the "deemed to comply" heights, we feel we are more in with keeping the broader objectives of these council design policies.
- Has significant support from local residence in Locke Crescent and surrounding streets.

Whilst we appreciate there has been a number of developments in the area and that there is much emotion involved, we feel we have willingly compromised at every stage, and that it is unreasonable and unfair for neighbours to assume ownership of borrowed views over our property.

We ask that this submission be assessed on its own merit, as being a sensitive design that is respectful to the design and scale of both existing and new homes in the area, harmonises well within the street and immediate area, and upholds the objectives of the council design guidelines, and of a considerate and well balanced proposal.

We also request that this submission, and accompanying information from John Chisholm Design and MW Urban, are provided to elected members in full.

My family and I hope that the council will consider our proposal favourably. We invite you contact us directly and warmly welcome you into our home to discuss any concerns or queries you may have at any stage.

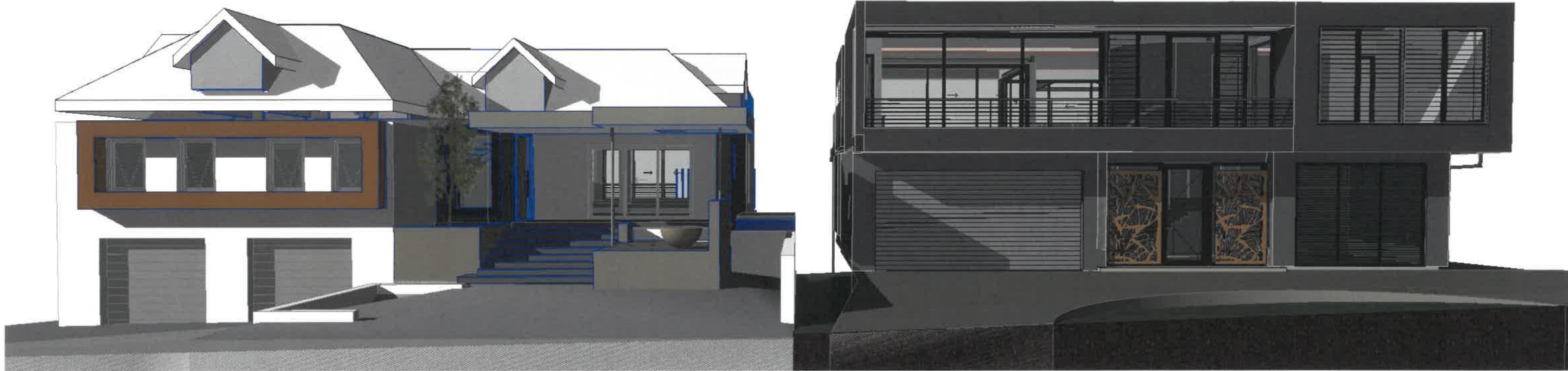
Thank you once again to all councillors and planners for your time and consideration that you have given to this proposal both in past and present.

Kind regards



FOR: Darryn and Rachel Sargant

12 Locke Crescent, East Fremantle



Camera

Scale: 1:203.79

Town of East Fremantle

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BUILDING DESIGN & VISUALISATION

t. 9339 2224 m. 0408 833 399

jc@jonchisholm.com www.jonchisholm.com



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BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC.

Project:

Alterations & Additions
12 Locke Cr.
East Fremantle

Drawing:

Perspective 1

4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017
REV.	AMENDMENT	DATE

Date:
9/02/2018

JC

Job No:
1706

Dwg No.:
P1

Rev
4

The builder must verify all dimensions on site before commencing any work or shop drawings



11 Camera
1:131.49

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Project: **Alterations & Additions**
12 Locke Cr.
East Fremantle

Drawing: **Perspective**

REV	AMENDMENT	DATE
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017

Date: **9/02/2018**

Drwn: **jc**

Job No: **1706**

Dwg No.: **P2**

Rev **4**

The builder must verify all dimensions on site before commencing any work or shop drawings.



12 Camera
1:158.08


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john chisholm design BUILDING DESIGN & VISUALISATION t. 9339 2224 m. 0408 833 399 jc@jonchisholm.com www.jonchisholm.com	NATIONAL ASSOCIATION BUILDING DESIGNERS BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC.	Project:	Alterations & Additions 12 Locke Cr. East Fremantle	Drawing:	Perspective	Date:	9/02/2018	Drwn:	jc		
		REV	AMENDMENT	DATE		Job No:	1706	Dwg No.:	P3	Rev	4
		4	issued for information	17/1/2018		The builder must verify all dimensions on site before commencing any work or shop drawings					
		3	issued for planning	8/12/2017		168					
		2	issued for planning	30/10/2017							



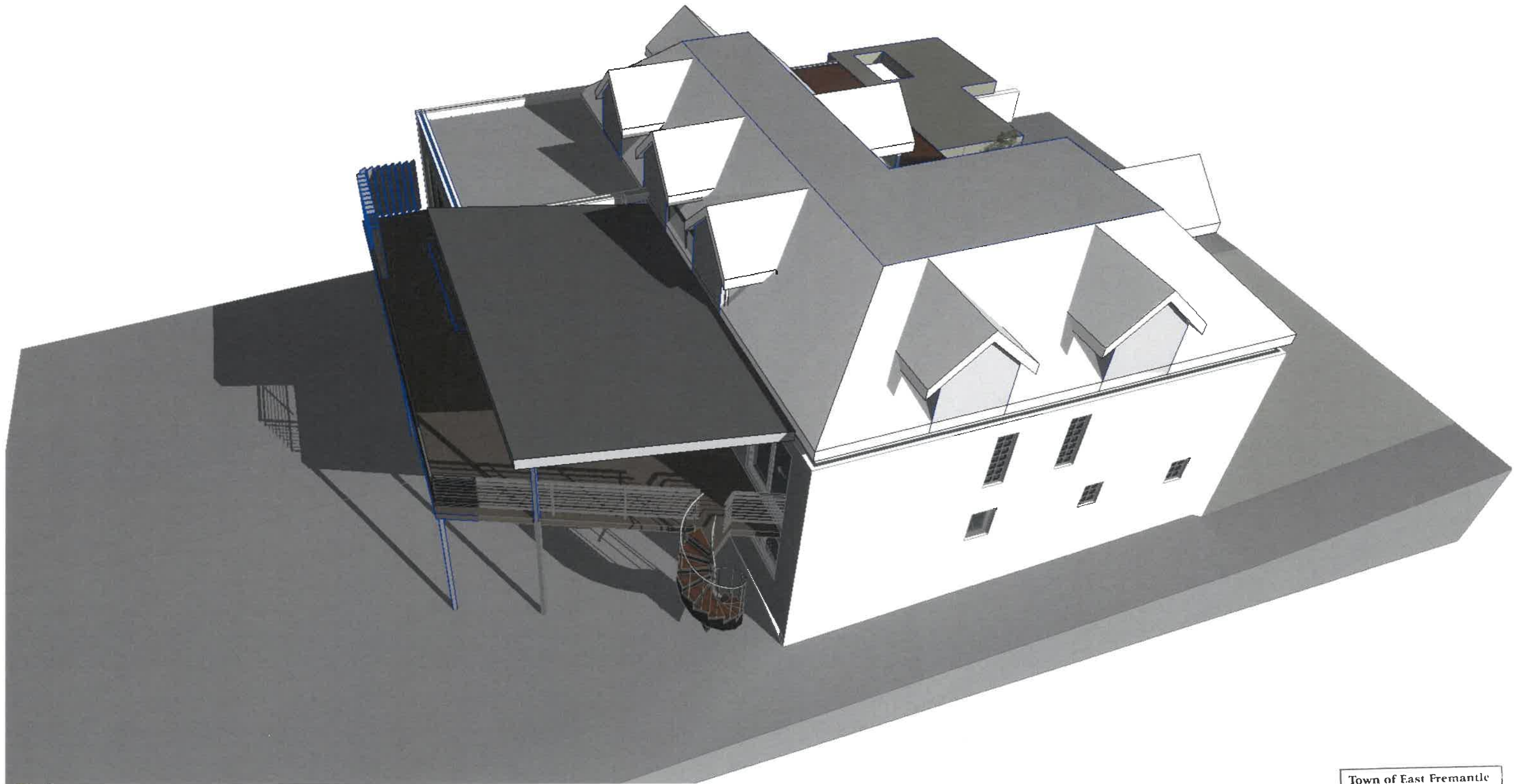
13 Camera
1:173.35

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				3	issued for planning	8/12/2017		
				2	issued for planning	30/10/2017		
				1	issued for planning	27/9/2017		
				REV.	AMENDMENT	DATE		

Job No: 1706	Dwg No.: P4	Rev 4
------------------------	-----------------------	-----------------

The builder must verify all dimensions on site before commencing any work or shop drawings **169**



14 Camera
1:176.55

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OF WESTERN AUSTRALIA INC.

Project:
**Alterations & Additions
12 Locke Cr.
East Fremantle**

Drawing:
Perspective

4	issued for information	17/1 /2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017

REV. AMENDMENT DATE

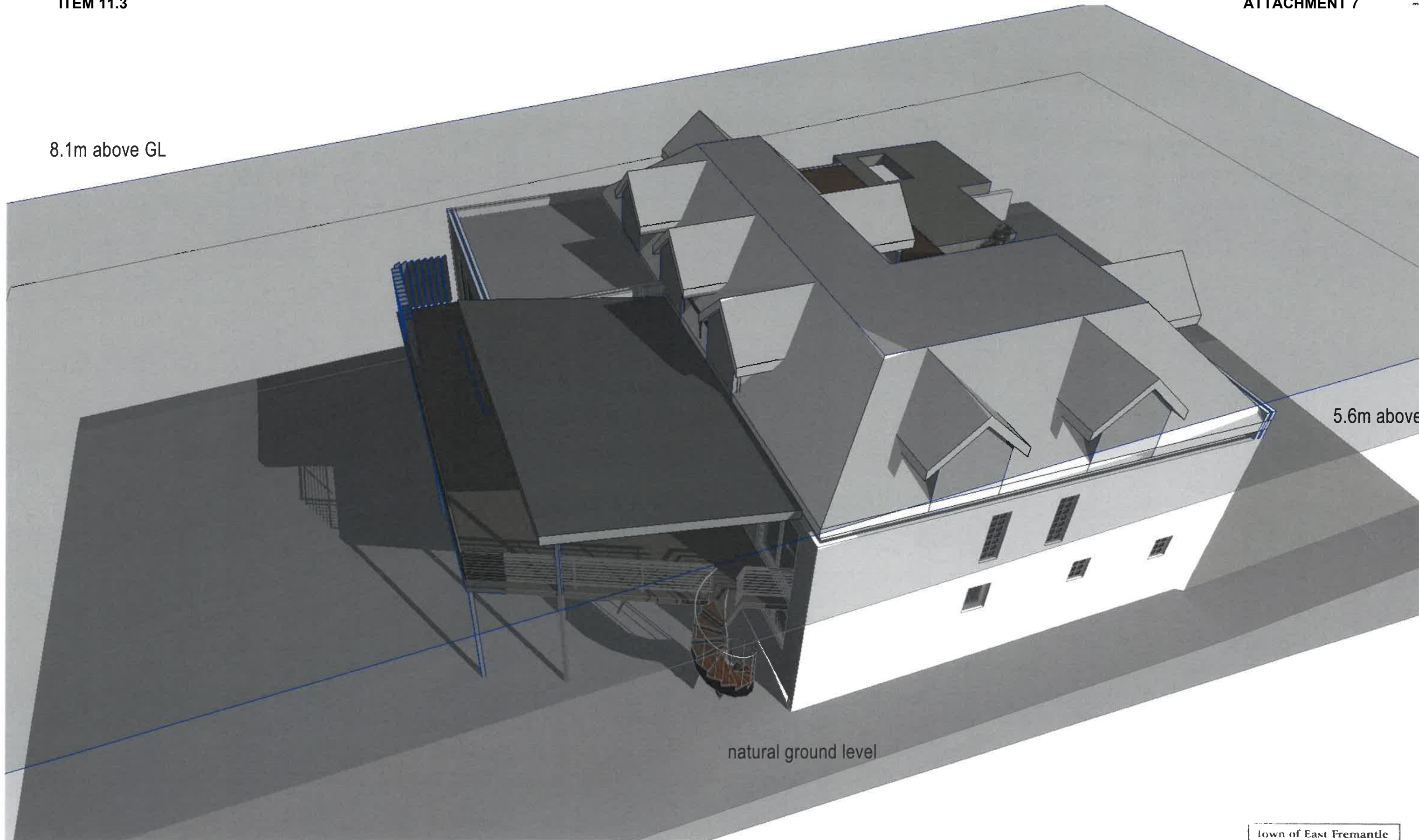
Date:
9/02/2018

Job No:
1706

Drwn:
jc

Dwg No.: **P5** Rev **4**

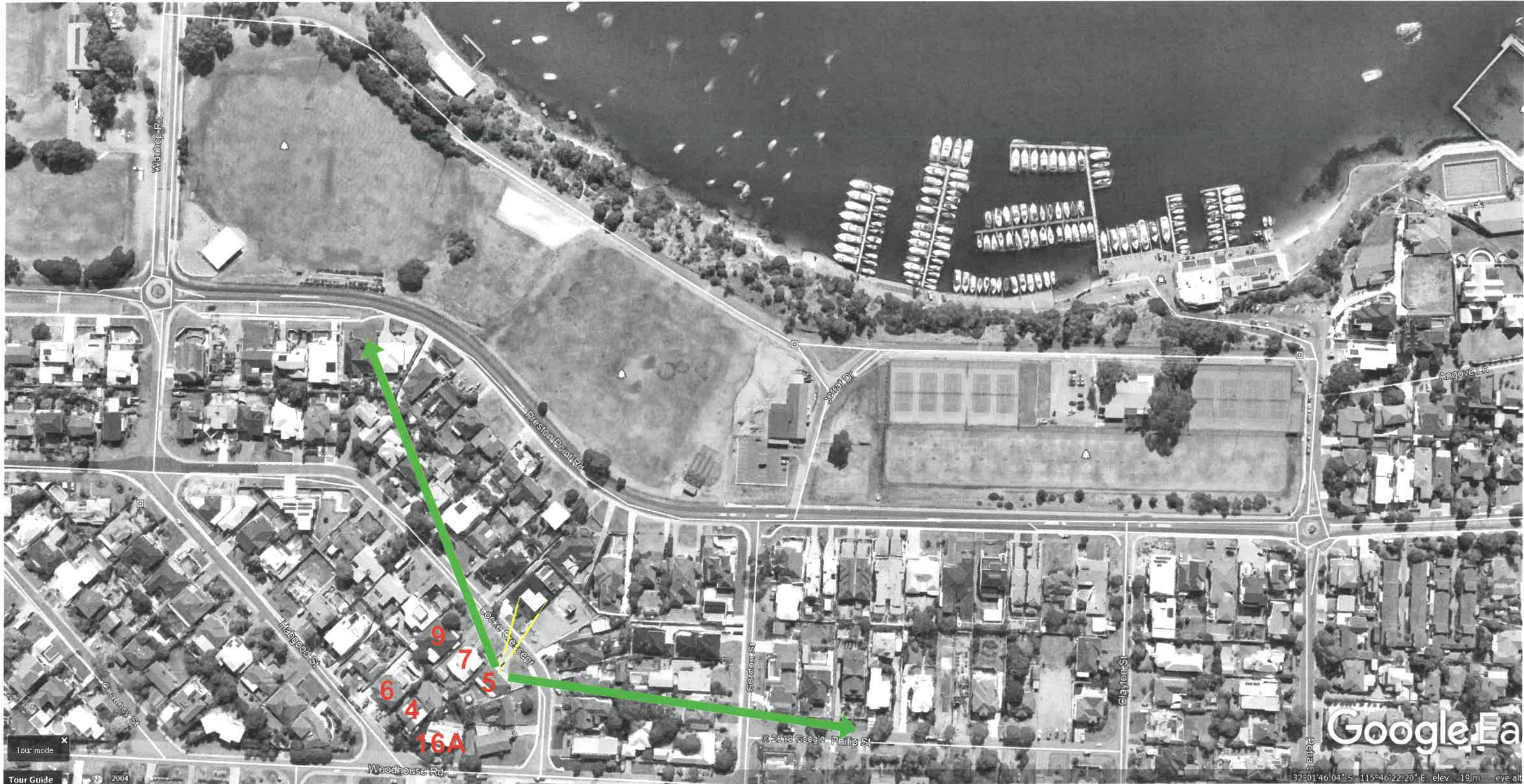
The builder must verify all dimensions on site before commencing any work or shop drawings.



Camera with 8.1m
1:175.14

town of East Fremantle
13 FEB 2018
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<p>john chisholm design BUILDING DESIGN & VISUALISATION t. 9339 2224 m. 0408 833 399 © Copyright jc@jonchisholm.com www.jonchisholm.com</p>	<p>BDAWA BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC.</p>	<p>nabd NATIONAL ASSOCIATION BUILDING DESIGNERS</p>	Project:	Alterations & Additions 12 Locke Cr. East Fremantle	Drawing:	Perspective	Date:	9/02/2018	Drwn:	jc	Job No:	1706	Dwg No.:	P6	Rev	4
			REV.	AMENDMENT	DATE	1	issued for planning	27/9/2017	2	issued for planning	30/10/2017	3	issued for planning	8/12/2017	4	issued for information



5 Locke Cr. View Cones
1:1428.57

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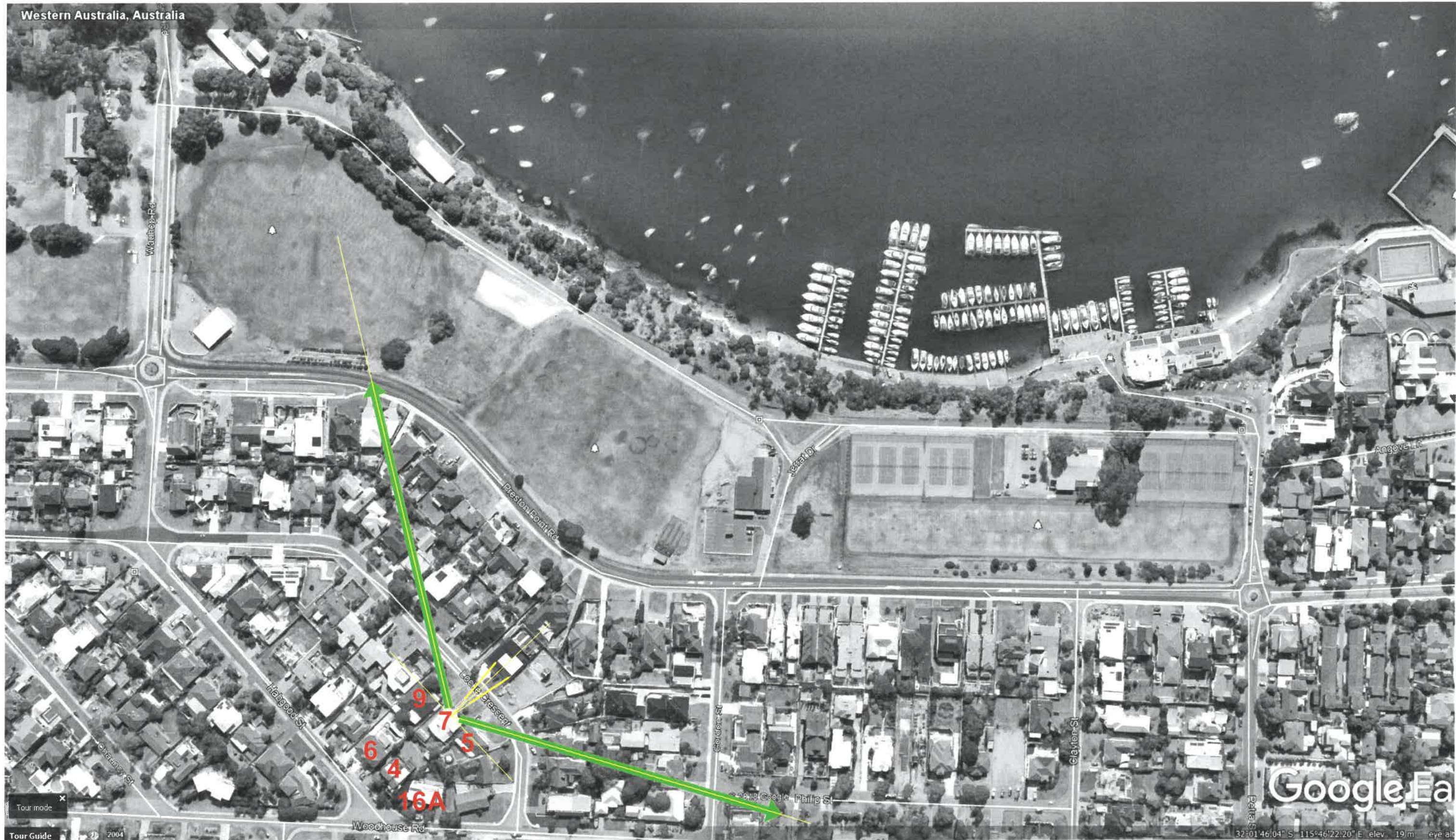
  NATIONAL ASSOCIATION BUILDING DESIGNERS
BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC.

Project:
**Alterations & Additions
12 Locke Cr.
East Fremantle**

Drawing:
5 Locke Cr.

5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017
REV	AMENDMENT	DATE

Date:	11/02/2018	jc
Job No:	1706	Dwg No: VC1
		Rev 5
The builder must verify all dimensions on site before commencing any work or shop drawings.		



7 Locke Cr. View Cones
1:1428.57

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Project: Alterations & Additions
12 Locke Cr.
East Fremantle

Drawing: 7 Locke Cr.

5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017
REV	AMENDMENT	DATE

Town of East Fremantle

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Date:	11/02/2018	Drwn:	jc
Job No:	1706	Dwg No.:	VC2
		Rev	5

The builder must verify all dimensions on site before commencing any work or shop drawings.

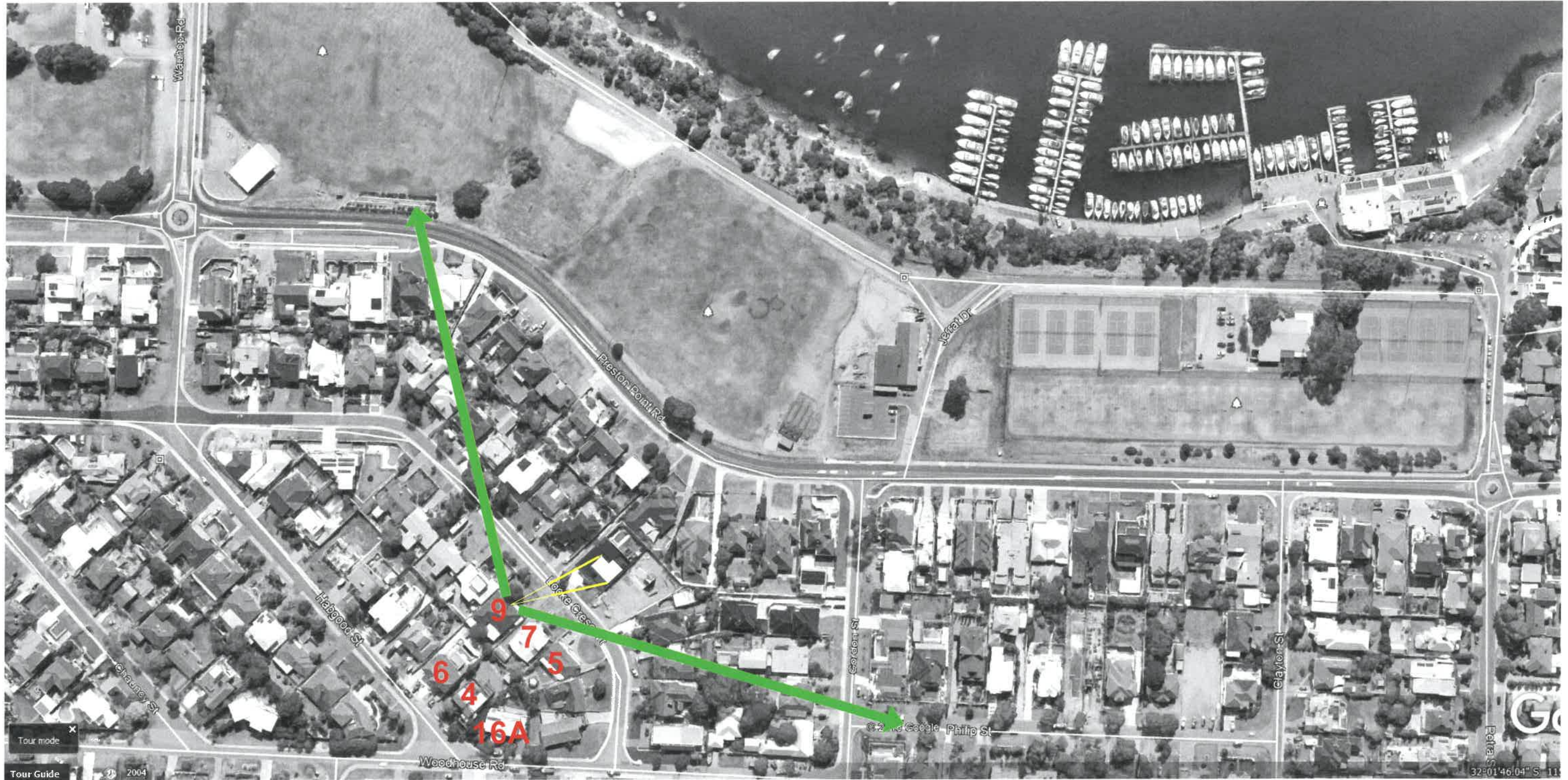


12 locke composite
1:2.28, 1:1

The green shaded area indicates the proposed design at its permitted 8.1m height as a pitched roof (Current Design)
Please Note: A 45 degree pitched roof with Dormer windows / gables would extend to the full left hand side of No. 12 Locke Cr.

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			1	issued for planning	27/9/2017	Job No.:	1706	Dwg No.:	VC2B	Rev	5		
			REV.	AMENDMENT	DATE			The builder must verify all dimensions on site before commencing any work or shop drawings.					



9 Locke Cr. View Cones
1:1306.22

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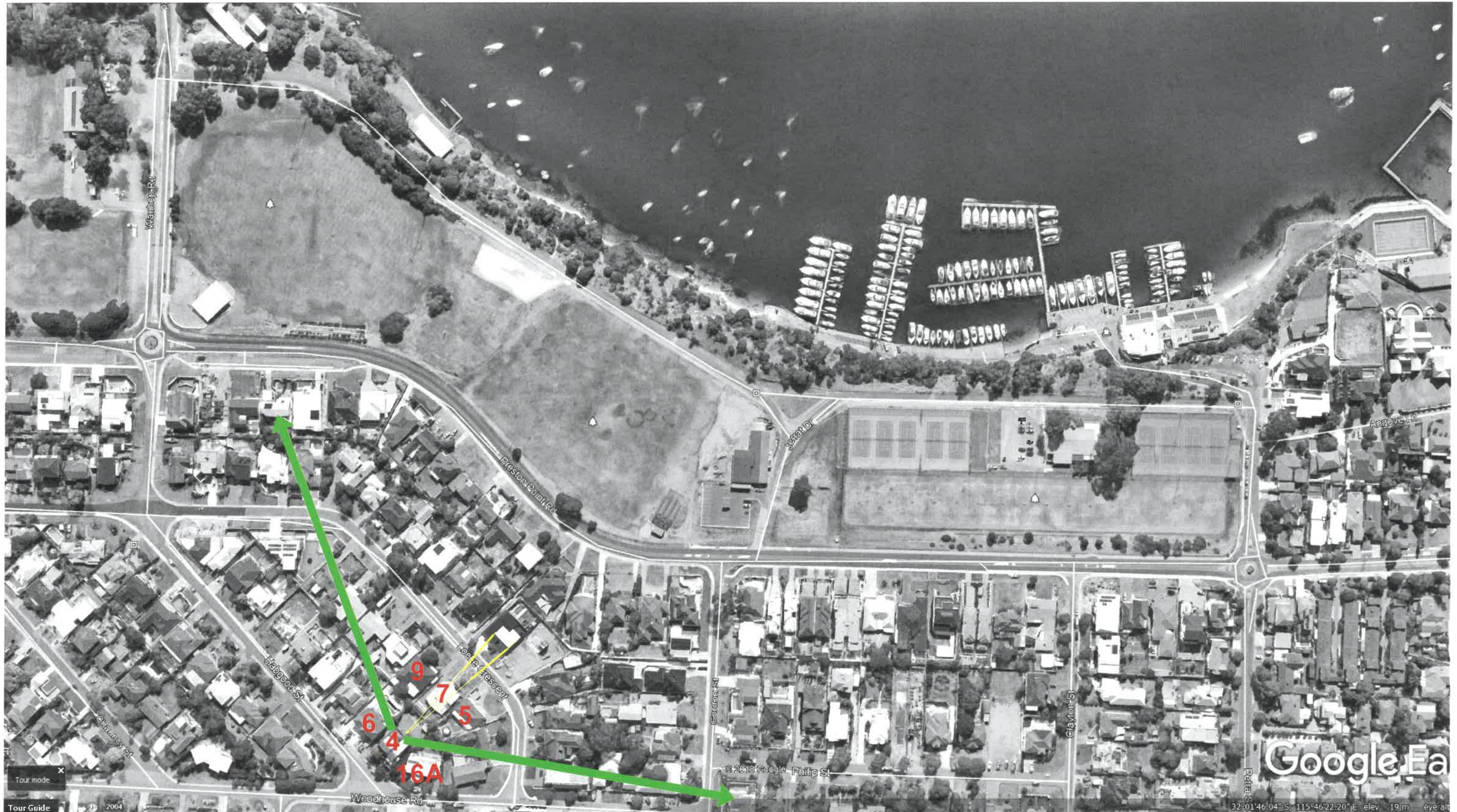
BDWA
nabd
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OF WESTERN AUSTRALIA INC.

Project:
**Alterations & Additions
12 Locke Cr.
East Fremantle**

Drawing:
9 Locke Cr.

5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017
REV	AMENDMENT	DATE

Date:	11/02/2018	jc
Job No:	1706	Dwg No: VC3
		Rev 5
The builder must verify all dimensions on site before commencing any work or shop drawings.		



4 Habgood St. View Cones
1:1428.57

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Project:
**Alterations & Additions
12 Locke Cr.
East Fremantle**

Drawing:
4 Habgood St.

REV.	AMENDMENT	DATE
5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017

Town of East Fremantle		Date: 11/02/2018	Drwn: jc
13 FEB 2018		Job No: 1706	Dwg No.: VC4
RECEIVED		Rev 5	
The builder must verify all dimensions on site before commencing any work or shop drawings.			

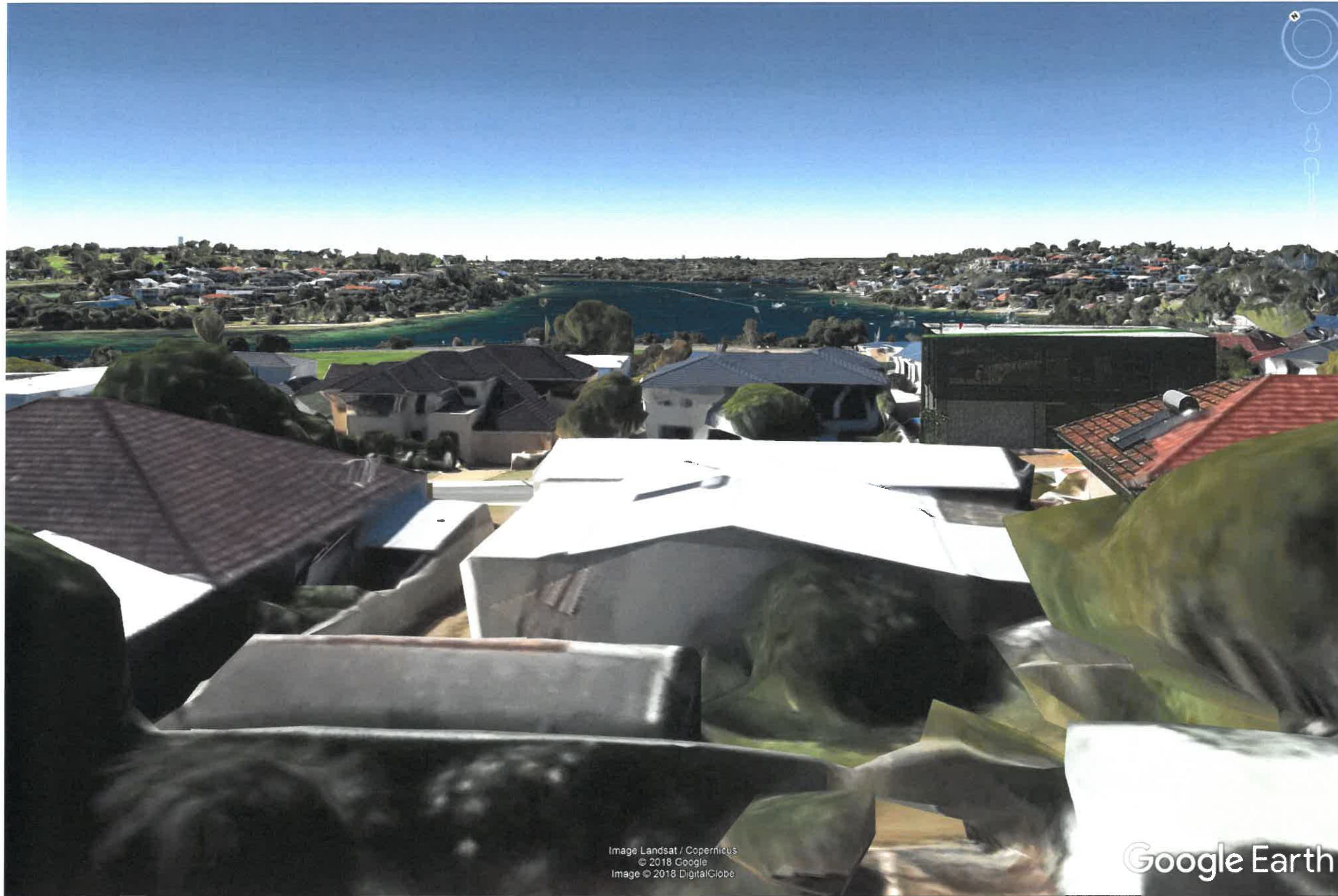


Image Landsat / Copernicus
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Google Earth

4 habgood current
1:1.33

Town of East Fremantle
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Project: Alterations & Additions
12 Locke Cr.
East Fremantle

Drawing: 4 Habgood St.

5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017

REV AMENDMENT DATE

Date: 11/02/2018

Job No: 1706

Drwn: jc

Dwg No.: VC4B

Rev 5

The builder must verify all dimensions on site before commencing any work or shop drawings.

477

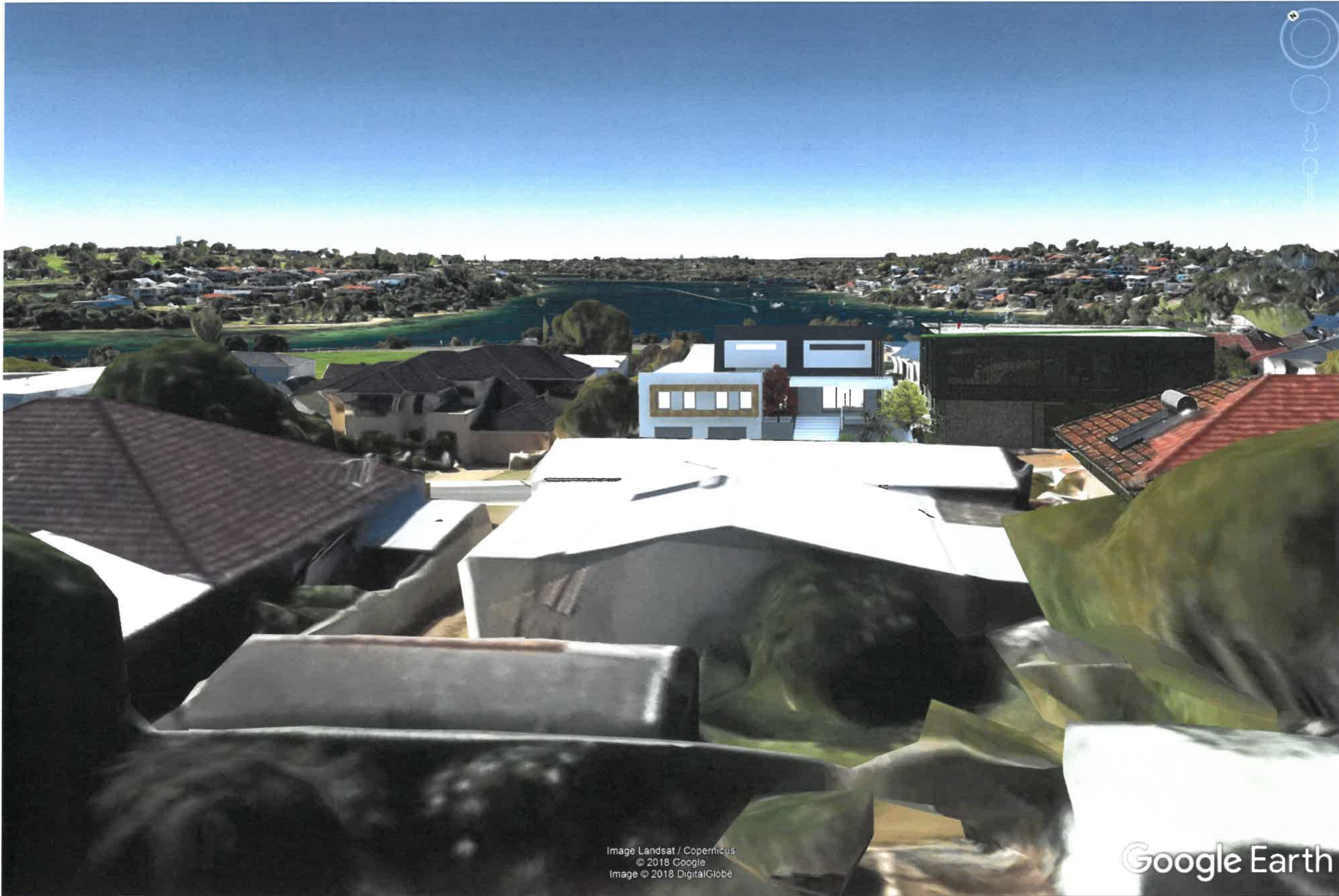


Image Landsat / Copernicus
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Image © 2018 DigitalGlobe

Google Earth

4 habgood composite
1:134

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Project: Alterations & Additions
12 Locke Cr.
East Fremantle

Drawing: 4 Habgood St.

5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017
REV.	AMENDMENT	DATE

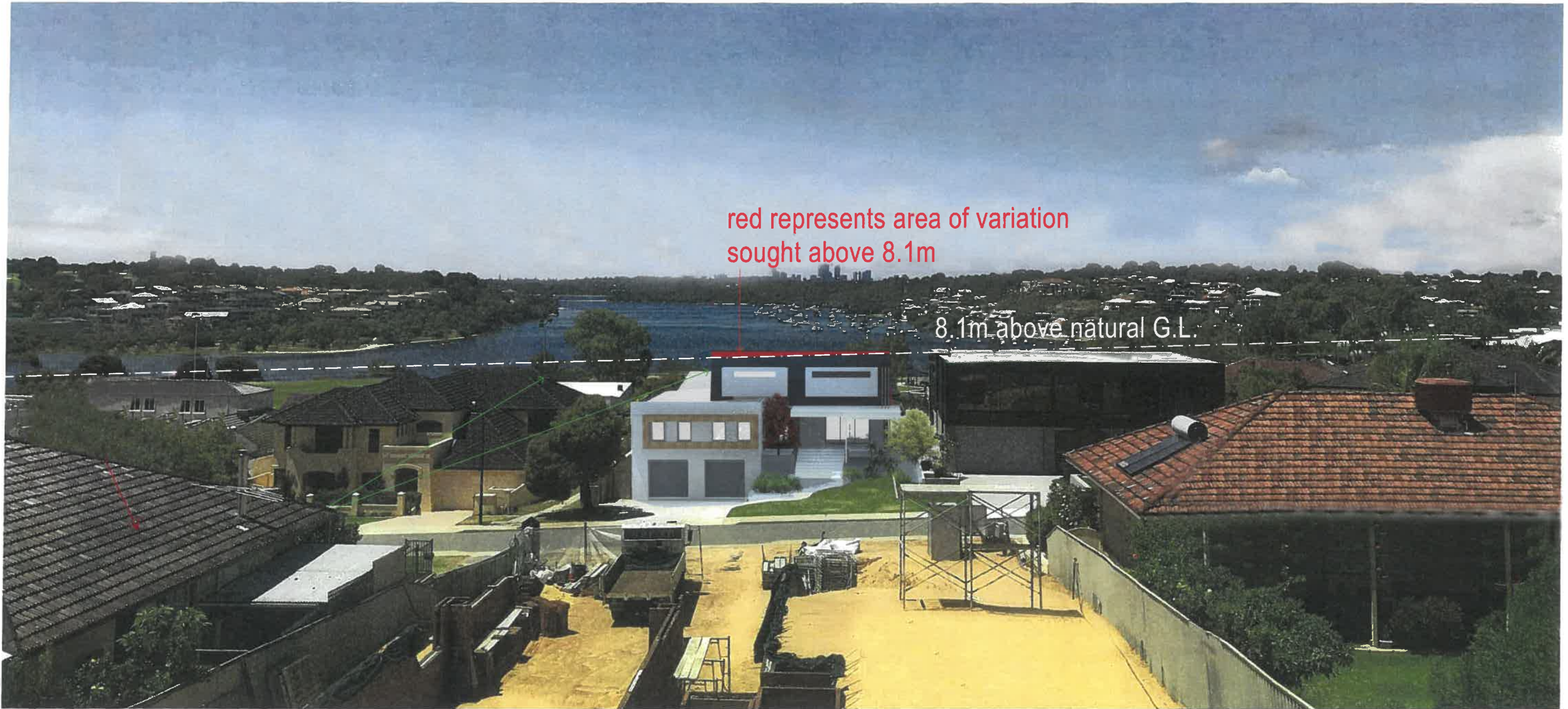
Date: 11/02/2018

Drwn: jc

Job No: 1706

Dwg No.: VC4C Rev 5

The builder must verify all dimensions on site before commencing any work or shop drawings.



red represents area of variation sought above 8.1m

8.1m above natural G.L.

View with proposed design
1:1.05

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					4 issued for information 17/1/2018		
3 issued for planning 8/12/2017	<p>The builder must verify all dimensions on site before commencing any work or shop drawings.</p>						
2 issued for planning 30/10/2017							
1 issued for planning 27/9/2017							
REV AMENDMENT DATE							



6 Habgood St. View Cones
1:1428.57

Town of East Fremantle
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Project: Alterations & Additions
12 Locke Cr.
East Fremantle

Drawing: 6 Habgood St.

REV	AMENDMENT	DATE
5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017

Date:	11/02/2018	Drwn:	jc
Job No.:	1706	Dwg No.:	VC5
		Rev	5

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6 habgood
1:1.32

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Project:
**Alterations & Additions
12 Locke Cr.
East Fremantle**

Drawing:
6 Habgood St.

5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017
REV.	AMENDMENT	DATE

Date:
11/02/2018

Job No:
1706

Drwn:
jc

Dwg No.:
VC5B Rev
5

The builder must verify all dimensions on site
before commencing any work or shop drawings.



Note: # 10 Locke Cr. not shown as there has been no access to current imagery from this location.

Image Landsat / Copernicus
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Google Earth

6 habgood composite
1:1.35

Town of East Fremantle
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Project:
**Alterations & Additions
12 Locke Cr.
East Fremantle**

Drawing:
6 Habgood St.

5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017
REV	AMENDMENT	DATE

Date:
11/02/2018

Drwn:
jc

Job No:
1706

Dwg No.:
VC5C Rev
5

The builder must verify all dimensions on site before commencing any work or shop drawings 482



16A Woodhouse Rd. View Cones
1:1428.57

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Project: Alterations & Additions
12 Locke Cr.
East Fremantle

Drawing: 16A Woodhouse Rd.

REV	AMENDMENT	DATE
5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017

Town of East Fremantle
13 FEB 2018
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Date: 11/02/2018	Drwn: jc
Job No.: 1706	Dwg No.: VC6
	Rev 5

The builder must verify all dimensions on site before commencing any work or shop drawings.



16a woodhouse
1:8.67

Current Outlook

<p>john chisholm design BUILDING DESIGN & VISUALISATION t. 9339 2224 m. 0408 833 399 jc@jonchisholm.com www.jonchisholm.com</p>	<p>BDAWA BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC.</p>	<p>NATIONAL ASSOCIATION BUILDING DESIGNERS BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC.</p>	Project: Alterations & Additions 12 Locke Cr. East Fremantle	Drawing: 16A Woodhouse Rd.	5 issued for information 11/2/2018 4 issued for information 17/1/2018 3 issued for planning 8/12/2017 2 issued for planning 30/10/2017 1 issued for planning 27/9/2017 REV AMENDMENT DATE	Town of East Fremantle 13 FEB 2018 RECEIVED	Date: 11/02/2018 Job No: 1706	Drwn: jc Dwg No.: VC6B Rev 5
			The builder must verify all dimensions on site before commencing any work or shop drawings.		484			



16a woodhouse composite
1:6.81

Proposed Outlook

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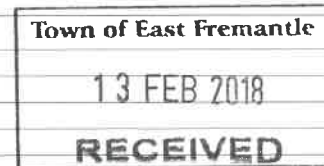


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BUILDING DESIGNERS ASSOCIATION OF WESTERN AUSTRALIA INC.

Project: **Alterations & Additions
12 Locke Cr.
East Fremantle**

Drawing: **16A Woodhouse Rd.**

5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017
REV	AMENDMENT	DATE



Date: 11/02/2018
Job No: 1706

Drwn: jc

Dwg No.: **VC6C** Rev **5**

The builder must verify all dimensions on site before commencing any work or shop drawings



152 preston point rd
1:7.69

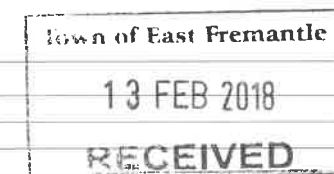
152 Preston Point Road is located in front of #12 Locke Cr.
Existing conditions shown



152 preston point rd
1:7.69

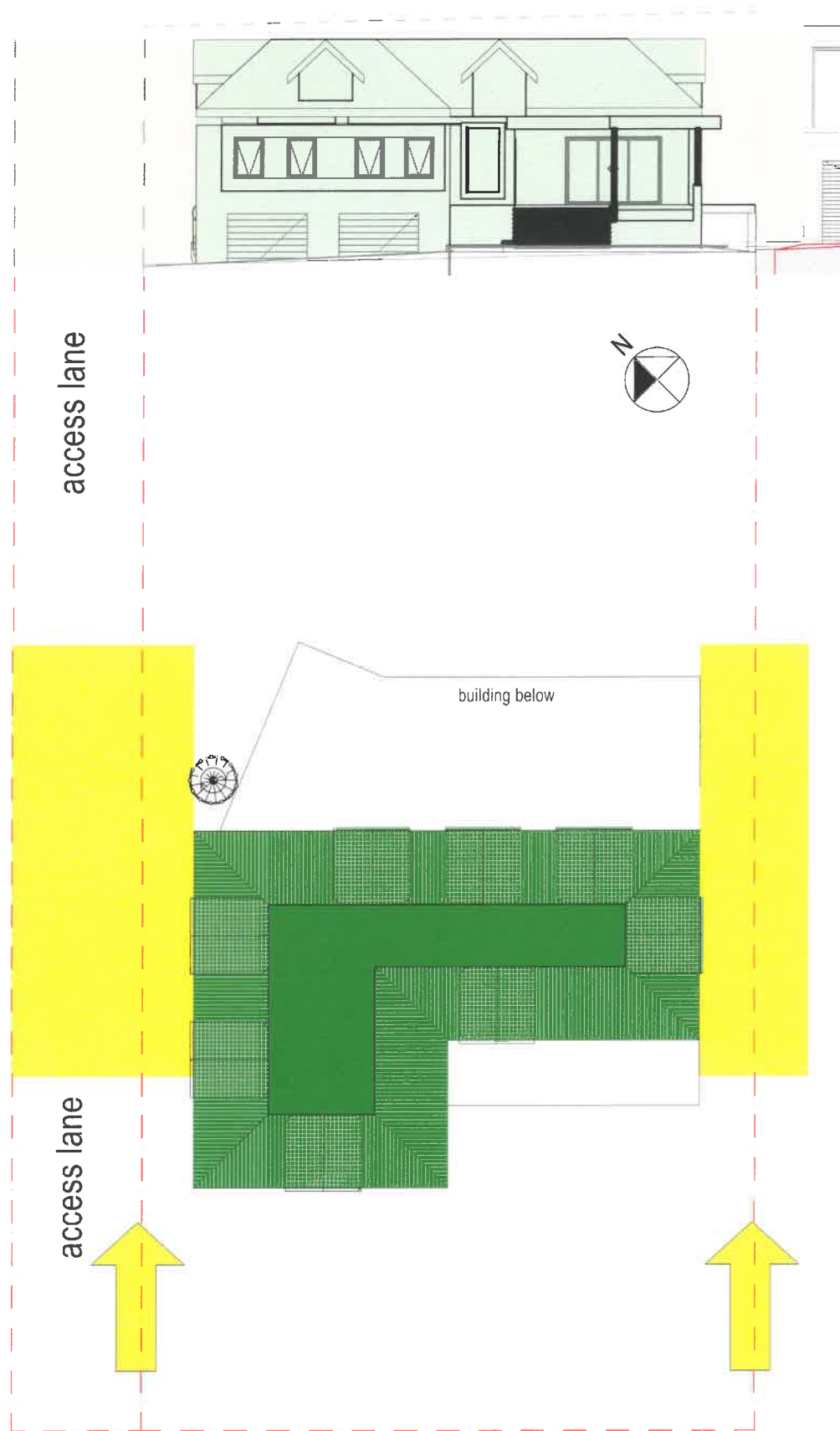
152 Preston Point Road with potential compliant first floor addition,
approximately 5.6m plate heights and 8.1m ridge height

REV	AMENDMENT	DATE
5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017



Date:	11/02/2018	Drwn:	jc
Job No:	1706	Dwg No.:	VC7
		Rev	5

The builder must verify all dimensions on site before commencing any work or shop drawings.



VIEW CORRIDOR

VIEW CORRIDOR



VIEW CORRIDOR

VIEW CORRIDOR

Compliant Design
1:200

Proposed Design
1:200

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Project: Alterations & Additions
12 Locke Cr.
East Fremantle

Drawing: View Corridors

REV.	AMENDMENT	DATE
5	issued for information	11/2/2018
4	issued for information	17/1/2018
3	issued for planning	8/12/2017
2	issued for planning	30/10/2017
1	issued for planning	27/9/2017

1000 of East Fremantle
13 FEB 2018
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Date: 12/02/2018	Drwn: jc
Job No.: 1706	Dwg No.: VC8
	Rev 5

The builder must verify all dimensions on site before commencing any work or shop drawings.

12. REPORTS OF OFFICERS (COUNCIL DECISION)

Nil.

13. MATTERS BEHIND CLOSED DOORS

Nil.

14. CLOSURE OF MEETING