



MINUTES

Town Planning Committee

Tuesday, 4 September 2018 at 6.30pm

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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.

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5.2 Proximity

Nil.

5.3 Impartiality

Nil.

6. PUBLIC QUESTION TIME

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

Nil.

6.2 Public Question Time

Nil.

7. PRESENTATIONS/DEPUTATIONS

7.1 Presentations

Nil.

7.2 Deputations

Nil.

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Town Planning and Building Committee (7 August 2018)

8.1 OFFICER RECOMMENDATION

Cr Nardi moved, seconded Cr White

That the minutes of the Town Planning and Building Committee meeting held on Tuesday 7 August 2018 be confirmed with the following error being noted for correction:

Minute No. 11.6 Preston Point Road No 65C (Resolution 050818)

The notation following the Committee resolution be amended to read as follows:

Note:

As 4 Committee members voted in favour of the procedural motion, pursuant to Council's decision regarding delegated decision making made on 17 June 2018 this application is deemed deferred, on behalf of Council, under delegated authority.

(CARRIED UNANIMOUSLY)

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

Nil.

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 to be tabled: 1. Minutes of the Community Design Advisory Committee meeting held on 27 August 2018.

PURPOSE

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

EXECUTIVE SUMMARY

The Committee, at its meeting held on 27 August 2018, provided comment on planning applications listed for consideration at the September 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.

Due to the date of the CDAC meeting the minutes will be tabled at the Town Planning Committee meeting.

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

10.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP010918

Cr White moved, seconded Cr Natale

That the Minutes of the Community Design Advisory Committee meeting held on 27 August 2018 be received.

(CARRIED UNANIMOUSLY)

11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

11.1 Preston Point Road, No. 65C (Lot 9) – Construction of Three Level Dwelling on Vacant Lot

Applicant	Arktek Design
Landowner	K Keyhan
File ref	P/PPT65C; P012/18
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Voting requirements	Simple Majority
Meeting date	7 August 2018
Documents tabled	Nil
Attachments	Nil

Purpose

This report considers an application for development approval for the construction of a three level dwelling at No. 65C (Lot 9) Preston Point Road, East Fremantle.

Executive Summary

The application involves the construction of a three level dwelling on vacant land. The site is a rear battle-axe lot which is one of four lots subdivided at a density of R30. This lot is located in the north western corner of the parent lot and is 292m².

Access to a double garage is at the end of the battle-axe driveway. The first two levels of the dwelling will comprise fully self-contained living quarters on each level. The third level comprises a rooftop loft (single room) and open air rooftop terrace.

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

- Lot boundary Setbacks: reduced setbacks proposed to all boundaries with the exception of the western boundary;
- Visual Privacy: reduced visual privacy setbacks;
- Site works: fill exceeds 500mm;
- Building Height, Form, Scale and Bulk: exceeds building height limits;
- Views; and
- Vehicular access – driveways shall be no closer than 0.5 metres from a side lot boundary.

It is considered the non-compliance with the visual privacy setbacks cannot be supported and conditions requiring compliance with these setbacks is considered necessary to address the concerns of adjoining land owners. Other variations are considered supportable subject to conditions of development approval in regard to building height, sight lines, external fixtures, parapet walls and other general amenity issues.

The Town Planning Committee determined to defer the application at its meeting of 7 August 2018 to require the applicant to demonstrate that compliance with the three visual privacy conditions (relating to each level of the dwelling) could be achieved at planning approval stage rather than at building permit stage. The applicant has submitted amended plans which demonstrate compliance, however, full drawings and elevations have not been provided. The plans indicating the visual privacy setbacks of the dwelling were subsequently forwarded to the impacted adjoining owner to the rear. The land owner has replied indicating he has viewed the plans and acknowledged the visual privacy setbacks

shown on the amended plans comply with the R-Codes. In all other respects the contents of this report are the same as that previously presented to the Committee.

The plans are therefore considered to satisfy the Town Planning Committee's resolution and the application is recommended for approval subject to modified conditions relating to visual privacy. The modified conditions are to ensure that the required setbacks are indicated on the building permit application plans.

Background

Zoning: Residential 30

Land area: 292m²

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

December 2015 – Council granted planning approval for a new two storey dwelling at 65D Preston Point Road. This lot is immediately adjacent to the subject site and has planning and building approval for a three level dwelling which includes a roof terrace. Development of the two remaining vacant lots in this subdivision has not commenced, however, planning approval has been granted.

Consultation

Advertising

The application was initially advertised to surrounding land owners from 22 February to 9 March 2018. Eight (8) submissions were received all objecting to the proposal mainly on the basis of the dwelling exceeding the building height limit (impact of scale and bulk on surrounding properties and obstructing views). Privacy and overlooking were also noted as areas of concern.

Following discussion of the issues raised in the submissions with the applicant and owner amended plans were submitted and a second round of advertising was undertaken from 11 to 25 June 2018. Four (4) submissions were received and are noted below. The response from the applicant is noted in italics following each submission.

Submission 1

It has been noted the building height has been lowered to the regulated 8.1 metres height limit and also note that a portion of the roof apex remains above this limit.

With a sloping site it is difficult to have the entire roof under the height limit. The point of the height limit is to reduce possibility of views being blocked by new development. It is our opinion that no views will be blocked by the small percentage of roof that is currently over height.

We still have reservations as to the social impact of the roof terrace and the possibility of the installation of temporary/permanent structures.

There cannot be any installation of structures on the terrace without planning approval. The proposed design is for a couple with one child and their elderly parents. There are a lot of properties in the local area with elevated outdoor terraces large enough to host large numbers of people, with these spaces i.e. terraces at 36 Riverside Road and a new development at 33 Riverside Road - all have potential to host parties, but this does not mean this will happen, complaining about the social impact of a new outdoor area is speculation.

Submission 2

We strongly object to the plans as proposed. It is an over development of the site that fails to meet principles of proper planning and the LPS.

Prior to this proposal going to CDAC etc. we consider it is critical that we are informed by a detailed report setting out the variations being sought – we will take planning/legal advice and revert in a format that can become part of the process.

The design is seeking variations on setbacks, height, overlooking and overshadowing, possibly site coverage.

A significant imposition on our amenity. The use of our swimming pool and deck will be compromised by having 3 levels of direct overlooking.

- (1) We are a little confused by the plans, it seems a 3 bedroom house on the ground floor and a 3 bedroom house on the upper floor. –

The design is a single 5-bedroom home with a study for the client and his elderly parents whom he is the primary carer. While the complainant may have other views depending on their interpretation of the plans, it would be crucial for the planning committee to consider the needs of the family that owns the block as well.

- (2) 2 houses on 1 lot – does this concept comply with the zoning of the site. –

It is not 2 houses please refer to above point 1.

- (3) The west facing elevation is all glass with very little articulation, far too bulky. –

The complainant is complaining about elements for the built structure that he will not be able to view from his property.

- (4) When the living and dining room sliding doors are open (on either level) the space will be like a covered terrace – requiring a 7.5m setback.

Opening doors to an internal space does not change the use of the space. There is also no possibility of overlooking from these spaces due to the topography of the land. With a screen over the wall on the boundary which is already 2.1m high and the property at Riverside Road being 5m lower than 65C and D Preston Point Road, it is physically impossible for a person to look down into the pool and deck at Riverside Road. The point of the setbacks in the R-Codes is to prevent overlooking into another property's outdoor living areas and other habitable spaces. Where this is not physically possible there is no need to enforce minimum setbacks if there is no adverse impact on adjoining properties.

- (5) The roof terrace seeks variations for overlooking on all sides – a very large space, we do not support the variations.

There are no overlooking issues, the terrace has been setback where necessary to avoid overlooking at 36 and 37 Riverside Road. This setback obscures any possible visual lines to both properties.

Submission 3

- (1) The overall building presentation and visual appearance is inconsistent with the area and other properties adjacent and will lower the appeal and value of the locality.

This is a matter of opinion. There will be three buildings on the site at 65 Preston Point Road and all will be different in their own right. Apart from 63 Preston Point Road all developments in the immediate locality are different in their visual appearance. How is the appeal of an area valued?

- (2) From the plans it appears that the loft will exceed the height of roof apex of the adjacent 65D by 3 metres, the central pergola by some 2 metres and the solid wall by 1.6 metres. It should be

clearly noted that the roof apex of 65D is already significantly in excess of maximum building heights.

While the roof of the loft is higher than 65D Preston Point Road the roof terrace is at the same height. The 1.6 high solid wall is acting as a privacy screen between the two houses and is the same height as the proposed privacy screen at 65D. Based on the floor level of the neighbouring properties the increased height of 65C will not impact any views from the neighbouring properties.

- (3) These over height structures will severely negatively affect the views and viewing channels of our and several other dwellings in the 63 Preston Point Road strata development.

Properties at 63 Preston Point will not be impacted by the development at 65C as they do not have viewing channels to the river over 65C. They views to the river are directly over the sewer easement at 65D also over 34, 35 and 36 Riverside Road.

- (4) Multiple views from the eastern side of Preston Point Road and Fraser Street will also be negatively impacted as their viewing channels are blocked.

65C Preston Point Road has a finished floor level of 13.786 while 65A is at 16.680 which is 2.894m higher than 65C. 65A will still enjoy views over 65C and between 65 and 67 Preston Point. All properties on Fraser Street are also higher than 65 with view channels over Gourley Park for properties north of Fraser Street and between 63 Preston Point Road and 65D Preston Point Road for properties south of Fraser Street.

- (5) The use of shade structures, trees and outdoor furniture and appliances will further increase the height of the eastern section of the dwelling and all deployment or use of such items should be forbidden.

It is our understanding that the use of such structures in an area with height sensitivities would require prior planning approval, as this is not the case at this point we cannot comment on what the complainant views as possibilities of future non-compliance with planning policy. We believe the Town has the right to request any such items be removed if installed without approval.

- (6) The use of lighting on the rooftop terrace will shine directly into our main bedroom at night from above the level of 65D and our property will be directly impacted by any noise from the residents using the roof top terrace.

The roof terrace at 65C does not exceed the roof level at 65D. The orientation of the two properties will make it hard for lights to affect the living spaces at number 65D. Noise can come from any property along the road. The roof terrace does not increase the possibility of noise from social gatherings.

We would request that the East Fremantle Town Planning Committee reject this planning application and that a requirement be placed such that no structure or temporary item should have a height greater than the current over height apex of the roof of the dwelling approved for 65D.

This would be an assumption that the owners of 65D are the only owners in East Fremantle that have the right and privilege of being able to develop their property as they wish and they can enforce their property as the benchmark for all developments. The Planning Committee has a responsibility to all residents including the owners of 65C Preston Point Road.

Also that restrictions on noise and light be placed on any rooftop terrace approved.

Noise and light restrictions would be fundamental to quiet enjoyment of neighbouring properties. This should be imposed on both 65B, C and D. If not already imposed on the other 2 properties we request the Planners revisit the approval to those properties and exercise their right to amend the approval.

As can be seen from the photo (not included) the tree and its planter box has increased significantly the height and visual impact of this three level dwelling (estimate - 4 metres). This has had significant impact on adjacent neighbours. Furthermore, during a storm the tree toppled over and came very close to falling over the edge onto the neighbour's drive and cars. This is a potential safety issue. As adjacent neighbours we would strongly request that the East Fremantle Council take steps to ensure this cannot happen at 65C Preston Point Road.

We note that the photo is not of a property in East Fremantle. Planning approval would be required and the Town would have the power to request the tree be removed if not approved.

Submission 4 - (repeat of Submission 3 above)

Officer Response

The Officer's response to the submissions is addressed in detail in the 'Comment' section of the report. In summary the height of the dwelling as proposed is supported, however, the applicant had been advised that the visual privacy issues must be addressed through amendments to the plans indicating compliance with the R-Codes.

Following discussions with the Town in respect to compliance the applicant submitted amended plans. The amended plans whilst addressing the visual privacy setbacks are still not in full compliance so conditions of planning approval are recommended to be imposed to ensure that the setbacks are compliant at Building Permit application stage.

Community Design Advisory Committee (CDAC)

This application was not referred to the CDAC. The site is a battle-axe lot which is ~40 metres from the street.

Statutory Environment

Planning and Development Act 2005

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

Policy Implications

Residential Design Guidelines 2016

Fremantle Port Buffer Zone – Area 3

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

3.1 *Facilitate sustainable growth with housing options to meet future community needs.*

3.1.1 *Advocate for a desirable planning and community outcome for all major strategic development sites.*

- 3.1.2 Plan for a mix of inclusive diversified housing options.
- 3.2 Maintaining and enhancing the Town's character.
- 3.2.1 Ensure appropriate planning policies to protect the Town's existing built form.
- 3.3 Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.
- 3.3.1 Continue to improve asset management practices.
- 3.3.2 Optimal management of assets within resource capabilities.
- 3.3.3 Plan and advocate for improved access and connectivity.

Natural Environment

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

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

Site Inspection July 2018

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 relevant assessment criteria is provided in the following tables.

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	4.0m	N/A	N/A
Lot Boundary Setback	South: 1.5 (GF) 3.0m (UF) North: 1.5m (GF) 6.1m (UF) West: 1.8m (GF) 3.0m (UF) East: 1.5m (GF) 3.0m (UF)	South: nil – 1.2m (GF & UF) North: 1.1 – 2.0m (GF & UF) West: 5.995m – 6.7m (GF & UF) East: 1.25m (GF & UF)	D D A D
Open Space	45%	≥45%	A
Outdoor Living	30m ²	44m ²	A
Car Parking	2	2	A
Site Works	Less than 500mm	~up to 1,028mm - fill	D
Retaining Walls	Greater than 500mm and closer than 1m from lot boundary	Not indicated on plans	N/A
Overshadowing	35%	≤35%	A
Drainage	On-site	On-site	A

Visual Privacy	Roof top deck:	7.5m	Roof top deck:	7.2m – 8.5m	D
	Balcony (north):	7.5m	Balcony (north):	1.1m	D
	Dining/living:	6.0m	Dining/living:	5.917m – 6.45m	D
	Study/Gym:	4.5m	Study/Gym:	2.0m	D
	Master bed:	4.5m	Master bed:	1.1m	D
	Bedroom 5:	4.5m	Bedroom 5:	1.1m	D

Local Planning Policy Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	D
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	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	A
3.7.14 Footpaths and Crossovers	N/A
3.7.18.3 Garages, Carports and Outbuildings	A
3.7.15-20 Precinct Requirements	D

Building Height Requirement	Required	Proposed	Status
Building Height (wall) (RDG)	5.6m	West: 6.6m North: 6.4m South: 7.1m East: 6.0m	D
Building Height (top of external wall) (RDG)	6.5m	North: 6.4m South: 7.1m	D
Building Height (roof) (RDG)	8.1m	West: 6.8m North: 9.0m South: 8.5m East: 8.1m	A D D A

Lot boundary setbacks

The lot boundary setbacks of the dwelling do not comply in respect to all lot boundaries with the exception of the western boundary. It is not unexpected that on a lot ~10 metres wide and 292m² in area that non-compliant setbacks will be proposed. Redevelopment of small narrow lots with large houses designed to maximise views results in walls which require greater setbacks from the side boundaries even where there are no major openings. This is the case with this application. The lot area makes it difficult to minimise bulk through lot boundary setbacks. Most major openings face north or west along the boundary where the building has a minimal setback. The details of the variations and conditions imposed are discussed below.

Eastern boundary

The non-compliance with the setback to the access driveway as outlined in the table above can be supported as there is minimal impact on the amenity of the surrounding sites. Adjoining land owners

have not objected to the reduced setback with respect to the dwelling itself. A reversing area is indicated behind the garage so cars are able to exist onto Preston Point Road in a forward direction. This setback has been designed to align with the other dwelling on the remaining rear lot in this subdivision.

Southern boundary

The setback from the southern boundary does not meet the R-Code requirements. Essentially a nil setback is proposed for the full length of the wall. The adjoining owner has been consulted in relation to the reduced side setback and has not objected. The southern elevation will be constructed up to the lot boundary. This has minimal impact on the dwelling to be constructed to the south (at 65D) as the northern elevation of that dwelling is also constructed up to the boundary, with only small service courtyards adjacent to each other. A condition is recommended to ensure vehicles exit the site in a forward direction.

Northern boundary

There is a slight setback from this boundary, however, it is still non-compliant. The adjoining owners have not objected to the setback. If the ~6 metre wide access driveway on the adjoining lot is included in the distance between the two dwellings then the setback distance required under the R-Codes is satisfied, so the reduced setback is supported. It is considered adequate separation is provided between the dwellings.

Notwithstanding the non-compliance with the setback distances, in this circumstance the reduced setbacks of the R30 coded site are supported. The scale of the dwelling in proportion to the lot size is similar to the other lots developed at R30 in the area and the dwellings constructed on the two rear lots will be over 40 metres from the road and behind another two dwellings, so the impact and visual dominance of these dwellings on Preston Point Road is minimised because of their limited visibility.

With regard to the overall setback variations the 'Design Principles' of the R-Codes are considered satisfied in that the building does not unnecessarily contribute to building bulk on the adjoining lot (given the adjoining development to the south is built to the lot boundary and the development to the north is separated by a ~6 metre wide access driveway. Adequate sun and ventilation to open spaces is available and overshadowing is not over open space or outdoor living areas because the deck and roof terrace areas are at the very western end of the lot. As there are a number of variations to the R-Codes it is considered that this development can only be supported on the basis that development of the lot does not impact the streetscape and that other non-complying aspects of the development that impact adjoining owner amenity are required to comply with the R-Codes.

Site works

The proposed fill (up to ~1.028m) is outside the parameters of the R-Codes. The applicant is filling a portion of the site to varying degrees to level the site as it slopes approximately 2 metres from east to west. This allows for the rear of the site to be raised which improves views and the outlook from the property. Whilst this can be supported as it does not have too great an impact on building height from the eastern perspective, it does contribute to overlooking of the property to the west, particularly as the visual privacy setbacks cannot be met. This is discussed further in the "Visual privacy" section of the report.

Boundary walls are already in place and retaining walls are not indicated on the plan. Fill of the site does add to the height of the building but at the point of the site where the building is over height the fill is less than the 500mm maximum specified in the R-Codes. The 'Design principles' are considered satisfied in that the fill proposed does not result in the ground levels at the lot boundary to the south or

north being markedly different. The lot to the west is already at a much lower level due to the steeper slope of the land to the river and the previous development of that lot at a much lower level.

Building height

The R-Code provisions in respect to building height are substituted by the height control under the Residential Design Guidelines. Clause 3.7.18.4.1.3 states that:

Where views are an important part of the amenity of the area and neighbours' existing views are to be affected 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.*

Non-compliance with the external wall height limits and the concealed and pitched roof heights must therefore be assessed in respect to the 'Performance Criteria' of the Residential Design Guidelines.

Views

Clause 3.7.18.4.1.3 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.*

The proposed dwelling for the site has been designed to achieve river views and to maximise these views with the addition of a rooftop terrace, as with the two other dwellings approved in this subdivision. This also provides some outdoor living areas on the site because it cannot be achieved at ground level, with the exception of a small deck area.

Due to the slope of the land downhill toward the river and the resultant filling of the lot to level the building pad, the dwelling will exceed the permitted height limit in part (not from the eastern perspective) for a pitched roof (permitted 8.1m; proposed 8.1m – 8.5m) and for a flat roof (permitted 6.5m; proposed 6.2 – 7.2m). The balustrades on the roof top terrace will also add to the height of the dwelling. However, this does not impact sites to the east. Although the roof pitch of the rooftop loft (height compliant from the eastern perspective) is higher than the balustrading and the rooftop terraces are to be constructed to the same height. From a southern perspective the balustrade will be lower than the building to be constructed to the south. Residents who are further south have commented on views being impeded, however, views from this direction have already been impeded by approval of the

three level dwelling on the lot to the south of the subject site (No. 65D), so there is no further impact on views. The only views available are westwards through setback areas/easements and over the dwellings on Riverside Road. From the northern perspective the dwelling at the street front of No. 67 Preston Point Road is oriented to gain views over Gurley Park and the rear house has views to the south west, west and north west. Surrounding properties on higher ground on the other side of Preston Point Road should still maintain views over the dwelling when constructed.

The non-compliance with the building height limit can therefore be supported as the bulk and scale corresponds to other dwellings approved for the immediate area and the open space required under the R-Codes for the site has been achieved. The dwellings still to be constructed in this subdivision are all of a similar bulk, scale and height. The remaining lots to be developed are a considerable distance from Preston Point Road and therefore have limited impact on the streetscape.

Visual Privacy Setbacks

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, however, the 'Design Provisions' 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).

The non-compliance with the visual privacy setbacks is primarily of concern for the residential property immediately to the west on Riverside Road. The property has a swimming pool and outdoor living area adjacent to the western boundary of the subject lot. The subject lot is on higher ground so the rooftop terrace and the first level living and dining area overlook the property to the west. Stackable/fully opening doors are proposed to open across the full width of this level. Therefore the applicant's suggestion that the windows be obscured with the application of visually impermeable film or fitted with obscure glazing to a height of 1.6 metres was not considered satisfactory in that the doors are not permanently fixed in place and so can be opened thereby causing overlooking of the property to the west. In the amended set of plans the applicant has attempted to set back the dwelling to meet the visual privacy setbacks for the first level but has not done so for the full length of the façade. It is therefore considered necessary to impose a condition which requires the dwelling be setback the required minimum distance as per the R-Codes. This minimum distance of 6.0 metres is to be indicated on the Building Permit application plans.

Similarly, the amended plans do not indicate the rooftop terrace is set back the required distance from the western lot boundary that is 7.5 metres. For the same reasons as discussed above a condition requiring the visual privacy setback distance be met, as required under the R-Codes, is considered necessary for the rooftop terrace. If not, then the terrace balustrade will need to be raised to a height of 1.6m from the floor level, be constructed in a visually impermeable material and permanently fixed in place. Likewise if the dwelling is not setback the required distance for the living/dining room area (Upper Floor plan) then the major openings along the western elevation will be required to be permanently fixed in place and screened with visually impermeable screening or glazing to a height of 1.6 metres from the finished floor level. Stackable and fully opening doors or windows will not be permitted at the proposed setback distance. Without these measure being implemented neither the 'Deemed to comply' nor the 'Design principles' of the R-Codes are considered satisfied.

One of the comments made in the submissions was that further rooftop structures or vegetation to provide weather protection will be required once the space is in use. This is a potential concern because if this was to occur there would be further breaches of the building height limits and additional bulk added to the dwelling. A condition is therefore recommended that requires a development approval application to be submitted if any additional structures are proposed to be constructed or installed on the roof terrace or roof of the third level of the dwelling. This condition applies to rooftop shade or weather protection structures or appliances, lighting poles/structures, external fixtures, fittings, masts, satellite dishes, telecommunication devices, appliances or large potted plants.

Driveway access and crossover

The R-Codes specify that driveways shall be no closer than 0.5 metres from a side lot boundary. This is a 'Deemed to comply' provision in order that the impact of access ways on the streetscape is reduced and safety standards are maintained. In this situation landscaping of the driveway will be of little benefit to the streetscape. The driveway is close to 40 metres in length and only 4 metres wide. It provides the only pedestrian access to the rear lots. In this situation it is considered important that vehicles and pedestrians have as much separation as possible. If landscaping was installed it would reduce the width of the driveway and also impact sight lines at the entry to Preston Point Road. As the driveway is very long and narrow with a high brick wall running the length of the driveway on the northern lot boundary it is not considered appropriate or necessary to require it to be landscaped for this length. Non-compliance with this provision is therefore considered acceptable.

Single dwelling approval

It is noted this dwelling could potentially function as two separate living quarters/apartments under the one roof, with separate and secure access via the main entry to the second level and direct access from the garage to the first level. This approval is for a single dwelling only as multiple dwellings or apartments are not permitted in a R30 zone. If it is contemplated that the property be used for short term or bed and breakfast accommodation then a separate application to Council for its consideration will be required. However, a separate street number (i.e. address) for the property will not be issued by the Town as the development approval is for a single dwelling only. A footnote in this regard is recommended as the dwelling will not be recommended for approval for more than one dwelling as this is not permitted under LPS No. 3.

Rooftop terrace

The submissions have noted that noise disturbance and light spill could occur from social activities on the rooftop terrace. As with any other outdoor living space matters relating to noise are regulated by the *Environmental Protection (Noise) Regulations 1997 (as amended)* and matters relating to lighting are assessed under a development application if lighting involves the installation of poles or other structures and the impact of light spill can be assessed by the Town's Environmental Health Officer.

Conclusion

The proposed development is surrounded by R30 density development and has been designed to be similar in design, scale and bulk to the surrounding development in the immediate area. The overall height of the dwelling is of a very similar height to the dwelling to be constructed on the site immediately to the south. The non-compliance with elements of the R-Codes and the Residential Design Guidelines can be supported in part, however, the non-compliance with the visual privacy setbacks cannot be supported. It is recommended that a condition be imposed which requires the required setback (for the rooftop terrace and the living/dining room area) to be indicated on the plans submitted for a building permit application. There are a number of other planning conditions which are recommended to ensure compliance with the height indicated on the plans and requiring further planning approval for any use of the property other than for single residential purposes, as well as other conditions relating to residential amenity. The recommended conditions of development approval are considered to address the submissions made in respect to visual privacy and other matters considered to be relevant planning considerations.

Resolution of Town Planning and Building Committee Meeting 7 August 2018 - Deferral

The Town Planning Committee at its meeting of 7 August 2018 considered the Officer's Recommendation outlined in the report dated 7 August 2018 and repeated below, however, the Committee made the following resolution:

The Committee resolved to move a procedural motion in regards to the following:

"That the item be deferred to allow the applicant to amend their design to comply with conditions (1), (2) and (3) at the Development Approval Stage rather than Building Permit Stage:

- (1) The Building Permit application plans to demonstrate full compliance with the visual privacy setbacks for the western boundary as required under clause 5.4.1 C1.1 of the R-Codes to the satisfaction of the Chief Executive Officer. If full compliance is not indicated then the western facing openings of the 'Upper Floor' must be designed to meet the requirements of clause 5.4.1 C1.1 of the R-Codes to the satisfaction of the Chief Executive Officer at Building Permit application stage.*
- (2) The balustrade of the roof deck to be setback a minimum of 7.5 metres from the western lot boundary for the full length of the balustrade along the western edge of the rooftop terrace. If the minimum setback distance of 7.5 metres is not achieved then the balustrade must be a permanently installed structure that is visually impermeable and 1.6 metres in height from floor level. The details to be indicated to the satisfaction of the Chief Executive Officer at Building Permit application stage.*
- (3) Permanent installation of a visually impermeable privacy screen on top of the existing dividing wall/fence on the western boundary, to the satisfaction of the Chief Executive Officer. Details of the screening device to be to the satisfaction of the Chief Executive Officer and to be indicated on the Building Permit application plans."*

The Town Planning Committee determined to defer the application at its meeting of 7 August 2018 to require the applicant to demonstrate that compliance with the above visual privacy conditions could be achieved at planning approval stage rather than at building permit stage. The applicant has submitted amended plans which demonstrate compliance, however, a full set of drawings and elevations have not been prepared. The plans indicating the visual privacy setbacks of the dwelling were subsequently forwarded to the impacted adjoining owner to the rear. The land owner has replied indicating he has viewed the plans and acknowledged the visual privacy setbacks shown on the amended plans comply with the R-Codes.

The plans are therefore considered to satisfy the Town Planning Committee's resolution and the application is recommended for approval subject to modified conditions relating to visual privacy. The modified conditions are to ensure that the required setbacks are indicated on the building permit application plans.

It is considered the variations to the R-Codes and the Residential Design Guidelines as proposed will not have a significant impact on the amenity of the subject lot or adjoining sites and the application can therefore be supported subject to conditions relating to roof reflectivity, parapet walls, enclosure of the carport and use of the ancillary dwelling.

11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP020918

Cr White moved, seconded Cr Nardi

That Council grant development approval and exercise discretion in regard to the following:

- (i) Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit lot boundary setbacks of less than:
 - (a) 1.5m southern boundary (ground floor)**
 - (b) 3.0m southern boundary (upper floor);**
 - (c) 1.5m northern boundary (ground floor);**
 - (d) 6.1m northern boundary (upper floor);**
 - (e) 1.5m eastern boundary (ground floor); and**
 - (f) 3.0m eastern boundary (upper floor);****
- (ii) Clause 5.3.5 – Vehicular Access of the Residential Design Codes of WA to allow a setback of less than 0.5 metres from a side lot boundary;**
- (iii) Clause 5.3.7 – Site Works of the Residential Design Codes of WA to allow fill greater than 0.5 metres behind a street setback line and within 1.0 metre of a lot boundary and where development not in compliance with building height limits and building setback requirements;**
- (iv) Clause 5.4.1 – Visual Privacy of the Residential Design Guidelines to allow a visual privacy setback of less than 7.5 metres for the balcony (north and east), 4.5 metres for the study/gym, the master bedroom and bedroom 5; and**
- (v) Clause 3.7.18.4.1.3 – Building Height, Form, Scale and Bulk of the Residential Design Guidelines 2016 to permit the building wall height to exceed 5.6 metres to the top of an external wall, 6.5 metres to the top of an external wall (concealed roof) and the overall height to exceed 8.1 metres to the top of a pitched roof,**

for the construction of a three level dwelling at No. 65C (Lot 9) Preston Point Road, East Fremantle, in accordance with the plans and supporting information date stamped received on 30 July and 8 and 23 August 2018, subject to the following conditions:

- (1) The Building Permit application plans to demonstrate full compliance with the visual privacy setbacks from the western boundary for all levels of the dwelling as required under clause 5.4.1 C1.1 and/or C.2 of the R-Codes to the satisfaction of the Chief Executive Officer as indicated on the amended plans dated 8 August 2018.**
- (2) Permanent installation of a visually impermeable privacy screen on top of the existing dividing wall/fence on the western boundary, to the satisfaction of the Chief Executive Officer. Details of the screening device to be to the satisfaction of the Chief Executive Officer and to be indicated on the Building Permit application plans as shown in supporting information dated 23 August 2018.**

- (3) The Building Permit application plans to indicate the same finished floor levels as indicated on plans date stamped received 30 July 2018.
- (4) No rooftop shade or weather protection structures or appliances, lighting poles/structures, external fixtures, fittings, masts, satellite dishes, telecommunication devices, appliances or large potted plants to be installed on the roof or on the floor of the roof terrace of the dwelling without further Council approval.
- (5) The space for solar collectors indicated on the northern plane of the pitched roof (plans date stamped received 30 July 2018) are not to be installed on a raised frame/platform without further Council approval. Direct attachment to the roofing material is all that is permitted under the current development approval.
- (6) The development approval is for a single dwelling only and the dwelling is not to be used for the purposes of an ancillary dwelling, short term or bed and breakfast accommodation or a home occupation.
- (7) All vehicles must exit the garage and crossover on Preston Point Road in a forward direction. This is to be demonstrated on the plans submitted with the Building Permit application to the satisfaction of the Chief Executive Officer.
- (8) The crossover on Preston Point Road is to be no greater than 3 metres in width (including splays/wings) and is to be in compliance with Council's Residential Design Guidelines in respect to crossovers.
- (9) In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
- (10) Sight lines at the intersection of the access way leg with Preston Point Road on the southern lot boundary to meet Australian Standards. This is to be demonstrated on the plans submitted with the Building Permit application to the satisfaction of the Chief Executive Officer.
- (11) All parapet walls/building structures to adjacent property faces are to be finished by way of agreement between the property owners and at the applicant's expense.
- (12) The metal roofing colour to be selected to reduce reflectivity to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (13) The proposed works are not to be commenced until approval from the Water Corporation has been obtained and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (14) No building construction is permitted to encroach into or over the easement indicated on the Certificate of Title in the south eastern corner of the lot.
- (15) 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.
- (16) 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.
- (17) 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.
- (18) 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.

(19) 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.

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

Footnote:

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

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

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 June 2018 this application deemed determined, on behalf of Council, under delegated authority.

11.2 George Street, No. 146 (Lot 609) – Additions and Alterations to Heritage Listed Dwelling, Including a Patio

Applicant	Bernard Seeber P/L
Owner	D Gwynne
File ref	P016/2018; P/GEO146
Prepared by	Christine Catchpole, Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	4 September 2018
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	Nil

Purpose

This report considers a planning application for additions and alterations to the heritage listed dwelling, including a patio at No. 146 George Street, East Fremantle.

Executive Summary

The additions and alterations the subject of this application are primarily for the purpose of seeking approval for what was previously a separate two storey 'studio' building to the rear. The 'studio' is now proposed to be linked to the main dwelling via a small walkway. The previously approved freestanding patio in the rear garden is also proposed to be redesigned. This application is required to obtain approval for these additional alterations and additions to those that were approved by Council in June 2018.

At the time of approval for the main alterations and additions the 'studio' component was not supported by Council and deleted from the development approval pending further discussions by the applicant with Council Officers to determine a better planning and design outcome.

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

- Lot boundary setback (west)
- Visual privacy (bedroom 3 window); and
- Heritage considerations.

The proposal comprises an addition to the rear of the cottage to link the previously proposed 'studio' to the rear of the dwelling. The 'studio' comprises a two storey structure which has an area that accommodates an activity room, a sink and bench and a bathroom on the ground floor and a bedroom (3) on the upper floor. There are variations to the R-Codes in respect to the western lot boundary setback and the visual privacy setbacks of Bedroom 3. Screening devices have been indicated but the required detail in respect to the material used for screening has not been indicated on the plan and as such it is not possible to determine if the devices will fully comply with the R-Codes. This can be addressed with a condition of planning approval which will require the screening devices to include plan annotations as to the type of screening materials to be used.

It is considered the lot boundary setback and the visual privacy variation can be supported subject to conditions regarding the details in regard to the indicated screening devices, building materials, a street tree and use of the alterations and additions the subject of this application.

Background

Zoning: Residential R20
Site area: 620m²

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

Council granted conditional development approval for alterations and additions to the dwelling, including a carport, front fencing, patio and landscaping works in June 2018.

Consultation

Advertising

The application was advertised to the surrounding land owners from 5 to 23 July 2018. One (1) submission was received. The submission noted the following comments and the applicant and officer responses are provided below:

- (1) *"It is noted that the position of the studio (now called an addition by way of an attachment to the house) has been changed via its orientation (north/south as opposed to east/west on the original application which was refused).*
- (2) *A two story studio regardless of its position on the site will still have an impact on the streetscape of May Street and will change the way the site and its structures interact with the surroundings.*
- (3) *A note on the plans refers to boundary fences. Both the northern and western boundaries are subject to two different controls:
 - i. *The Dividing (not Diving) Fences Act 1961*
 - ii. *The Town of East Fremantle's Local Laws Relating to Fencing.*In conclusion I offer the following comment: *The cottage is an important part of the Town's built heritage. The proposed studio/addition will change this, not necessarily for the better."**

Applicant's response

"The submitter's points 1 – 3 are noted. The works proposed to the existing cottage set out to reinstate and maintain the original architecture typical for the Plympton area of East Fremantle. The scheme contributes to the continuity of the streetscape with the proposed architecture responding to traditional forms and is compatible with the immediate locality."

Officer response

In the main the proposal is compliant with the R-Codes and the Residential Design Guidelines. The matters raised in regard to dividing fences will be dealt with under the *Dividing Fences Act* if the owners cannot reach agreement. The Council's Community Design Advisory Committee did not express concern with regard to the design of the 'studio' component of the addition or the impact on the streetscape. No further changes to the plans are required.

Community Design Advisory Committee (CDAC)

This application was considered at the CDAC meeting of 30 July 2018 and the Committee made the following comments. The applicant's response is provided in italics below the Committee's comments.

- (a) *The overall built form merits;*
 - Supportive of the proposal.

- Committee questioned the cladding of the dwelling (bedroom 2). The cladding to Bedroom 2 should be timber cladding.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;*
 - No comments.
- (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 comments.
- (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 comments.

Applicant response

“The proposed materials comply with the Town of East Fremantle policies and make the distinction as set out in the policies between conservation works to existing heritage buildings and additions works to places of heritage.

The proposal includes extensive works to the Federation Bungalow Cottage c1898 where materials and technologies include restoration and maintenance strictly in keeping with the Burra Charter guides towards the conservation of the place.

The proposal includes additions that do not mimic nor confuse the existing Federation Bungalow Cottage C 1898 architecture, rather presents the Cottage at its true scale for the first time since 1980’s building works.

External cladding to existing Bedroom 2 is shown as horizontal timber weatherboard. This is retained with restoration works to the Cottage. External cladding materials proposed to the Sitting area within Addition 01 are clearly distinguishable from the Federation Bungalow Cottage to maintain the integrity of the original building.

Materials proposed to the Federation Bungalow Cottage will be as per Town of East Fremantle Local Planning Policy Residential Guidelines:

“For existing contributory buildings, retain original materials where possible. Where materials require replacement, the policy of replacing ‘like for like’ should be applied”.

Materials proposed to Addition 01 and Addition 02 are “compatible” but “distinguishable” from the existing Federation Bungalow Cottage c1898.”

Officer's response

The CDAC comment relating to timber cladding materials of Bedroom 2 will be included as an advice note to the applicant in the Footnote section of the Officer's Recommendation.

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 - 'A' Category – Federation Bungalow c1898

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

August 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 (refer to tables below)	
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
Secondary Street Setback	1.5m	12.2m (studio)	A
Lot boundary setbacks			
<u>Patio:</u>	1.5m (secondary street)	1.5m	A
Northern	1.0m	16m	A
<u>Studio:</u>			
West	1.8m - 2.0m	1.72m – 1.8m	D
North	1.1m	1.5m	A
Open Space	50%	~≥60% (as per previous proposal)	A
Outdoor Living	30m ²	91m ²	A
Car Parking	1	2	A
Site Works	Less than 500mm	Less than 500mm	A
Visual privacy setback			
North	4.5m	1.72 – 1.74m	D
West	4.5m	1.5m	D
Overshadowing	≤25%	≤25%	A
Drainage	On-site	To be conditioned	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	N/A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings (studio and patio)	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	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	A

Building Height (R-Codes)	Required	Proposed	Status
Wall height (R-Code)	6.0m	4.8m	A
Ridge height (R-Code)	9.0m	6.0m	A

The proposal comprises an addition to the rear of the cottage to link the previous 'studio' to the main part of the dwelling. The 'studio' comprises a two storey structure which has an area that accommodates an activity room, a sink and bench and a bathroom on the ground floor and a bedroom (3) on the upper floor.

Lot boundary setback

The non-compliance with the lot boundary setback to the west is a technicality in that the original part of the dwelling meets the required setback distance under the R-Codes, as does the new part of the dwelling, if the old and new sections are assessed separately. The full length of the wall is considered measurable for the purposes of assessment under the R-Codes because the two sections are linked by a small walkway. The setback for the entire length of the wall (old and new sections combined) along the western boundary is 2.0 metres. The setbacks existing and proposed for this elevation range from 1.8 metres through to 1.72 metres. The new section would be required to be setback 1.1 metres if assessed as a separate section of wall. The non-compliance is considered minor in respect to the shortfall of 280mm and is therefore supported.

Visual Privacy

There are variations to the R-Codes in respect to the visual privacy setbacks of Bedroom 3. Screening devices have been indicated but the details of the screening material have not been indicated on the plan and as such it is not possible to determine if the devices will fully comply with the R-Codes. This can be addressed with a condition of planning approval. Once this condition is satisfied the proposed alterations and additions will be compliant in respect to the R-Codes and the Residential Design Guidelines with the exception of a lot boundary setback.

Heritage

The dwelling is categorised as Category 'A' on the Heritage List of the Planning Scheme. Overall the proposal is considered to acknowledge the significant heritage value of the property and in the main the variation to the visual privacy from the R-Codes is a matter that can be made compliant at Building Permit application stage. 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 and from the secondary street are not considered intrusive as far as the streetscape is concerned. The redesign of the 'studio' section has resulted in the structure being less visually dominant from May Street and reduced in scale and height. Upper floor windows and other openings are now proposed to face May Street which not only lessens the visual impact and bulk of a two storey structure but also improves surveillance of the street. The CDAC have supported the application.

Details of materials and finishes will be requested at Building Permit stage to ensure the Town is satisfied with the materials to be used. Also, a number of conditions of approval are recommended in regard to use of the additions, screening devices, building materials and protection of a street tree to ensure compliance with the R-Codes in respect to visual privacy and the Residential Design Guidelines in respect to heritage and streetscape.

Street tree

The proposed widening of the crossover on May Street is within the 5 metre width permissible under the Residential Design Guidelines. However, widening will result in the crossover being closer to the street tree. Although the crossover is indicated as 4 metres wide in the current set of plans, which is less than that permitted. It was recommended that a condition of approval be applied which is aimed at protecting the street tree during and after construction and preventing pruning of the tree with use of the widened crossover. Access required for the construction of the additions and patio will be via the

rear of the site and has the potential impact on the street tree so a condition on this development approval requiring its protection is considered warranted.

Conclusion

The application is supported as the proposed works are not considered to have a detrimental impact on the amenity of the heritage place or the surrounding properties. The alterations and additions proposed are of a scale that is respectful of the heritage dwelling, the existing streetscape and the Plympton Precinct. The application for the additions and alterations to the dwelling including the patio is therefore recommended for approval subject to standard planning conditions and conditions related to use of the additions, screening devices, building materials and the street tree. The comments made by the submitter are considered addressed through the conditions of planning approval.

11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP030918

Cr Nardi moved, seconded Cr White

That Council grant development approval and exercise discretion in regard to the following:

- (i) Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit a setback of less than 2.0 metres from the western boundary; and**
- (ii) Clause 5.4.1 – Visual Privacy of the Residential Design Codes of WA to permit a visual privacy setback of less than 4.5 metres for the Bedroom 3 windows facing the northern and western boundaries,**

for additions and alterations to the existing dwelling, including a patio at No. 146 (Lot 609) George Street, East Fremantle, in accordance with the plans date stamped received 3 July 2018, subject to the following conditions:

- (1) The Building Permit application plans to demonstrate full compliance with clause 5.4.1 C1.2 of the R-Codes to the satisfaction of the Chief Executive Officer in regard to the materials to be used for the screening devices indicated on the upper floor Bedroom 3 windows on the plans date stamped received 3 July 2018.**
- (2) The alterations and additions the subject of this development approval application are not to be used for the purpose of an ancillary dwelling, short term or bed and breakfast accommodation without further Council approval.**
- (3) The protection of the street tree on May Street during construction works to the satisfaction of the Chief Executive Officer and no pruning or removal of branches of the street tree during or at the completion of construction works.**
- (4) The details of construction materials, colours and finishes to be used for the alterations and additions the subject of this application to the satisfaction of the Chief Executive Officer and to be submitted at Building Permit application stage.**
- (5) The crossover is not to exceed a width of 5 metres (including splays/wings) as required under Council's Residential Design Guidelines 2016.**
- (6) 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.**
- (7) The proposed alterations and additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- (8) 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.**
- (9) The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**

- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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.
- (14) 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) *The Community Design Advisory Committee requested that the cladding of Bedroom 2 be timber.*
- (ii) *In regard to condition 3 the applicant is advised that any damage to the street tree during construction, or at the completion of construction works, through pruning or removal of branches will require the applicant to replace the street tree to the satisfaction of the Town's Operations Manager at the applicant's cost.*
- (iii) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iv) *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.*
- (v) *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.*
- (vi) *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).*
- (vii) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (viii) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise".*

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 June 2018 this application deemed determined, on behalf of Council, under delegated authority.

11.3 Canning Highway, No. 180 (Lot 100) - Application for Proposed Signage Upgrades

Applicant	Planning Solutions
Owner	Caltex Petroleum Pty Ltd
File ref	P/CAN180; P065/18
Prepared by	Andrew Malone, Executive Manager Regulatory Services
Supervised by	Gary Tuffin, Chief Executive Officer
Voting requirements	Simple Majority
Meeting date	4 September 2018
Documents tabled	Nil
Attachments	Nil

Purpose

This report considers an application for proposed signage upgrades to the existing service station including replacement of existing retail building wall/fascia signs, at 180 Canning Highway, East Fremantle. A total of two (2) new signs are proposed.

Approval was granted under delegated authority for replacement of existing conforming signage/rebranding, internal modifications and the inclusion of "Boost Juice" to the internal uses.

The current application seeks minor variations to the Town's Signage Policy and is recommended that approval be granted for the proposal subject to conditions as outlined in the Officer's Recommendation.

Planning Solutions as part of the delegated approval accepted conditions of delegated planning approval which modifies the proposal to achieve compliance with the Town's Local Planning Policy 12 – Sign Applications (involving removal of the 'Boost Juice' fascia sign at the primary façade and 'The Foodary' wall sign fronting Canning Highway). Planning Solutions on behalf of Caltex Petroleum has now submitted a planning application for these two (2) new signs.

The application seeks minor variations to the Town's Signage Policy and it is recommended that approval be granted for the proposal subject to conditions as outlined in the Officer's Recommendation.

Background

Description of site

The subject site is:

- a 2542m² block;
- zoned Residential (additional use A1);
- Existing Use: Service Station and Convenience Store; and
- located in the Richmond Hill Precinct.

Caltex Australia is embarking on a nationwide reimagining exercise of its corporate branding, colours and imagery to implement a contemporary and sympathetic design for its service stations. The new branding and imagery is in the process of being implemented throughout WA. The sites proposed for reimagining (including East Fremantle) have been deliberately selected, as the facilities have existed for some time and would benefit from a refurbishment. Additionally, Caltex East Fremantle is a renowned facility which is located at a prominent Canning Highway site with high exposure, therefore the building upgrade is seen as a positive for the Canning Highway area.

Consultation

Advertising

The application was advertised to surrounding land owners, no submissions were received from adjoining residents.

Main Roads Western Australia was notified of the proposal and the following comments were made:

“Main Road has completed its assessment of this proposed signage and advises that it has no objection subject to the following conditions being imposed:

- (1) The type of sign, size, content and location must comply with all relevant by-laws and planning schemes made by Council.*
- (2) The sign and sign structure is to be placed on private property and shall no overhang or encroach upon the road reserve.*
- (3) As the signage is illuminated, it must be of a low-level not exceeding 300cd/m², not flash, pulsate or chase.*
- (4) The device shall not contact fluorescent, reflective or retro reflective colours of materials.*
- (5) No other unauthorised signing is to be displayed.*
- (6) Main Roads agreement is to be obtained prior to any future modifications.*

Should the Town of East Fremantle (Council) disagree with or resolve not to include as part of its conditional approval any of the above conditions or advice, Main Roads requests an opportunity to meet and discuss this application collaboratively with Council prior to making a final determination.”

Statutory Environment

Planning and Development Act 2005

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

Policy Implications

Town of East Fremantle Signage Policy

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

July 2018

Comment

The proposed works include:

- 'Boost' fascia sign: 1m high x 2.62m wide;
- One promotional wall graphic panels at the building's south elevation, facing Canning Highway. The sign identify the site as 'The Foodary', advertise the opening hours of the business and the availability of coffee and associated products. The proposed wall sign has the following dimensions:
 - 'The Foodary' wall sign 2: 2.45m high x 3.633mwide.

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.

Requirement	Comment	Compliance
Wall Sign		
(a) Multiple wall signs or wall signs exceeding the acceptable solution provisions (A single sign per building, maximum height 1m. Maximum length 3m) shall only be considered as part of an approved signs regime.	N/A – Two signs exist, two signs are proposed.	N/A
(b) Signs must face a primary space.	The proposed wall sign ('The Foodary') faces Canning Highway, a primary space.	Complies
(c) Maximum height equivalent to 10% of height of building wall or 2m, whichever is greater.	Largest of the proposed wall signs has a maximum height of 2450m.	Variation
(d) Maximum length 5m.	Largest of the proposed wall signs is a maximum of 3633mm in length.	Complies

The applicant provided the following justification:

- The proposed 'The Foodary' and 'Always Open' signs are entirely consistent with 'The Foodary' corporate colours and imagery.

- The 'The Foodary' colour scheme is comprised of natural and earthy colours, which are unobtrusive and subtle. The proposed signs are consistent with the prevailing colours, finishes and treatments of the improved facility.
- The 'The Foodary' sign is simply lettering and a small symbol integrated on the wall. The 'Always Open' sign comprises an area of 8.9m², which equates to only 35% of total wall area. Given the signs are integrated into the retail building with consistent colours and imagery, there is unlikely to be any visual impact associated with the variation.
- The scale of the wall signs is simply the result of the size of the blank surface area. The proposed wall signs are appropriately sized and to minimize opportunities for graffiti, which has been an issue for this particular façade.
- The larger wall graphic contains important information relating to the 24hr operation and the sale of coffee onsite. This conveys important information to tired motorists that may be travelling along Canning Highway late at night, which improves traffic safety.

Requirement	Comment	Compliance
Awning Fascia Sign		
(a) Shall not project beyond the fascia line of an approved or existing awning.	The fascia sign ('Boost') fronts the forecourt of the service station. It is located adjoining 'The Foodary' fascia sign over the entrance. Both signs are visible from Canning Highway (west of the service station). The proposed fascia sign does not project beyond the fascia.	Complies
(b) Maximum height of 500mm.	The proposed 'Boost' fascia sign is 1m high, however is consistent with 'The Foodary' sign approved under delegated authority.	Variation

The applicant provided the following justification:

A variation is sought to the height of the proposed fascia sign at the primary building façade. The variation warrants approval for the following reasons:

- *The sign is deliberately designed to be integrated into the fascia. The sign is entirely consistent with the prevailing colour scheme and design of the retail building.*
- *The proposed sign is smaller and significantly more simplistic than the previous Star Mart fascia signage, only occupying a small proportion of the total fascia. The proposed sign will therefore rationalize the extent of signage onsite and improve the streetscape.*

The proposal seeks to finalise the upgrade to the existing Caltex service station on the subject site through a rebranding from 'Star Mart' to 'The Foodary', including various cosmetic upgrades and refurbishments (previously approved under delegated authority). The combined rationalisation of the signage, minimises the previous 'Star Mart' signage. The overall design and rebranding simplifies the signage, whilst the overall impact does not significantly increase the signage area on the building. The rebranding and store upgrade will result in the extent of signage onsite being rationalised and the external appearance of the facility being substantially improved as presented to Staton Road and Canning Highway.

Planning Solutions as part of the delegated approval accepted conditions of planning approval which modified the previous proposal to achieve compliance with the Town's Local Planning Policy 12 – Sign Applications (involving removal of the 'Boost Juice' fascia sign at the primary façade and 'The Foodary' wall sign fronting Canning Highway). Planning Solutions on behalf of Caltex Petroleum has now submitted a planning application for these two (2) new signs.

The abovementioned upgrades are proposed to improve the design and appearance of the existing facility, minimises the impact of the signage from that previously existing and rationalises the signage. The proposed works (partially complete) improve the overall appearance of the building which was in need of refurbishment. The upgraded service station will present as contemporary and attractively designed facility and will improve the amenity to the locality. The proposal is recommended for approval subject to conditions.

11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP040918

Cr White moved, seconded Cr Natale

That approval be granted for two (2) external signs (one fascia sign and one wall sign) at 180 (lot 100) Canning Highway, East Fremantle (Caltex Service Station), in accordance with the plans date stamped received on 18 July 2018, subject to the following conditions:

- (1) The works are to be constructed in conformity with the drawings and written information in relation to use accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- (2) The commercial building and signage kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours to the satisfaction of the Chief Executive Officer.**
- (3) No additional signage other than that notated on the plans or as conditioned is approved under this change of use application.**
- (4) With regard to the plans submitted changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- (5) The sign and sign structure is to be placed on private property and shall not overhang or encroach upon the road reserve.**
- (6) As the signage is illuminated, it must be of a low-level not exceeding 300cd/m², not flash, pulsate or chase as per Main Roads WA requirements.**
- (7) The signage shall not contact fluorescent, reflective or retro reflective colours of materials as per Main Roads WA requirements.**
- (8) No other unauthorised signing is to be displayed.**
- (9) Main Roads agreement is to be obtained prior to any future modifications**
- (10) This planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

- (i) This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (ii) A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.***
- (iii) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).***

(CARRIED UNANIMOUSLY)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 17 June 2018 this application deemed determined, on behalf of Council, under delegated authority.



12. REPORTS OF OFFICERS (COUNCIL DECISION)

Nil.

13. MATTERS BEHIND CLOSED DOORS

Nil.

14. CLOSURE OF MEETING

There being no further business, the Presiding Member declared the meeting closed at 6.44pm.

I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 4 September 2018, Minute Book reference 1. to 14 were confirmed at the meeting of the Committee on:

..... 2/10/18


Presiding Member