



MINUTES

Town Planning & Building Committee

Tuesday, 2 October 2018 at 6.32pm

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.

Copyright

The Town wishes to advise that any plans or documents contained within this Agenda may be subject to copyright law provisions (Copyright Act 1968, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction

CONTENTS

| | | |
|-------|--|----|
| 1. | DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS | 1 |
| 2. | ACKNOWLEDGEMENT OF COUNTRY | 1 |
| 3. | RECORD OF ATTENDANCE | 1 |
| 3.1 | Attendance | 1 |
| 3.2 | Apologies | 1 |
| 3.3 | Leave of Absence | 1 |
| 4. | MEMORANDUM OF OUTSTANDING BUSINESS | 1 |
| 5. | DISCLOSURES OF INTEREST | 1 |
| 5.1 | Financial | 1 |
| 5.2 | Proximity | 1 |
| 5.2.1 | Cr Natale – Refer Item 11.6 Additions and Alterations to Existing Dwelling, Including a Double Carport | 1 |
| 5.3 | Impartiality | 1 |
| 6. | PUBLIC QUESTION TIME | 2 |
| 6.1 | Responses to previous questions from members of the public taken on notice | 2 |
| 6.2 | Public Question Time | 2 |
| 7. | PRESENTATIONS/DEPUTATIONS | 2 |
| 7.1 | Presentations | 2 |
| 7.2 | Deputations | 2 |
| 8. | CONFIRMATION OF MINUTES OF PREVIOUS MEETING | 2 |
| 8.1 | Town Planning and Building Committee (4 September 2018) | 2 |
| 9. | ANNOUNCEMENTS BY THE PRESIDING MEMBER | 2 |
| 10. | REPORTS OF COMMITTEES | 3 |
| 10.1 | Community Design Advisory Committee | 3 |
| 11. | REPORTS OF OFFICERS (COMMITTEE DELEGATION) | 4 |
| 11.1 | Canning Highway No. 158 (Lot 3) – Meditation Centre Signage | 4 |
| 11.2 | View Terrace, No. 11 (Lot 1) – Demolition and Construction of Two Level Grouped Dwelling | 12 |
| 11.8 | Petra Street, No. 161 (Lot 1) – Request for Widening of Crossover to View Terrace | 24 |
| 11.7 | Previously Canning Highway No. 209 (Lot 49) (Lot 263 Allen Street) – Proposed Additions and Alterations | 31 |
| 11.3 | Windsor Road No. 28 (Lot 1) – Proposed Verandah/ Patio | 39 |
| 11.4 | Duke Street, No. 36-42 (Lots 601 & 602) – Change of Use Application | 46 |
| 11.5 | Osborne Road 41 (Lot 16) – Extension of Time to previously approved Multiple Dwellings | 53 |
| 11.6 | Munro Street No. 3 (Lot 5059) – Additions and Alterations to Existing Dwelling, Including a Double Carport | 64 |

**MINUTES OF TOWN PLANNING MEETING
TUESDAY, 2 OCTOBER 2018**



| | | |
|------|--|----|
| 11.9 | Petra Street, No. 55 (Lot 1) – Second Storey Additions and Alterations to a Grouped Dwelling | 73 |
| 12. | REPORTS OF OFFICERS (COUNCIL DECISION) | 74 |
| 13. | MATTERS BEHIND CLOSED DOORS | 74 |
| 14. | CLOSURE OF MEETING | 74 |

MINUTES OF THE ORDINARY MEETING OF THE TOWN PLANNING COMMITTEE HELD AT THE EAST FREMANTLE TOWN HALL, 135 CANNING HIGHWAY, EAST FREMANTLE ON TUESDAY 2 OCTOBER 2018.

1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

Presiding member opened the meeting at 6:32pm and welcomed members of the gallery.

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. RECORD OF ATTENDANCE

3.1 Attendance

The following members were in attendance:

Cr C Collinson Presiding Member

Cr M McPhail

Cr D Nardi

Cr T Natale

Cr A White

The following staff were in attendance:

Mr A Malone Executive Manager Regulatory Services

Ms G Cooper Minute Secretary

3.2 Apologies

Mayor Jim O'Neill

Cr Jenny Harrington

3.3 Leave of Absence

Nil.

4. MEMORANDUM OF OUTSTANDING BUSINESS

Nil.

5. DISCLOSURES OF INTEREST

5.1 Financial

Nil.

5.2 Proximity

5.2.1 Cr Natale – Refer Item 11.6 Additions and Alterations to Existing Dwelling, Including a Double Carport

Cr Natale declared a proximity interest as he resides adjoining (*rear neighbour*) to No. 3 Munro Street.

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 (4 September 2018)

8.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION

Moved Cr Nardi, seconded Cr M McPhail

That the minutes of the Town Planning and Building Committee meeting held on Tuesday 4 September 2018 be confirmed as a true and correct record of proceedings.

(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: Nil.

PURPOSE

Due to the Queen's Birthday Public Holiday the CDAC Meeting was held on Monday 1 October 2018, therefore the minutes are not available for this meeting, however they will be presented to the next Town Planning Meeting.

Cr Natale moved, second Cr Nardi

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

(CARRIED UNANIMOUSLY)

11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

11.1 Canning Highway No. 158 (Lot 3) – Meditation Centre Signage

| | |
|----------------------------|--|
| Landowner | A Kelsang |
| Applicant | C Bayliss |
| File ref | P/CAN158; P054/2018 |
| Prepared by | Christine Catchpole, Senior Planning Officer |
| Supervised by | Andrew Malone, Executive Manager Regulatory Services |
| Meeting date | 2 October 2018 |
| Voting requirements | Simple majority |
| Documents tabled | Nil |
| Attachments | Nil |

Purpose

This report considers an application for signage to be erected within the front setback area and on the building (pylon, wall, under awning and emblem (gable insert) signs) at the meditation centre at 158 Canning Highway, East Fremantle.

Executive Summary

The development application the subject of this report considers five proposed signs at the Kadampa Meditation Centre. The signage application comprises the following signs:

- Pylon sign at the entry to the site from Canning Highway (to replace existing);
- Wall sign on an internal retaining wall adjacent to parking spaces (to replace existing);
- Wall sign at the front door entry (to replace existing);
- Under awning sign (under gable); and
- Interpretative sign (emblem sign – gable insert).

The main issues raised with this application relevant to its determination are the impact of signage on the Heritage Listed building (category B) and Canning Highway and the number of signs on the site. Three of the signs are considered acceptable, however, the signs proposed for the gable and the under awning sign (hanging below the gable) are not supported and it is recommended they be deleted from the development application approval. The signs recommended for approval are subject to a number of standard planning conditions.

Background

Zoning: Town Centre

Land Area: 827m²

MRS: Subject property abuts Stirling Highway a 'Primary Regional Roads' Reserve under the MRS. The application was referred to Main Roads WA (MRWA). MRWA has provided conditions of approval and the conditions will be included in the development approval determination.

Consultation

Advertising

The application was referred to MRWA. There is no objection to the proposal subject to a number of conditions being imposed.

Community Design Advisory Committee

This application was considered by the Committee at its meeting of 30 July 2018 and the following comments were noted:

The Committee raised no concerns regarding the proposal as noted below.

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

Statutory Environment

Planning and Development Act 2005

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

LPS 3 Heritage List

MRS: Important Regional Road Reserve – Canning Highway

Policy Implications

Local Planning Policy – Design Guidelines – Signage 2011

Municipal Heritage Inventory (MI) – Category B

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

August 2018

Comment

The property is listed on the Town's Heritage List with a category B rating. The application is for the replacement of existing signs and for new signage at the site to identify the purpose of the building and the services available. The details of the signage proposal are outlined below.

Proposed signage

Wall signs

Front door entry

- 1.26mH x 740mmW
- Flat sheet panel sign to replace existing sign

Parking bay area – front setback

- 600mmH x 1.78mW
- Flat sheet panel mounted sign on retaining wall adjacent to parking bays

Pylon/pole sign

- 3.3mH (overall height) x 1.2mW
- Sign height – 1.8m; pole height 1.5m
- Internally illuminated
- To replace pylon/pole sign on Canning Highway

Interpretative sign (gable insert)

- 1.95mH x 4.63mW
- Deer and Dharma Wheel gilded figures mounted in fascia of leading gable on front façade

Below awning sign

- 350mmH x 4.63mW
- To hang from the gable directly below the mural

All signs are coordinated in terms of colour, lettering and styling – white lettering on a blue background.

Local Planning Scheme No. 3

The following clauses of the Scheme apply:

5.9 Advertising Signs

5.9.2 *Advertising signs are to be designed and constructed having due regard to any relevant local government Policy.*

5.9.3 *In its determination of any application for erection or display of an advertising sign for which planning approval is required, the local government is to take into consideration the likely impact of the proposal on the safety and amenity of the area.*

67 Matters to be considered by Local Government (Deemed Provision clause)

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application -

- (k) The built heritage conservation of any place that is of cultural significance;*
- (l) The effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (m) the compatibility of a use or development with its setting including the relationship of the development to development on adjoining land or on land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (n) the amenity of the locality, including (ii), the character of the locality; and*
- (w) the history of the site where the development is to be located.*

In the main it is considered the proposed signs have been designed having due regard to the Town's Local Planning Policy and the relevant sections of Clause 5.9 and 67 of the Local Planning Scheme.

Local Planning Policy – Design Guidelines - Signage

Council has adopted the Local Planning Policy 3.1.3 – Signage Design Guidelines pursuant to clause 2.4 of LPS No. 3. The policy clarifies the range and extent of signage that is allowable.

Under Clause 2.3.2 of the Scheme, Council must have regard to a Policy but is not bound by any provision of a Policy and may vary or disregard a Policy provision where it is considered that it is not inconsistent with the Scheme provisions to do so.

Clause (1) of the above Guidelines requires that each sign must comply with Clauses 2 and 6. Whilst the signage complies with Clause (2) (General Requirements) the proposal does not comply with the "Acceptable Solution (Permitted)" provisions of the Policy, therefore, the signs must be considered under the "Alternative Performance Criteria" of the Guidelines as outlined below for wall signs.

Wall Sign – *(non-complying – more than one sign per building and greater than height permitted)*
(subject to "Alternative Performance Criteria" below)

- (i) Multiple wall signs or wall signs exceeding the Acceptable Solution provisions shall only be considered as part of an approved signs regime.*
- (ii) Signs must face a primary space.*
- (iii) Maximum height equivalent to 10% of the height of a building wall or 2m whichever is greater.*
- (iv) Maximum length 5m.*

The two wall signs proposed for the site (parking area and front door entry signs) are both pre-existing. The signs are not greater than 2 metres in height, however, they will occupy more than 10% of the height of a building wall. This is considered supportable on the basis that the signs are not located on the same section of wall and the parking sign has minimal visual impact on the heritage property and Canning Highway.

Elements of the above 'Alternative Performance Criteria' that refer to compliance with an approved signs regime are considered to be satisfied in that the applicant has sought Council approval for all proposed signage for the site in the one application and therefore the signs are considered to be part of an overall approved signs regime. The signs also face a primary space as the building has a frontage to Canning Highway. The combined impact of these two signs is not considered to have a detrimental impact on the heritage values of the building.

Pylon sign

A pylon sign is required to be considered under the following 'Alternative Performance Criteria' (Discretionary) provisions of the Policy:

- (i) Total height should not exceed 5m.*
- (ii) Total area of each sign face should not exceed 6m².*
- (iii) Double sided signs should be identical in dimension and both sides should be less than 300mm apart.*
- (iv) Only one pole or pylon sign per site (land parcel).*
- (v) May be internally illuminated.*

The pylon/pole sign is 3.3 metres in overall height above the ground and is located on private property. It will be higher than the existing sign, illuminated and clearly visible from Canning Highway. The overall area of the signage is 2.16m² which is slightly larger than the previous sign which was approximately 1.2m² in area.

This sign complies with the 'Acceptable Solution' and the 'Alternative Performance Criteria' under the Design Guidelines for Signage. The proposed sign does not impede sight lines for traffic and is not

considered to impact on the streetscape or the appearance of the building. It is therefore supportable as a replacement for the existing pylon/pole sign. However, it is noted that this sign has effectively doubled in size and more than adequately identifies the location of the meditation centre. This is relevant to discussion below on the assessment of the interpretative sign (Deer and Dharma Wheel).

Interpretative sign (Deer and Dharma Wheel)

- (i) *Must form part of an approved coordinated framework for signage.*
- (ii) *Must be distinctive.*
- (iii) *Combinations with artistic or sculptural works are encouraged.*

The emblem is considered to fit the definition and alternative performance criteria of an interpretative sign, however, it is not supported on the basis that it is considered to have a significant visual impact on the heritage listed property and will further contribute to the loss of the original features of the building.

The meditation centre has a category B rating under the MI. The place record form notes that the property has considerable aesthetic value as a Federation Bungalow style building (c1915). The place retains a moderate to low degree of authenticity and a moderate degree of integrity. It retains most of the characteristic features of a dwelling of the type and period. The MI states that the place plays an important role in the pattern of development of a middle class suburb.

This property is visible from Canning Highway and forms part of a small remaining strip of heritage properties between Preston Point Road and Staton Road. Over the years the site has undergone considerable changes to the frontage of the property in respect to its conversion from a residential property to a meditation centre. There are additions to the rear and sides of the house. The front garden has been modified to accommodate a car park, including a carport and more recently a substantial shade structure which required removal of one of the mature palms in the front garden was approved. The lot has been subdivided and two residences built to the rear. Whilst these changes have been supported, Council has always been mindful of the heritage value of the property and it is now listed in the Scheme's Heritage List.

The building is asymmetrically designed and the front elevation is divided into two planes. Both planes feature a gable bay and a hip roofed verandah and both gable bays feature circular vents. The interpretative sign (emblem in gable and hanging sign below the gable) is proposed to be located in the leading gable which is the most prominent and visible from Canning Highway. The front façade of the house in particular will be significantly altered from a visual perspective. The architectural detail and vent of the gable will be obscured and dominated by the emblem which will occupy the entire gable space and is approximately 1.8 metres in height. The sign proposed to hang below the emblem from the gutter line will also be visually prominent. The double gable is a strong architectural feature and elevated above street level. Retention of the heritage elements of the former dwelling are considered important to respect and maintain if its remaining heritage status is to be conserved.

This proposed signage combined with other changes to the property is considered to further erode the heritage elements of the property to the point where the appearance of the façade of the dwelling will be significantly altered and architectural features obscured.

Furthermore, the additional signage is not considered necessary. The pylon/pole and wall signs are reasonably large and clearly visible, being higher than the previous sign and more visible on Canning Highway. The additional signage is not considered necessary for identifying the use on the site and the location of the meditation centre. As such the interpretative (emblem) and under awning hanging signs are not supported and it is recommended they be deleted from the building permit application plans and not approved as part of the development approval for the site.

Below awning sign

- (i) Maximum height 750mm.
- (ii) Maximum width 300mm.
- (iii) Shall not project beyond the width of the awning or exceed 2700mm in length whichever is the shorter.
- (iv) Minimum distance between any other Above Awning Sign or Horizontal Projecting Wall Sign 2400mm.
- (v) Minimum distance from side boundary of the lot or site 1200mm.

This sign is not supported on the basis that it is considered to contribute to an excess of signage for the site overall and will have a detrimental impact on the heritage elements of the building as discussed above.

Conclusion

In the main the proposed signage complies with the Town's Signage Design Guidelines policy and is supported by MRWA, subject to standard conditions. The proposed signage is replacing existing wall and pylon/pole signs, however, the new signage component which comprises an the Deer and Dharma Wheel emblem in the leading gable and signage hanging from below the emblem is not supported. It is considered to visually impact upon and detract from the heritage character of the property and will further erode the heritage elements and overall heritage value of the site. It is therefore recommended that this aspect of the signage not be approved and be deleted from the development approval for the site.

Discretionary approval under the 'Alternative Performance Criteria' of the Signage Design Guidelines policy, in respect to the proposed wall signs, is recommended and the pylon/pole sign is compliant. The application is consistent with Clauses 5.9 and 67 (Deemed Provisions) of the Scheme, with the exceptions noted above and is therefore recommended for conditional approval. Planning conditions have been imposed to address any graffiti or vandalism and any change to the signage regime.

- Mr Colby Bayliss (applicant) addressed the meeting in support of the officer's recommendation however foreshadowed his intention to apply for approval for an awning sign.

11.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP011018

Cr White seconded, moved Cr Nardi

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

- (i) **Clause 6 – Signage Requirements (Wall Signs) of Local Planning Policy 3.1.1 - Signage Design Guidelines to allow signs the maximum height equivalent to 10% of the height of a building wall or 2m whichever is greater;**

for signage at No. 158 (Lot 3) Canning Highway, East Fremantle, as outlined on the plans and accompanying information date stamped received 22 June 2018 subject to the following conditions:

- (1) **Deletion of the interpretative sign (emblem) and under awning signage proposed for the leading gable facing Canning Highway. This is not approved and is not part of the development approval for the site.**
- (2) **Compliance with Main Roads WA conditions of approval (as stated in correspondence date stamped received by the Town on 7 August 2018) which states:**
 - (a) **The type of signs, size, content and location must comply with all relevant by-laws and planning schemes made by Council;**

- (b) The signs and sign structures are to be placed on private property and shall not over hang or encroach upon the road reserve;*
- (c) For the signs that are illuminated, it must be of a low-level not exceeding 300cdm², not flash, pulsate or chase;*
- (d) The device shall not contain fluorescent, reflective or retro reflective colours or materials;*
- (e) No other unauthorized signing is to be displayed; and*
- (f) Main Roads agreement is to be obtained prior to any future modifications.*
- (3) All signage proposed being in accordance with the correspondence, elevations and accompanying notations and plans in regard to signage dimensions, wording, materials and graphics submitted with the application and date stamped received 22 June 2018 and subject to compliance with Main Roads WA conditions of approval with the exception of the emblem and below awning signage.**
- (4) Any change to the type, design, location or illumination of the signage regime being the subject of a further development approval application for Council's consideration.**
- (5) All signage to be 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.**
- (6) No other unauthorised signage is to be displayed.**
- (7) The signage is 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.**
- (8) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
- (9) This planning approval 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) A copy of the approved signage as stamped by Council is attached and the specifications graphics and wording of the signage is to conform with the approved plans unless otherwise approved by Council.***
- (ii) 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.

11.2 View Terrace, No. 11 (Lot 1) – Demolition and Construction of Two Level Grouped Dwelling

| | |
|----------------------------|--|
| Applicant/Owner | M, G and B Hardwick |
| File ref | P/VIE11; P049/2018 |
| Prepared by | Christine Catchpole, Senior Planning Officer |
| Supervised by | Andrew Malone, Executive Manager Regulatory Services |
| Voting requirements | Simple Majority |
| Meeting date | 2 October 2018 |
| Documents tabled | Nil |
| Attachments | Nil. |

Purpose

This report considers a planning application for the demolition of one half of a duplex strata development and the construction of a two level grouped dwelling at No. 11 (Lot 1) View Terrace, East Fremantle.

Executive Summary

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

- Dwelling density – redevelopment of a survey strata lot;
- Lot boundary setbacks: reduced setbacks to the rear, eastern and western boundary;
- Site works: excavation greater than 500mm;
- Retaining walls: greater than 500mm in height and within 1 metre of lot boundaries; and
- Solar access: exceeds 25% permitted.

It is considered the above variations can be supported subject to conditions of planning approval being imposed to address the adjoining owner's submission and where appropriate residential amenity.

Background

The 383m² survey strata lot to be developed is currently occupied by a 1980s duplex development. It is now intended that the front unit be demolished and replaced with a new two storey home. It is proposed to use the existing driveway to access a double garage to the rear and a new crossover would be located on the eastern side of the lot which would provide access to a single garage.

The master bedroom suite, main living areas and balcony are located on the upper level with six bedrooms, laundry, bathroom and media/games room with kitchenette located on the ground level. A pool is proposed within the front setback area. Front fencing is also proposed with this application.

Consultation

Advertising

The adjoining owners were notified of the amended proposal from 3 to 19 September 2018 and the following comments have been made by the owners to the east.

- *The reflection of the roof impacting on using and enjoying our property is noted. What options can be offered if this was considered a problem?*
- *Walk in Larder window (indicated as WIL on the plans) is clear glazing and would overlook our west facing bedroom and bathroom windows which have clear glazing. We guess this window is 5.3 m from boundary under the 6m rule.*
- *In our opinion all upstairs glazing on east side should be obscured to ensure privacy.*
- *What is the finish and colour specified for the garage wall on the boundary. We would like the colour to be of our choosing as this impacts visually on our property.*

- *Full length boundary fencing to be discussed and agreed upon between neighbours. Our preference is a timber fence.*
- *The existing small brick wall on the eastern boundary is listed to be removed. What is proposed as a replacement to retain soils as the properties have different soil levels? Please advise construction type and colour on east side. This should be of our choosing.*
- *Request a dilapidation report on our house.*

Officer response

Roof reflectivity, visual privacy and parapet walls

The issues raised in regard to roof reflectivity, upstairs windows on the southern and eastern elevations (with exceptions noted below) and parapet walls on the boundary are acknowledged and will be addressed as conditions of planning approval.

The walk in larder (WIL) window is not considered to be subject to the visual privacy provisions of the R-Codes because it is not included in the habitable room definition under the R-Codes. The WIL is a separate room to the scullery (i.e. kitchen sink, fridge and pantry) and main section of the kitchen. The remainder of the kitchen area, adjoining the living/dining area, is considered a habitable room and has highlight windows facing east. These along with the scullery window facing south are indicated as being obscure glazing. The WIL window is setback 5.3 metres from the boundary. It is not considered necessary to require this window to be obscure glazing or be set back 6 metres under the visual privacy provisions because it is not defined as a habitable room and obscure glazing would limit light to the area considerably. The Town, cannot compel the owner to install obscure glazing because it is not required under the provisions of the R-Codes. With regard to the other windows a condition of planning approval is recommended to ensure the windows that are within the visual privacy setback are installed with obscure glazing as indicated.

Boundary fencing and retaining walls

Boundary fencing is a matter for the adjoining owners to discuss. If there is disagreement the issues will be addressed under the provisions of the *Dividing Fences Act*. Retaining of soil after removal of a retaining wall is the responsibility of the land owner of the lot on which the retaining is required. The retaining wall is indicated as being wholly on the subject site and therefore is the responsibility of the applicant and subject to assessment at Building Permit application stage.

Dilapidation report

The Town cannot enforce a dilapidation report be carried out but recommends 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. If undertaken it is recommended that a dilapidation report be lodged with Council and a copy given to the owner of any affected property. This is included as an advice note to the applicant.

Community Design Advisory Committee (CDAC)

This application was considered by the CDAC at its meeting on 30 July 2018. The Committee's comments were recorded as follows:

(a) *The overall built form merits;*

- The Committee is supportive of the development.
- The development has passive surveillance of the front alfresco and balcony;

-
- (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 building is in keeping with the surrounding area, and fits with the built form design 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.

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)

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

September 2018

Comment

LPS 3 Zoning: Residential R17.5
Site area: 383m² (street front strata lot)

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 | 7.2m | A |
| Lot Boundary Setback | Rear (south) GF – 1.5m UF – 2.0m Garage – 1.0m | Rear (south) GF – 4.1m UF – 1.2m - 2.7m Garage – 200mm | A D D |
| | East GF – 1.5m UF – 1.9m Garage - 1.0m | East GF -1.2m UF – 1.2m Garage - Nil | D D D |
| | West GF – 1.5m UF – 4.2m | West GF – 350mm – 2.7m (5.6m from lot boundary) UF – 350mm – 1.6m | D D |
| Open Space | 50% | 50% | A |
| Outdoor Living | 36m ² | 100m ² | A |
| Car Parking | 2 | 3 | A |

| | | | |
|--------------------------|---|--|---|
| Site Works Excavation | More than 500mm | Up to 600mm excavation | D |
| Retaining Walls | Greater than 500mm and closer than 1m from lot boundary | Up to 600mm and retaining wall up to boundary | D |
| Overshadowing | 25% | 33.25% | D |
| Drainage | On-site | On-site | A |
| Crossovers | 1 | 2 | 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 | A |
| 3.7.6 Construction of New Buildings | D |
| 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 | D |
| 3.7.12 Pergolas | N/A |
| 3.7.13 Incidental Development Requirements | A |
| 3.7.14 Footpaths and Crossovers | A |
| 3.7.18.3 Garages, Carports and Outbuildings | A |
| 3.7.15-20 Precinct Requirements | A |

| Building Height Requirement | Required | Proposed | Status |
|---|----------|--|--------|
| Building Height (top of wall – concealed roof) (Residential Design Guidelines) | 6.5m | North – 6.5m South – 6.5m East – 6.1m West – 6.5m | A |
| Concealed roof – flat roof | <5° | 2° | A |

There are a number of variations to the R-Codes and the Residential Design Guidelines most of which are a result of the R17.5 provisions being applied to a smaller lot area the equivalent of a density code of R20 - R25 (i.e. 350m² – 450m² average lot area per dwelling). These matters and those raised by the adjoining land owner through a submission are discussed below.

Dwelling density (redevelopment of survey strata lot)

The current zoning of the area is Residential R17.5. The strata titled lot was developed in a time preceding the current density code and two grouped dwellings were developed on the parent lot to a standard equivalent to R20 - R25. The current Planning Scheme contains clause 5.3.3 which addresses this situation and states as follows:

Existing non-complying development:

Where a lot contains an existing authorised development which exceeds the prescribed density coding, the local government may permit redevelopment of the lot up to the same density as the existing development, or of a different form than otherwise permitted, provided that:

- (a) in the opinion of the local government, the proposed development will contribute more positively to the scale and character of the streetscape, the improvement of the amenity of the area, and the objectives for the precinct than the existing building; and*
- (b) except where proposed development comprises minor alterations to the existing development which, in the opinion of the local government, do not have a significant adverse effect on the amenity of adjoining land, advertising of the proposed development has been undertaken in accordance with the provisions of clause 9.4 (now clause 67).*

This clause, subject to the design and community consultation parameters being met, provides Council with discretion to approve of the redevelopment of the lot at the existing dwelling density despite the proposal's non-compliance with the current density code.

The advertising requirements have been met and there was one submission received as discussed above. Redevelopment of the lot at the same density as the proposed development is considered to contribute more positively to the scale and character of the streetscape, the improvement of the amenity of the area, and the objectives for the precinct than the existing building, mainly from the perspective that it addresses the street and offers greater surveillance of the street through large glass doors and windows which face the street. The design of the dwelling has an upper level balcony and alfresco area with glass doors which overlooks the street. Visually the dwelling has an improved presentation to the street.

Lot boundary setbacks

The lot boundary setbacks of the dwelling do not comply in respect to all side lot boundaries as discussed above. This is not unexpected on a lot that is only 383m². Redevelopment of small lots on which large family homes are proposed and views maximised results in an applicant seeking concessions for reduced side setbacks. This is the case with this application. Some sections of each elevation have been setback in an attempt to minimise bulk and most major openings face north or west along the boundary where the building has greater setbacks and views are available. So some sections of wall comply with the prescribed setbacks and other sections do not. The details of the variations and conditions imposed are outlined in the table above and discussed below. It is noted the other strata land owner has endorsed the proposal and the land owner to the west has not made a submission.

Southern (rear strata) boundary

The non-compliance with the rear setback is primarily related to the double garage parapet wall having a setback of 200mm for a length of 6 metres. The remainder of the ground level setback complies as it accommodates the rear courtyard. The upper level setback required is 2.0 metres and the setback proposed ranges from 1.2 metres to 2.7 metres. There is no overlooking issue and the overshadowing (whilst greater than that permitted) is mainly over the roof of the rear strata unit so the reduced setback in this circumstance is considered to satisfy the Design Principles of the R-Codes and is therefore supported. As mentioned the adjoining strata land owner has not objected to the reduced setback.

Western (driveway) boundary

The setback on the western boundary from the strata lot boundary does not meet R-Code requirements. However, the dwelling is proposed to be setback a minimum of 3.6 metres from the boundary of the

property to the west (i.e. the width of the access driveway) and for some sections the dwelling is setback 5.6 metres. The reduced setbacks from this boundary are therefore not believed to reduce residential amenity and are considered to comply with the Design Principles of the R-Codes.

Eastern boundary

The setback of the eastern side of the building is also non-compliant with respect to another garage parapet wall which extends for ~6.0 metres. The adjoining owner has not objected to the garage wall on the boundary as such, however, comments in regard to the finish of the wall have been made and these will be addressed through a condition of planning approval. The remainder of the wall is also non-compliant for most of the length of the wall in that the minimum setback is required to be 1.5 metres for the lower level and 1.9 metres for the upper level. The dwelling is setback 1.2 metres, with the courtyard section being setback 5.3 metres. The is considered supportable as the non-compliance of less than 1.0 metre is not considered to have a significant bearing on the overall bulk of a two level dwelling which can be constructed on the lot in any case under the provisions of the Planning Scheme.

With regard to the overall setback variations of the proposal 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 two storey development is permitted in the Precinct), provides for adequate sun and ventilation to open spaces and overshadowing is primarily over the building on the rear strata lot rather than the main area of open space on that strata lot.

Retaining walls and site works

The proposed excavation (up to ~600mm) on the eastern side of the lot is outside the parameters of the R-Codes. The applicant is excavating this side of the lot so the floor level can be lowered in order to meet the building height limit under the Residential Design Guidelines. The applicant has lowered the building height in the amended plans to address the concerns of the adjoining owner. This is considered to improve the amenity of the adjoining site and therefore the excavation to this level is supported. The depth of excavation will assist in reducing building bulk and height in relation to the property to the east. The Design Principles are considered satisfied in that the excavation will not substantially change the natural ground level at the lot boundary of the site as viewed from the street and replacement of the retaining wall is indicated on the plan. The plans indicate a retaining wall will be constructed for a considerable portion of the eastern boundary as it abuts this lot. The adequacy of the retaining wall will be assessed at Building Permit application stage.

Solar access - overshadowing

Overshadowing greater than that permitted under the R-Codes, will occur on the property to the south (i.e. permitted 25%; proposed 33.25%). The adjoining owners of the rear strata lot have not objected, most likely because the shadow will not impact the main outdoor living area of that dwelling. The non-compliance and additional overshadowing can therefore be supported.

Front fence

The proposed front fence complies with the requirements of the Residential Design Guidelines. A condition of approval is recommended only to ensure that the visual permeability of the fence as proposed and indicated on the plans is constructed and maintained with the degree of permeability required under the Guidelines.

Approval for single dwelling

It is noted this dwelling could potentially function with two separate living quarters under the one roof. If the owners wish to use the property, or part of the dwelling, for ancillary, short term or bed and

breakfast accommodation a separate application to Council for its consideration will be required for these uses. 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, as permitted under a density code of R17.5. A footnote in this regard is recommended.

Conclusion

Given the above comments the application is recommended for approval subject to conditions. The redevelopment of the lot for a two level grouped dwelling is a permitted use of the land under the R17.5 code applicable to the area and LPS 3 provisions and is not considered to detrimentally impact the amenity of the surrounding area or the streetscape. Conditions in regard to visual privacy, roof reflectivity, finish of parapet walls, crossover width, roof fixtures and front fencing are recommended to be applied.

- Mrs Pam Thomson (neighbour 15 View Terrace) addressed the meeting and raised concerns regarding the retaining wall on the boundary, materials to be used for the wall and overlooking.

OFFICER RECOMMENDATION

Cr Nardi moved, seconded Cr M McPhail

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

- (i) Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit:
 - (a) a lot (western) boundary setback of less than 1.5 metres (ground level) and 4.2 metres (upper level);*
 - (b) a lot (eastern) boundary setback of less than 1.0 metre for the garage, 1.5 metres for the ground level and 1.9 metres for the upper level; and*
 - (c) a lot (southern) boundary setback of less than 1.0 metre for the garage, and 2.0 metres for the upper level;**
- (ii) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to allow excavation greater than 0.5 metres behind a street setback line and within 1.0 metre of a lot boundary;*
- (iii) Clause 5.3.8 – Retaining Walls of the Residential Design Codes of WA to permit a retaining wall greater than 0.5 metres in height less than 1.0 metre from the side lot boundary; and*
- (iv) Clause 5.4. 2- Solar Access for Adjoining Sites to allow greater than 25% of the site area of the adjoining property to be covered in shadow as set down in the R-Codes,*

for construction of a two storey grouped dwelling at No. 11 (Lot 1) View Terrace, East Fremantle, in accordance with the plans date stamped received on 24 August 2018, subject to the following conditions:

- (1) The metal roofing to be of a colour that reduces roof reflectivity. The colour to be to the satisfaction of the Chief Executive Officer and the details are to be submitted with the Building Permit application.*
- (2) If requested by Council within the first two years following installation, the Colorbond 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.*
- (3) The installation of permanent obscure glazing for all upper storey windows on the eastern elevation with the exception of the walk in larder and walk in wardrobe. The details of the obscure (visually impermeable glazing) to be indicated, to the satisfaction of the Chief Executive Officer, on the Building Permit application.*
- (4) The south facing kitchen window (scullery) to have permanent obscure glazing and be a fixed/non-opening or awning style window. The details of the window, to be to the satisfaction of the Chief Executive Officer and indicated on the Building Permit application plans.*

- (5) *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. The details are to be to the satisfaction of the Chief Executive Officer and submitted and approved prior to the submission of a Building Permit application.*
- (6) *Front fencing to comply with Local Planning Policy 3.1.1 - Residential Design Guidelines 2016.*
- (7) *Sight lines for both driveways and fencing adjoining driveways to comply with Australian Standards.*
- (8) *No external fixtures, fittings or appliances to be installed on the roof of the dwelling without further Council approval.*
- (9) *The width of the new crossover on the eastern side of the lot is not to exceed 4.5 metres as indicated on the plans date stamped received 24 August 2018.*
- (10) *The width of the existing crossover to the lot is not to be increased.*
- (11) *The works are to be constructed in conformity with the drawings and written information accompanying the application for development approval other than where varied in compliance with the conditions of this development approval or with Council's further approval.*
- (12) *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.*
- (13) *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.*
- (14) *All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.*
- (15) *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.*
- (16) *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.*
- (17) *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 dwelling, or any part of the dwelling, is not to be used for the purpose of an ancillary dwelling, short term or bed and breakfast accommodation. If these uses are contemplated a separate development approval application for Council's consideration is required to be submitted.*
- (ii) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iii) *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.*
- (iv) *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.*

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

AMENDMENT

Cr Natale moved, seconded Cr White

That the following condition be added:

- (18) **The walk-in larder window to be opaque to 1.6m in height as per requirements of the residential design codes for privacy.**

(CARRIED 4:1)

11.2 SUBSTANTIVE MOTION/COMMITTEE RESOLUTION TP021018

Cr Nardi moved, seconded Cr M McPhail

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

- (i) **Clause 5.1.3 – Lot Boundary Setback of the Residential Design Codes of WA to permit:**
 - (d) **a lot (western) boundary setback of less than 1.5 metres (ground level) and 4.2 metres (upper level);**
 - (e) **a lot (eastern) boundary setback of less than 1.0 metre for the garage, 1.5 metres for the ground level and 1.9 metres for the upper level; and**
 - (f) **a lot (southern) boundary setback of less than 1.0 metre for the garage, and 2.0 metres for the upper level;**
- (ii) **Clause 5.3.7 - Site Works of the Residential Design Codes of WA to allow excavation greater than 0.5 metres behind a street setback line and within 1.0 metre of a lot boundary;**
- (iii) **Clause 5.3.8 – Retaining Walls of the Residential Design Codes of WA to permit a retaining wall greater than 0.5 metres in height less than 1.0 metre from the side lot boundary; and**
- (iv) **Clause 5.4. 2- Solar Access for Adjoining Sites to allow greater than 25% of the site area of the adjoining property to be covered in shadow as set down in the R-Codes,**

for construction of a two storey grouped dwelling at No. 11 (Lot 1) View Terrace, East Fremantle, in accordance with the plans date stamped received on 24 August 2018, subject to the following conditions:

- (1) **The metal roofing to be of a colour that reduces roof reflectivity. The colour to be to the satisfaction of the Chief Executive Officer and the details are to be submitted with the Building Permit application.**
- (2) **If requested by Council within the first two years following installation, the Colorbond 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.**
- (3) **The installation of permanent obscure glazing for all upper storey windows on the eastern elevation with the exception of the walk in larder and walk in wardrobe. The details of the**

- obscure (visually impermeable glazing) to be indicated, to the satisfaction of the Chief Executive Officer, on the Building Permit application.
- (4) The south facing kitchen window (scullery) to have permanent obscure glazing and be a fixed/non-opening or awning style window. The details of the window, to be to the satisfaction of the Chief Executive Officer and indicated on the Building Permit application plans.
 - (5) 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. The details are to be to the satisfaction of the Chief Executive Officer and submitted and approved prior to the submission of a Building Permit application.
 - (6) Front fencing to comply with Local Planning Policy 3.1.1 - Residential Design Guidelines 2016.
 - (7) Sight lines for both driveways and fencing adjoining driveways to comply with Australian Standards.
 - (8) No external fixtures, fittings or appliances to be installed on the roof of the dwelling without further Council approval.
 - (9) The width of the new crossover on the eastern side of the lot is not to exceed 4.5 metres as indicated on the plans date stamped received 24 August 2018.
 - (10) The width of the existing crossover to the lot is not to be increased.
 - (11) The works are to be constructed in conformity with the drawings and written information accompanying the application for development approval other than where varied in compliance with the conditions of this development approval or with Council's further approval.
 - (12) 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.
 - (13) 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.
 - (14) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 - (15) 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.
 - (16) 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.
 - (17) This planning approval to remain valid for a period of 24 months from date of this approval.
 - (18) The walk-in larder window to be opaque to 1.6m in height as per requirements of the residential design codes for privacy.

Footnote:

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

- (i) The dwelling, or any part of the dwelling, is not to be used for the purpose of an ancillary dwelling, short term or bed and breakfast accommodation. If these uses are contemplated a separate development approval application for Council's consideration is required to be submitted.*
- (ii) This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iii) 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.*
- (iv) 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.*
- (v) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (vi) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (vii) 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 4:1)

The Executive Manager Regulatory Services advised the meeting that he was supportive of the amended Committee resolution.

Reason for change:

Consideration of privacy issues raised by the neighbour at 15 View Terrace, and protecting general amenity.

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.

11.8 Petra Street, No. 161 (Lot 1) – Request for Widening of Crossover to View Terrace

| | |
|----------------------------|--|
| Applicant | D Gogan |
| Owner | C Robinson |
| File ref | P/PET151 |
| Prepared by | Christine Catchpole, Senior Planning Officer |
| Supervised by | Andrew Malone, Executive Manager Regulatory Services |
| Voting requirements | Simple Majority |
| Meeting date | 2 October 2018 |
| Documents tabled | Nil |
| Attachments | Nil |

Purpose

This report considers a request for widening of an existing crossover at No. 161 (Lot 1) Petra Street, East Fremantle. The subject site is a corner lot and the crossover is situated on View Terrace.

Executive Summary

The following issues are relevant to the determination of this request for widening of the existing crossover:

- Widening of crossover to create double crossover;
- Pedestrian priority over vehicular access;
- Pedestrian, cyclist and driver safety; and
- Streetscape and residential amenity.

Taking into consideration proximity of the lot to the intersection of View Terrace and Petra Street, parking in the street setback area and other circumstances specific to this site, a widened crossover (effectively more than a double crossover) is considered undesirable. It will be to the detriment of pedestrian, cyclist and motorist safety, as well as the overall appearance of the streetscape and therefore should not be supported. The application is therefore recommended for refusal on the grounds that it does not comply with the provisions of the Residential Design Guidelines, the aims of the Planning Scheme, the objectives of the Residential Zone and is contrary to the orderly and proper planning of the area. A repositioned crossover of no greater than 5 metres in width would be supported. Removal of the portion of the crossover that was installed without approval and reinstatement of the verge is also recommended.

Background

In 2017 this corner site was the subject of an application for subdivision under the corner lot density bonus provision of the Planning Scheme. The dwelling which remained on the corner is on the Scheme's Heritage List with a category B rating. The subdivision approval was subject to a number of conditions which stated:

"1. Suitable arrangements being made with the Local Government for the provision of vehicle crossover(s) to service the lot shown on the approved plan of subdivision."

The subdivision plan indicated retention of the garage on Lot 1 which was accessed from a crossover from View Terrace. This was supported by the Town and the subdivision applicant. The garage has been retained and immediately adjacent to the garage, in the secondary street setback area, a raised hardstand area wide enough to accommodate another vehicle has been constructed. Council approval was not sought for this structure and the applicant has been advised that a retrospective development (planning) approval should be sought for this structure.

The applicant in a letter in support of the crossover widening application states that the garage is not large enough to accommodate a modern vehicle so vehicles are being parked on the verge and kerb. A request was therefore made to widen the crossover. This application was received on 26 July and the applicant advised that the matter would be considered at the Council meeting in October. In the meantime, however, the applicant has proceeded to undertake the work and has completed the widening and paving of a double crossover, approximately 9.0 metres (excluding splays) in width, extending the full width of the verge (i.e. 6.0 metres). An area of paving of approximately 54m² has been installed.

On 31 August it was brought to the Town's attention that the double crossover had been installed. The Town immediately advised the applicant that:

- the works were unauthorised and that approval had not been granted;
- a section of Council's footpath had been removed from the verge;
- a further section of the footpath had been removed and replaced; and
- an existing crossover had been removed and a new double crossover installed.

The applicant was requested to stop all works and remove all building materials and the skip bin from the verge immediately and reinstate the grass that had been removed.

The applicant was also advised that a retrospective development (planning) approval and a building permit for the hardstand (retaining wall greater than 500mm) was also required. The relevant forms and information was provided to the applicant.

DETAILS

The existing crossover on the subject site provides access to the freestanding garage on the western boundary of the lot. The applicant's plan proposed to replace both the existing Council footpath leading across the verge from the road to the letterbox and the existing crossover and spanned 8 metres (not including splays). This left an 800mm setback from the western boundary of the lot.

It is also noted the applicant has paved over an easement protecting an underground electricity cable. It is not clear whether authority to do this was obtained from Western Power. The Town is in the process of consulting Western Power and seeking advice in regard to whether this has been authorised.

LPS 3 Zoning: Residential R12.5
Site area: 560m² (Strata Lot 1)

Consultation

Advertising

Advertising was not required as the crossover and widened section is wholly within the road reserve.

Community Design Advisory Panel (CDAC)

The application was not referred to the CDAC as it will have no impact on the heritage aspects of the Municipal Inventory listed dwelling. However, if the request was approved by Council the streetscape would be detrimentally impacted and it is considered impacted from the point of view of the amount of increased paving of the verge that has occurred. Furthermore, as the applicant has stated the garage is not being used for the purpose of parking vehicles it is highly likely that vehicles will be parked in the hardstand area and on the crossover (Council verge).

Statutory Environment

*Local Government (Uniform Local Provisions) Regulations 1996
Planning and Development Act, 2005
Town of East Fremantle Local Planning Scheme No. 3 (LPS 3)
Easement – Western Power*

Policy Implications

*Town of East Fremantle Residential Design Guidelines 2016 (RDG)
Municipal Inventory – Category ‘B’*

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

September 2018

Comment

The preference for some land owners to pave verge areas and accommodate vehicles in the road reserve has the potential to result in streetscapes becoming dominated by larger crossovers and driveways at the expense of pedestrian and road safety, landscaping, streetscape amenity, street trees and on-street parking. The Town's Residential Design Guidelines (RDG) specifically addresses these issues under the following clauses:

3.7.17.2 – Access, Parking and Rights of Way

3.7.17.2.2 - Desired Development Outcomes

- (i) *Parking areas of lots and development sites shall reflect the existing streetscape where possible;*
- (ii) *Where possible, parking to multiple dwelling to occur at the rear or side of the lot; and,*
- (iii) *Number of crossovers is to be minimized.*

Performance Criteria

Access and parking for the building is to be adequately provided for within the boundaries of the lot/development site, and does not negatively impact on:

- (i) *The streetscape character and amenity; and,*
- (ii) *The availability of on-street parking in the locality.*

3.7.14 – Footpaths and Crossovers

3.7.14.2 Desired Outcomes

- (i) *i. New footpaths and crossovers to match existing streetscapes;*
- (ii) *ii. Maintenance of existing footpaths and crossovers;*
- (iii) *iii. Maximum of one crossover per lot or subdivided lot; and*
- (iv) *iv. Street trees to be conserved or replaced where a new crossover requires their removal.*

3.7.14.3 Performance Criteria

- *Pedestrian walk ways will take priority over vehicular access.*

Widened crossover

The impact of the widened crossover on the streetscape is very clear when comparing the aerial photograph in Attachment 3 to the photographs taken after installation of the widened crossover in Attachment 4. The negative visual impact of a large area of paving as opposed to grass verge is specifically what the Town is trying to prevent from occurring. Requests for double and extended crossovers since the adoption of the Residential Design Guidelines are rarely granted approval. This is because the Council is trying to minimise the impacts of crossovers on the streetscape. If properties were installed with crossovers of this width the impact on the streetscape would be extensive and to the detriment of the Town's 'green' streetscapes and front gardens because wide crossovers result in wide driveways.

The photographs in Attachment 4 clearly demonstrate that the crossover now forms effectively a double crossover, being the width and equivalent of two crossovers and providing access for two vehicles. Keeping in mind that development on the vacant portion of the subdivided lot fronting View Terrace has not occurred, there is potential for that crossover to be located on the eastern rather than the western

side of the lot, where it is currently positioned. This would effectively result in a crossover of up to 14 – 15 metres in width and ~90m² of paving.

The addition of a wider crossover so close to the Petra Street roundabout (i.e. ~20 metres) and directly opposite another crossover and a bus stop (south side of View Terrace) is not supportable as it reduces safety for pedestrians, cyclists and motorists. While it is permissible to park cars, boats or trailers on the crossover it is not ideal, particularly in these circumstances. The crossover is set back from the intersection more than the required 15 metres, but this is marginal and although sight lines are clear once the roundabout is reached they would be impeded on approach to the roundabout if cars or other vehicles were parked on the crossover. This is considered to reduce traffic and pedestrian safety in general. Also adding to the road safety issue is the location of a bus stop on the north side of View Terrace just before the crossover. The Town's Operations Manager has indicated he is not in favour of a widened crossover but would be supportive of a crossover which provided access to the hardstand and which included the width of the footpath that previously existed from the letterbox to the footpath.

In addition to the above the additional paving (i.e. ~54m²) of the verge is considered to detract from the streetscape and adds to the hardstand along this stretch of the street. The construction of what is effectively another crossover so close to the roundabout is not considered to be orderly and proper planning, particularly so if it is considered to result in reduced safety and streetscape amenity.

Hardstand parking area

The hardstand parking area, also previously installed, was also subject to development (planning) approval (refer to Attachment 4 photographs). If the applicant had submitted an application for this proposal the issue of crossover width and compliance with the Residential Design Guidelines would have been raised with the applicant at the time the application was being assessed. Had this occurred it would have been recommended that Council support the repositioning of the crossover so the hardstand could be accessed (crossover no greater than 5 metres in width) and that the redundant crossover (i.e. the existing) be removed and the verge reinstated. This would still enable access to the existing garage if required, particularly as the applicant has reconfigured the kerbing to much lower profile during the relaying of the footpath. The recommended option is for the crossover not to exceed 5.0 metres and that the remaining crossover to the garage be removed and the verge and footpath be reinstated.

Taking into consideration the existing parking situation on the site and the fact that the applicant has indicated the garage will not be used for vehicle parking, widening of the crossover is considered unnecessary and will be to the detriment of cyclist, pedestrian and motorist safety, as well as the overall appearance of the streetscape and should not be supported. It is also considered very likely that if widening of the crossover to effectively a double crossover is supported it will most likely lead to a development application for replacement of the existing garage with a double garage. Whilst Council Officers would not necessarily disallow a freestanding double garage in this location it would need to be setback from the secondary street at least 1.5 metres and be serviced by a crossover no greater than 5 metres in width at the intersection of the road reserve.

It is therefore recommended that the applicant be advised that the request to widen the crossover is not supported and that the crossover to the hardstand, if supported by Council, is not to exceed the width of the hardstand. This will allow for the footpath that previously extended across the Council verge to be included in the width of the crossover. The remaining area of the crossover is to be removed and the verge reinstated, wherever it has been damaged, to the satisfaction of the Chief Executive Officer.

Conclusion

The request for widening of the crossover is not supported on the basis that the application does not comply with:

1. The *Acceptable Development Criteria* or the *Performance Criteria* of the Local Planning Policy Residential Design Guidelines 2016 with regard to Clause 3.7.14 Footpaths and Crossovers and Clause 3.7.17.2 – Access, Parking and Rights of Way in that a maximum of one crossover per lot is permitted, pedestrian walk ways will take priority over vehicular access and maintenance of existing footpaths and crossovers occurs.
2. Aims (b) and (f) of the Planning Scheme for a Residential zone, specifically:
 - to enhance the character and amenity of the Town, and to promote a sense of place and community identity within each of the precincts of the Town;
 - to ensure the safe and convenient movement of people throughout the Town, including pedestrians, cyclists, public transport users and motorists.
3. Also, as the proposed development conflicts with Clause 4.2 Objectives of the Zones - Residential Zone which, amongst other things, are to:
 - to recognise the importance of design elements such as the 'front yard' and the 'back yard' to the character, amenity and historical development of the Town and to the community.
4. The proposed development also conflicts with the provisions of the Local Planning Scheme under clause 67 (Deemed Provisions) because it is incompatible with:
 - any local planning policy for the Scheme area (i.e. the Residential Design Guidelines);
 - the built heritage conservation of any place that is of cultural significance;
 - the amenity of the locality including the (ii) the character of the locality; and
 - the proposed means of access to and egress from the site.

As such the application is recommended for refusal on the grounds that it does not comply with the provisions of the Residential Design Guidelines, the aims of the Planning Scheme, the objectives of the Residential Zone and is contrary to the orderly and proper planning of the area.

It is also recommended the Council advise the applicant that:

- The Council only supports the repositioning of the crossover to provide access to the hardstand area provided the crossover is no greater than the width of the hardstand;
- Support for repositioning of the crossover is subject to the applicant seeking development approval and a Building Approval Certificate for the parking hardstand area;
- Removal of the widened crossover as installed is required to be undertaken for the portion that provides access to the garage; and

All of the unapproved works not forming part of the repositioned crossover being removed and the verge and footpath being reinstated to the satisfaction of the Chief Executive Officer.

- Mr Clayton Robertson (owner) addressed the meeting advising that he notified the Town on 23 July 2018 that the footpath has been damaged by a truck delivering material to his property and as a result proceeded with the works prior to receiving any approvals due to livability concerns.

11.8 OFFICER RECOMMENDATION/COMMITTEE RECOMMENDATION TP031018

Cr M McPhail moved, seconded Cr Nardi

That Council:

- (1) Refuse the application for widening of the crossover at No. 161 (Lot 1) Petra Street, East Fremantle for the following reasons:
 - (A) The proposed development does not comply with the requirements of the 'Acceptable Development Criteria' or the 'Performance Criteria' of the Local Planning Policy Residential Design Guidelines 2016 with regard to:
 - (i) Clause 3.7.14 Footpaths and Crossovers; and
 - (ii) Clause 3.7.17.2 – Access, Parking and Rights of Way;
 - (B) The proposed development does not comply with the following requirements of Local Planning Scheme No. 3:
 - (i) The proposed development conflicts with Clause 1.6 - Aims of the Scheme;
 - (ii) The proposed development conflicts with Clause 4.2 - Objectives of the Zones: Residential Zone; and
 - (iii) The proposed development conflicts with the provisions of the Town of East Fremantle Local Planning Scheme No. 3 – Deemed Provisions Clause 67 (g), (k), (n) and (s) because it would detrimentally impact on the amenity of the area.
 - (C) The proposed crossover does not comply with the orderly and proper planning of the area.
- (2) Advise the applicant that:
 - (A) The Council supports the repositioning of the crossover to provide access to the hardstand area provided the crossover is no greater than the width of the hardstand.
 - (B) Support for repositioning of the crossover is subject to the applicant seeking development approval and a Building Approval Certificate for the hardstand parking area.
 - (C) Removal of the widened crossover as installed is required to be undertaken for the portion that provides access to the garage.
 - (D) All of the unapproved works not forming part of the repositioned crossover being removed and the verge and footpath being reinstated to the satisfaction of the Chief Executive Officer.

(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 20 June 2017 this application deemed determined, on behalf of Council, under delegated authority.

11.7 Previously Canning Highway No. 209 (Lot 49) (Lot 263 Allen Street) – Proposed Additions and Alterations

| | |
|----------------------------|--|
| Owner / Applicant | C Parsons/ SIDI Construction |
| File ref | P059/2018; P/CAN209 |
| Prepared by | Andrew Malone, Executive Manager Regulatory Services |
| Supervised by | Gary Tuffin, Chief Executive Officer |
| Meeting date | 2 October 2018 |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Attachments | Nil |

Purpose

This report considers an application for planning approval for proposed additions and alterations including second storey addition and sunken garage to an existing heritage dwelling at No. 209 Canning Highway (Lot 263 Allen Street), East Fremantle.

Executive Summary

The proposed additions and alterations are for a second story addition, a ground floor extension and a new sunken garage on the newly subdivided Lot 263 Allen Street. The lot has a split R12.5/ 40 zoning and is 503m² in area with an existing single story heritage building currently located on the site. It is proposed to undertake restoration of the existing building in addition to proposed extensions and additions. This application is considered to be significantly compliant with the Residential Design Codes and the Residential Design Guidelines, with the exception of the following issues which are relevant to the determination of this application:

- Heritage considerations;
- Setback;
- Garage forward of the building line;
- Retaining wall/ front fence; and
- Boundary wall

The proposal is not considered to negatively impact on the heritage character of the building or the streetscape. The proposal is recommended for approval subject to conditions.

Background

Zoning: Residential R12.5/40

Site area: 503m²

Consultation

Advertising

The application was not advertised to surrounding properties. The lot is located within a parent lot that is owned by Mr Parsons and therefore there is no impact to adjoining landowners. The proposed impact to the streetscape is also considered limited.

Community Design Advisory Committee (CDAC)

This application was considered by the CDAC at a meeting held on 30 July 2018. The second storey additions are proposed to the rear of the property (a garage is located within the front setback however is excavated into the lot) and has no significant impact to the streetscape or heritage character of the property.

Alterations and Additions to Existing Dwelling, Including Second Storey Extension.

(a) *The overall built form merits;*

- Committee recommend reducing the external roof height of the rear upper floor addition to delineate the old roof to the new roof.
- The Committee is supportive of the development as proposed.

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

- Committee recommends the use of a consistent external cladding material. Shadow clad to be utilised throughout the whole upper rear floor addition.

(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.

The applicant has provided the following response:

The current roof finished height for the extension has been designed this way for structural purposes and with the intent of creating clean architectural intersections into the existing structure. The chosen cladding material, colour and geometry of the proposed addition will create good contrast with the existing building and will be sufficient contrast to delineate the old and new architectural elements.

We are happy that the committee is supportive of the design.

Officer comment:

Whilst the CDAC comments are acknowledged, it is considered the applicant's response has merit. The proposed second storey addition will not have any significant prominent views from Allen Street due to its elevated and setback location on the building. The proposed addition is located behind the existing ridge line of the roof. It is proposed that there will be limited views of the dwelling and second storey because of existing and proposed vegetation screening to Allen Street. The side elevation to the south will be obscured by an existing building (currently under construction). The impact of the addition is considered minimal. No condition will be included in the Officer's recommendation regarding the roof. A condition will be added however to ensure the use of a consistent external cladding material on the upper storey. Shadow clad is notated on the plans and a condition requiring the material to be utilised throughout the whole upper rear floor addition is included.

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*

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

September 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 | 4.0m | 4.0m | A |
| Lot boundary setbacks | | | |
| Northern | 1.0m | Nil | D |
| Southern | 1.5m | Nil | D |
| Southern (Garage) | 1.0m | Nil | D |
| Eastern | 1.0m | Nil | D |
| Eastern (Dwelling) | 1.5m | 1.1m | D |
| Open Space | 45% | >45% | A |
| Outdoor Living | 20m ² | 61m ² | A |
| Car Parking | 2 | 2 | A |
| Site Works | Less than 500mm | Greater than 500mm | 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 | D |
| 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 | N/A |
| 3.7.11 Front Fences | D |
| 3.7.12 Pergolas | A |
| 3.7.13 Incidental Development Requirements | N/A |
| 3.7.14 Footpaths and Crossovers | A |
| 3.7.18.3 Garages and Carports | D |
| 3.7.15-20 Precinct Requirements | A |

The applicant has worked with the Town to achieve an appropriate design for the dwelling. Two other designs were presented to the CDAC and the applicant has on each occasion addressed the concerns raised. Consultation with the planning department and the CDAC has resulted in a design outcome being reached with the intention of retaining as much of the existing form and character of the existing heritage building as it presents to Allen Street.

Consideration has been given to existing established vegetation. The applicant has indicated all efforts will be made to retain existing mature vegetation as well as the planned introduction for new vegetation in deep root planting zones. This planting will screen the proposed garage and will also assist in softening any impact the proposed first floor addition may cause.

The proposed garage is sunken into the lot and utilises access via a shared vehicular access leg therefore eliminating the requirement for a new crossover. Whilst the garage has been set in front of the existing building the proposed garage does not significantly conceal the existing fabric of the heritage dwelling. The proposed garage roof is only 530mm above the existing floor level of the exist house, therefore the garage will have minimal visual impact.

Heritage

The dwelling is categorised as Category 'B' on the Heritage List of the Planning Scheme. Overall the proposal is considered to acknowledge the significant heritage value of the dwelling. The proposed second story addition utilises space mostly within the existing building envelope and respects the scale, bulk and proportions of the existing dwelling. The addition to the first floor utilises contrasting materials where visible to clearly delineate from the original structure.

Consideration has been given to the design of the front fence and retaining wall. The applicant has attempted to reduce the bulk and scale of the fence and retaining to compliment the design of the proposed dwelling. The fence does not impede sight lines to the existing heritage building but does provide a minimum height for safety. A condition has been included in the Officer's recommendation to require all fencing to be visually permeable.

The dwelling will still maintain a similar street presence and appearance. A condition has been include to retain the existing chimneys to ensure street character is maintained. Whilst the addition can be viewed from the street, the simplicity of the design of the additions integrates with the heritage character. The proposed addition is not considered intrusive as far as the streetscape or fabric of the building is concerned. The addition is recommended for approval subject to conditions.

Lot boundary setback

The lot boundary setbacks to the first floor are not compliant with the 'Deemed to Comply' provisions of the R-Codes. The proposed side boundaries to the development/ existing dwelling are also not compliant with the 'Deemed to Comply' provisions of the R-Codes as the dwelling is located on three of the boundaries of the subject lot.

Based on the higher density coding of R40, the proposed garage is required to be setback 4 metres from the front boundary. The garage setback is compliant with the 'Deemed to Comply' provisions of the R-Codes. The proposed garage is also sunken and therefore has minimal street impact and has no significant impact on the heritage dwelling.

The non-compliance with respect to the first floor (rear boundary) and the building on the boundaries is considered relatively minor and is a result of the applicant's subdivision and wishing to minimise built form impact to the existing heritage building. The proposed setbacks on each side boundary and the rear boundary attempt to utilise the full extent of the lot without structures being constructed forward of the heritage building or constructing a larger second storey than that proposed. The proposed design is considered to be the best design outcome in terms of retaining the dwelling, its heritage character and results in protecting the streetscape and façade of the dwelling.

Three of the proposed side setbacks are nil (northern, southern and eastern). These boundary walls adjoin other newly created lots (subdivided from the parent lot) and have no impact to adjoining land owners. The setback requirements for the first floor and ground floor to the eastern boundary do not comply with the "Deemed to Comply" provisions either. The lot boundary to the south and east adjoins an internal driveway, whilst the northern boundary adjoins a larger lot, which will be subdivided in the future. The

proposed built form make practical use of the existing lot area, without significantly compromising the heritage dwelling.

The proposal is considered to comply with the 'Design Principles' of Clause 5.1.3 Lot boundary setback P3.2 and overall the building design contributes to the retention of the heritage dwelling, therefore positively contributing the streetscape and overall street character.

Retaining walls and site works

The existing limestone wall on the front boundary (Allen Street) is not sufficient and requires replacement. The existing retaining wall will be realigned and replaced on the boundary. The height of the retaining wall will also be increased in height to 1.2 metres (currently the retaining wall is 0.4 to 0.9 metres above the footpath). The proposed fill (ranges from 0.8 metres to 1.2 metres above the footpath) on the western side of the lot is considered to provide a level front garden removing existing grade falls to the street. The proposed garage is also sunken into the front garden.

The applicant is filling the front of the property to enable a consistent and usable space is created in the front of the lot (maximising space and providing usable open space as there is no rear garden). The proposed level of 1.2 metres complies with the overall front fence height (solid) requirements. The proposed fence on top of the retaining is 1.0 metre permeable above the retaining wall, therefore the retaining and fence have a maximum height of 1.8 metres to 2.2 metres above the footpath.

The proposed retaining/ fence and development as a whole is considered to improve the amenity of the site and improves the visual appearance of the dwelling. The proposed fill also minimises the impact of the garage on the streetscape. The depth of fill will assist in minimising building bulk and height and a 'deep planting zone' will also be created in the front garden to ensure planting and established vegetation can be accommodated.

The Design Principles are considered satisfied in that the fill will not substantially change the natural ground level at the lot boundary of the site as viewed from the street and replacement of the retaining wall is considered necessary. The proposed retaining wall and fence on top are considered to adhere to the required Design Principles and therefore can be supported.

Side boundary wall

A wall is proposed on the northern boundary which exceed the requirements of the 'Dividing Fences Act' height of 1.8 metres above natural ground level. The proposed wall has a maximum height of 2.234 metres and therefore requires planning approval. The proposed wall has been increased in height above natural ground level because of the proposed fill and to increase the privacy (to the verandah and deck) of the site. The wall also provides a noise buffer from Canning Highway. The solid wall abuts a larger lot subdivision, which will be re-subdivided at a later stage. The proposed wall does not impact on any adjoining lot or the street frontage which is Allen Street.

Conclusion

Given the above comments of the CDAC and the modifications to the design by the application, the proposed design is recommended for approval subject to conditions. The overall design is sympathetic to the dwelling and protects the character of the heritage dwelling.

The redevelopment of the lot is a permitted use of the land under the density bonus R40 code (as approved under the subdivision) applicable to the area and LPS 3 provisions. The proposed development is not considered to detrimentally impact the amenity of the surrounding area or the streetscape. The

reduced setbacks primarily adjoin a vehicular access leg and therefore there is no direct impact to adjoining lots or habitable areas.

Conditions in regard to building material, the chimneys, retaining and roof fixtures and front fencing are recommended to be applied to the development application. The proposed development is recommended for support subject to conditions.

- Mr Corey Parsons (owner) thanked Executive Manager Regulatory Services for his support and assistance in dealing with this proposal.

11.7 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP041018

Cr Natale moved, seconded Cr M McPhail

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

- (i) Clause 5.3.1 of the Residential Design Codes – Lot boundary setback for the northern, eastern and western boundaries;**
- (ii) Clause 5.3.7 – Site works and Clause 5.3.8 – Retaining walls of the Residential Design Codes – Front retaining wall and proposed fill;**
- (iii) Clause 3.7.11 – Front Fence of the Residential Design Guidelines – Front fence;**

for planning approval for proposed additions and alterations including second storey addition and sunken garage to an existing heritage dwelling at No. 209 Canning Highway (Lot 263 Allen Street), East Fremantle, in accordance with the plans date stamped received 27 June 2018, subject to the following conditions:

- (1) 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.**
- (2) ‘Shadowclad Ultragroove’ as notated on the plans is to be utilised throughout the whole upper floor addition.**
- (3) The two (2) existing chimney stacks are not to be altered or removed and are to be protected, to the satisfaction of the Chief Executive Officer, during the construction phase.**
- (4) Front fencing is to comply with Local Planning Policy 3.1.1 for visual permeability. All front fencing is to be 60% visually permeable.**
- (5) 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.**
- (6) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council’s further approval.**
- (7) 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.**
- (8) 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.**
- (9) 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.**

- (10) 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.
- (11) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (12) This planning approval 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 first floor be 'shadowclad'.*
- (ii) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iii) *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.*
- (iv) *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.*
- (v) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (vi) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (vii) *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 20 June 2017 this application deemed determined, on behalf of Council, under delegated authority.

11.3 Windsor Road No. 28 (Lot 1) – Proposed Verandah/ Patio

| | |
|----------------------------|--|
| Owner / Applicant | G Puglisi |
| File ref | P063/2018; P/WIN28 |
| Prepared by | Andrew Malone, Executive Manager Regulatory Services |
| Supervised by | Gary Tuffin, Chief Executive Officer |
| Meeting date | 2 October 2018 |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Attachments | Nil |

Purpose

This report considers an application for planning approval for a rear verandah / patio to an existing dwelling at No. 28 Windsor Road, East Fremantle.

Executive Summary

The proposed additions and alterations are for demolition of existing verandah / patio, stairs and planters and for construction of verandah / patio, stairs and planters. This application is considered to be significantly compliant with the Residential Design Codes and the Residential Design Guidelines. An objection was received by the adjoining neighbour therefore this application is required to be determined by Council.

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

- Heritage considerations; and
- Visual privacy

The proposal comprises an addition to the rear of the dwelling and will not impact on the heritage character of the building. The proposal will have no negative impact to the streetscape. The adjoining neighbour to the east has signed a copy of the plan indicating no objection to the proposal.

It is considered the visual privacy is compliant with the 'Deemed to Comply' provisions of the R-Codes and therefore can be supported. The application is recommended for approval subject to conditions.

Background

Zoning: Residential R17.5

Site area: 911m²

Consultation

Advertising

The application was advertised to the property to the north surrounding land owners from 27 July to 13 August 2018. The adjoining neighbour to the east has signed a copy of the plan indicating no objection to the proposal. One (1) submitter provided Council with an objection to the proposal. The submitter noted the following comments and the applicant and officer responses are provided below:

- *I object to the proposal as is presented in the current planning application on the basis that it further degrades my already compromised privacy from the Applicant on our common boundary.*
- *The applicants kitchen window already has full view of my backyard. I will freely admit for the public record that this is a situation I inherited when purchasing my property of 30 Windsor Road,*

East Fremantle. I have tried to plant screen trees on the affected boundary only to have the applicant prune the said screen trees to nullify the passive screening potential of the screen trees.

- *The current area where the applicant proposes to build a new all weather use veranda is now subject to seasonal use which by design means it has been a low frequency use area by the applicant. The proposed veranda is now going to be an all weather high frequency use area. It also proposes a dining area pushing towards the applicants 21 Gill Street common boundary. This gives the applicant more line of sight into my backyard and where I have my outdoor entertaining area. This on top of the existing casual sitting area proposed by the applicant which also has line of sight into my backyard. This is further exacerbated by virtue of the topography of the proposed new veranda being considerable higher than the grade of the rear of my property that I would like to use as an entertaining area.*
- *The proposed new veranda design indicates the use of “vertical rolling insect screens” which by default are not privacy screens. Another point is that their use will be arbitrary at the sole discretion of the applicant. This having the potential to further degrade my compromised privacy position on the common boundary with the applicant. I also state for the record that the applicants car port is open on both sides.*
- *The applicant has gone to considerable lengths to provide privacy screening with their boundary with 21 Gill Street. This has been by means of louvred windows.*
- *I am amenable to removing my objection to the proposed planning application if the applicant installs permanent privacy screens on the open structure the applicants carport makes from the carport rear workshop to the existing gate and fence on the applicants house structure. This would give the applicant total freedom on when to use the proposed retractable fly screens without impacting on my privacy. If implemented I would not even be aware of when the applicant was using the new proposed all weather use veranda. I sincerely hope that the applicant considers this proposal to diffuse my existing privacy concerns with the common boundary with the applicant without the added complication of building the proposed new veranda as is presented in the current planning application.*

Applicant's response

- *Thank you for passing on the comments from my neighbour at 30 Windsor Road and the opportunity to provide a response. It is a shame that my neighbour feels he has compromised privacy from my kitchen window (as we do for his kitchen window) but frankly the kitchen windows are irrelevant to this application. However, my neighbour accuses me of pruning his screening vegetation to nullify its screening potential - an accusation which is not only factually incorrect but also absurd as it implies a desire on my part to view into his yard which I can assure you and Council that this cannot be further from the truth. What little pruning is done is limited to maintaining access along a path with the vegetation continuing to provide an effective screen along the shared boundary.*
- *You might recall that when we discussed the need to seek comments from my neighbour at 30 Windsor Road that my view was that this neighbour is not potentially affected by the proposal because of the effective screen provided by the existing carport and workshop. By virtue of the difference in elevation between the carport slab (only slightly above the neighbour) and the higher current patio (which will be the same level as the verandah) then most of this screening is provided by the carport roof and to a lesser extent the brick wall of the workshop and some infill lattice. For people of normal height the partially impeded view through the lattice is of the carport slab and the boundary fence, all on my side of the property. This is somewhat difficult to describe and it would be best for you or someone from Council's Planning Department to visit and have a look and this should be mandatory before you proceed with assessment of my application.*
- *I'm assuming that the permanent privacy screens that my neighbour has referred to as a condition of removing his objection would be instead of the existing infill lattice screens that I have referred*

to above. These lattice screens were installed over 20 years ago as part of Council approved plans for extensions to my house which included the now existing roofed patio area immediately adjacent to the screens. The proposed verandah will replace the roof and extend the roof cover towards Gill Street but the new roof area will all be screened to 30 Windsor Road by the carport roof and brick walls of the workshop as it is now. Again this will be obvious when you visit the site.

- In summary my response to the comments from my neighbour at 30 Windsor Road is as follows:
That you or another Council officer visit the site and ascertain first hand the relativities of the two properties and that the existing permeant structures provide adequate privacy screening for both properties;
That my neighbours objections be ignored in the assessment of my application on the basis that they are factually incorrect and that his privacy will not be degraded by the proposal.

Officer response

The proposal is compliant with the R-Codes and the Residential Design Guidelines with regard to setbacks and privacy to the northern boundary. The matters raised in regard to privacy to the north is compliant and therefore cannot be conditioned to include privacy screens.

Community Design Advisory Committee (CDAC)

This application was not considered by the CDAC. All additions are proposed to the rear of the property and have no impact to the streetscape or heritage character of the property.

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

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 <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 setbacks | | | |
| Northern | 1.8m | 10m | A |
| Southern | 1.0m | 4.2m | A |
| Eastern | 1.8m | 7.1m | A |
| Open Space | 50% | >50% | A |
| Outdoor Living | 30m ² | 35m ² | A |
| Car Parking | 2 | 2 | A |
| Site Works | Less than 500mm | Less than 500mm | A |
| Visual privacy setback | | | |
| North | 7.5m | 8.0m | A |
| South | N/A | As existing | A |
| East | 7.5m | 7.1m | 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 | A |
| 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 |

The proposal comprises demolition of existing verandah / patio, planters and stairs and construction of new verandah / patio (outdoor sitting area and outdoor dining area) stairs and planters.

Heritage

The dwelling is categorised as Category 'B' on the Heritage List of the Planning Scheme. Overall the proposal is considered to acknowledge the significant heritage value of the property. The dwelling still maintains the same street presence and appearance and the addition will not be viewed from the street. The proposed addition is not considered intrusive as far as the streetscape or fabric of the building is concerned. The addition is recommended for approval subject to conditions.

Lot boundary setback

The lot boundary setbacks are compliant with the R-Codes. The finished floor levels of the verandah will be consistent with existing levels. No height changes are proposed. New access stairs and planters are also proposed.

Visual Privacy

There are variations to the R-Codes in respect to the visual privacy setbacks of the verandah / patio to the rear (east). The proposed variation is a distance of 0.4 metres (7.5m required, 7.1m proposed). The proposal is replacing a verandah / patio that is considered significantly consistent with the existing. No additional height is proposed. No screening devices have been indicated. The neighbour to the east has signed a copy of the plans indicating they have no objection to the proposal.

The adjoining neighbour to the north has objected to the proposed verandah / patio area. The proposed verandah / patio is consistent with the existing verandah. The verandah / patio is located 8.0 metres from the northern boundary and therefore compliant with the 'Deemed to Comply' provisions of the R-Codes. Notwithstanding the acceptable setback distance, a carport minimises direct views into the adjoining northern property, whilst a store restricts the views entirely. Oblique views from the proposed verandah are towards an adjoining shed to the north northeast and through the limited views through the carport to the north northwest. The overlooking is compliant with the R-Codes and Council cannot condition screens to be erected to the northern elevation.

Conclusion

It is considered the proposal is compliant and can be supported.

11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP051018

Cr White moved, seconded Cr Nardi

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

- (i) Clause 5.4.1 – Visual Privacy of the Residential Design Codes of WA to permit a visual privacy setback of less than 7.5 metres from the verandah to the rear boundary,**

for a verandah/ patio to the rear of the existing dwelling, at No. 28 (Lot 1) Windsor Road, East Fremantle, in accordance with the plans date stamped received 11 July 2018, subject to the following conditions:

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

Footnote:

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

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

- (ii) A copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.***
- (iii) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).***
- (iv) 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”.***

(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 20 June 2017 this application deemed determined, on behalf of Council, under delegated authority.

11.4 Duke Street, No. 36-42 (Lots 601 & 602) – Change of Use Application

| | |
|----------------------------|--|
| Applicant | Manotel P/L |
| Owner | Manotel P/L |
| File ref | P/DUK 36 |
| Prepared by | Andrew Malone, Executive Manager Regulatory Services |
| Supervised by | Gary Tuffin, Chief Executive Officer |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Attachments | Nil |

Purpose

This report considers a change of use application for the 'Brush Factory' (former Lauder & Howard building) to include additional office space at 36-42 Duke Street, East Fremantle.

Executive Summary

The application proposes a change of use application for Tenancy 1 and Tenancy 4 of the building for additional office space:

Tenancy 1: Currently approved for wine and general storage for the Jazz bar.

Tenancy 4: Currently approved for a "Performing Arts/ Music" space (vacant).

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

- Use of the tenancies; and
- Car parking

It is considered there will be minimal impact on the amenity and car parking to the area and as such the change of use can be supported subject to standard conditions of development approval being imposed.

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

| | |
|------------------|---|
| 1897 | Building at 36 Duke Street starts use as a 'Brush Factory'; |
| 20 May 1983 | Council approves the use of 36 Duke Street for restoration and sale of furniture; |
| 14 June 1983 | Council approves use of the building at 42 Duke Street for the manufacture of decorative glass (Freedom Glass); |
| 21 November 1983 | Council grants conditional approval for the erection of two signs at 36 Duke Street; |
| 16 April 1984 | Council advises Lauder & Howard that it has no objections to repainting the exterior of the building at 36 Duke Street; |
| 16 July 1984 | Council approves signs on the façade of 36 Duke Street; |
| 24 April 1986 | CEO advises Lauder & Howard that signage on the east wall of the building at 36 Duke Street is approved; |
| 19 June 1995 | Council endorses a proposal for an opening to the front wall of the building at 42 Duke Street; |
| 10 July 1995 | Building Permit 100/2309 approved for installation of new door frame, doors and side-lights at 42 Duke Street; |
| 24 July 1996 | Building Surveyor approves removal of a chimney and portion of a parapet wall from the building at 36 Duke Street; |
| 19 August 1996 | Council decides to advise the WAPC that it supports the subdivision and amalgamation of Lots 1, 2 & 3; |
| 10 December 1996 | WAPC grants conditional approval to the subdivision & amalgamation; |
| 25 February 1997 | Council resolves to rezone 36 Duke Street to Residential Area 2; |

| | |
|------------------|---|
| June 1997 | Conservation Plan prepared for Main Roads Department for 36 & 42 Duke Street; |
| 16 December 1997 | WAPC endorses for final approval Diagram 94449 for the subdivision & amalgamation; |
| 21 July 1998 | Council resolves to reconsider a proposal to convert existing workshop at 42 Duke Street into 2 workshops; |
| 18 August 1998 | Council grants special approval for 2 workshops at 42 Duke Street; |
| 5 May 1999 | Building Licence 93/2833 approved for alterations to the building at 42 Duke Street to form 2 separate workshops; |
| 25 August 1999 | Storm damages building; roof ends up on Stirling Highway; |
| 3 August 2001 | Premier Gallop, MPs, Mayor and CEO & VIP's join in the reopening of Lauder & Howard's antiques; |
| 9 December 2008 | Planning Approval granted to redevelop the buildings at 36-42 Duke Street from antique furniture showrooms and workshops to 7 x 1 bedroom apartments, and 5 x 3 bedroom apartments. |
| 15 March 2011 | Planning Approval granted to redevelop the buildings at 36-42 Duke Street for a change of use, partial demolition, redevelopment and new construction to accommodate a mixed use residential/arts and entertainment venue. |
| 12 February 2013 | Planning Approval granted to amendments to a previously approved planning application, date stamped Approved on 15 March 2011 (Application (P199/10) and to extend the previous planning approval P199/10 for a further 2 years. The previously approved application was for a change of use, partial demolition, redevelopment and new construction to accommodate a mixed use residential/arts and entertainment venue. |
| 16 July 2013 | Planning Approval granted to amendments to a previously approved planning application, date stamped Approved on 15 March 2011 (Application (P199/10) for 2 storeys of commercial offices above the approved Jazz Club/ Performance space. Council refused the penthouse apartment located above the 'Brush Factory'. |
| 1 October 2013 | Planning Approval for a penthouse apartment to be erected on top of the proposed performance space and existing heritage building at the 'Brush Factory (former Lauder & Howard building), 36-42 Duke Street. In addition it considers an application which has been presented to Council with regards to a review of the opening times for the Jazz Club. |

Consultation

Advertising

The application for the proposed change of use was not advertised as the proposed additional office area is not considered to have an impact to the surrounding area or adjoining properties. The proposed use does not have a requirement for additional car parking as per the applicant's information and 'Time Share Analysis'.

Community Design Advisory Committee (CDAC)

This application was not referred to the CDAC as there are no external or internal changes to the building.

Statutory Environment

Planning and Development Act 2005

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

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016

*Municipal Heritage Inventory - 'A' Category
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

Comment

LPS 3 Zoning: Mixed Use
Site area: 1440m²

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3.

Use

It is proposed to change the use for Tenancy 1 and Tenancy 4 of the building to include additional office space. This would remove the basement storage area and the Performance Art/ music space from the permitted uses in the building.

The application proposes a change of use application for Tenancy 1 and Tenancy 4 of the building for additional office space. Office use in a 'Mixed Use' zone is a 'D' use meaning *that the use is not permitted unless the local government has exercised its discretion by granting planning approval*. Council has previously granted approval for Office space in the building totaling 360m². An additional 192m² of office space is proposed. The total office area will be 552m². Car parking will be discussed in the next section of this report.

It is considered the proposed use will have no additional impact to the area or adjoining neighbours. The additional office space is considered to have a lesser impact to the area than the Performance Arts use, however the proposed change of use from 'store' to 'office' space is considered to have an impact. Assessed in total the proposed change of use (additional office space) is considered not to have a greater impact to the locality than the existing uses. The proposed office use is recommended for approval subject to conditions.

Parking Requirements

The main Brush Factory building comprises of the following approved uses:

- Commercial Offices: 360m²
- Residential penthouse: 193m²
- Dance Studio
- Jazz Club

With the additional office space comprising of:

- Tenancy 1 is 103m²; and
- Tenancy 4 is 89m²

It is proposed to change the use for Tenancy 1 and Tenancy 4 of the building to include additional office space. This would remove the basement storage area and the Performance Art/ music space from the permitted uses in the building.

Based on Council's previous planning approval, the total parking generation was: residential – 19 bays and commercial – 42 bays (comprising Jazz Club/ Dance Studio and Performance Space demand).

There are 49 car parking bays to be provided on site. The previously approved total on site car parking required as above is 61 bays leaving a net parking shortfall of 12 bays of which 5 are accommodated by immediately adjacent on-street car parking and 7 are provided in the form of reciprocal car parking on-site.

Schedule 11 of TPS No 3 requires:

- 1 space for every 30m² net lettable area (min 3 per tenancy or office unit).

There is 360m² of office space approved, comprising 4 tenancies. A total area of 192m² is proposed to be added over two tenancies. The total office space proposed is 552m². Therefore the total car parking required to be provided on-site for the office space alone is 19 car parking spaces. The 19 bays required for the Offices will be allocated from the 28 commercial off street undercroft bays on a reciprocal time share basis with the Jazz Club and the Dance Studio.

Clause 5.8.5 Car Parking and Vehicular Access of TPS3 states:

Car parking in respect of development in the Commercial Zones is to be provided in accordance with the standards set out in Schedule 11 of the Scheme and the specifications in Schedule 4 of the scheme. Where there are no standards for a particular use or development, the local government is to determine what standards are to apply. In its determination of the requirements for a particular use or development which is not listed in Schedule 11 of the Scheme, the local government is to take into consideration the likely demand for parking generated by the use or development.

Furthermore Clause 5.8.7 On-Street Parking states:

The local government may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development, provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.

The development provides a total of 49 parking spaces on site.

The total parking generation would be residential – 19 bays and commercial – 48 bays (comprising Jazz Club/ Dance Studio and Commercial Office). Total on site requirement = 67 bays leaving a net parking shortfall of 18 bays.

Five (5) spaces can be accommodated by immediately adjacent on-street car parking.

Nine (9) car parking bays have previously been approved as reciprocal car parking between the Jazz Club, Dance Studio and Office. The requirement for 19 car parking bays for the commercial offices has been requested to be considered as reciprocal day/ night time share spaces. A total of 13 car parking bays are assessed as requiring reciprocal shared car parking space. The applicant has previously provided a 'Time Share Analysis' as stated in letter dated 15 May 2013 and a further letter dated 5 September 2018.

It is noted that the change of use from the Performance space to an office use does not require any additional car parking. The Performance space had three bays allocated to it. The proposed office requires three bays therefore there is no change to the car parking ratios required. The addition of Tenancy 1 requires 4 additional bays to be provided on-site. These bays have been assessed against the 'Time Share Analysis' proposed by the application.

During the day the office space and dance studio requires 22 bays during the day. 28 commercial bays are provided on-site, addressing the day time requirements for the site. The opening hours of the Jazz Club are limited to be only outside the hours of general business, therefore after 5pm, the commercial bays for the office and dance studio are utilised by the Jazz Club. The provision of 28 commercial bays is considered acceptable in this instance.

In light of the above and the applicant's 'Time Share Analysis', it is considered that there is provision for reciprocal car parking within the development, however this is based on the 'Time Share Analysis' and the previous condition resolved by Council controls the operating hours of the uses within the development. Based on the appropriate conditions it is considered reciprocal car parking can be supported by Council to approve the additional office area within the George Street area.

Conclusion

Given the comments above the application is recommended for approval subject to conditions.

11.4 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP061018

Cr M McPhail moved, seconded Cr Natale

That Council exercise its discretion in granting approval for the change of use to office space 36-42 Duke Street, East Fremantle, as described on the information date stamped received 5 September 2018 subject to the following conditions:

- (1) Maximum area of the additional office area is not to exceed 192m².
- (2) Seven car parking bays are required to be provided to the additional office space as per the applicant's information and 'Time Share Analysis'.
- (3) All other conditions as previously endorsed by Council are to be complied with unless modified by this proposal.
- (4) 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.
- (5) The commercial building 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.
- (6) No signage is approved under this change of use application. A separate application is required for the proposed signage. All signage to comply with the Town's Local Planning Policy Design Guidelines - Signage
- (7) With regard to the plans submitted with respect to the building licence 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) The proposed use is not to be commenced until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
- (9) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (10) This planning approval to remain valid for a period of 24 months from date of this approval

Footnote:

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

- (i) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *A copy of the approved plans as stamped by Council are attached and the application for a building 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).*

- (iv) 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”**
- (v) The approval does not include approval of any advertising signage. A separate development application is required for any signage proposal.**

(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 20 June 2017 this application deemed determined, on behalf of Council, under delegated authority.

11.5 Osborne Road 41 (Lot 16) – Extension of Time to previously approved Multiple Dwellings

| | |
|----------------------------|--|
| Applicant | R J Gauci |
| Landowner | R J Gauci |
| File ref | P/OSB41 P70/15 |
| Prepared by | Andrew Malone, Executive Manager Regulatory Services |
| Supervised by | Gary Tuffin, Chief Executive Officer |
| Voting Requirements | Simple majority |
| Meeting Date | 2 October 2018 |
| Documents tabled | Nil |
| Attachments: | Nil |

Purpose

This report considers an application for an extension of time for planning approval (DA P70/15) granted 1 September 2015 (extension of approval granted 2 May 2017) for the retention of existing dwelling and proposed four two storey dwellings situated at 41 (Lot 16) Osborne Road, East Fremantle, based on a five lot subdivision of the subject parent lot.

The applicant has also requested Council consider condition 6 of the Western Australian Planning Commission (WAPC).

Executive Summary

This application was determined by Council in September 2015. The application was for retention of the existing dwelling and proposed four, two storey dwellings subject to conditions. The information provided below is not a full assessment of the application (*original report is attached*).

Due to unforeseen circumstances Mr Gauci has not been able to progress the application and is requesting an extension of the approval. Mr Gauci is also requesting Council consider for deletion condition 6 of WAPC subdivision approval, which reads:

Dwellings being constructed to plate height on each of the proposed lots prior to the submission of the diagram or plan of survey (deposited plan).

In this instance, given the extent of the development it is recommended Council extend the approval period by 24 months (2 years) as to date no works have been completed. It is also recommended Council advise the WAPC that it supports removal/ deletion of Condition 6 of the subdivision approval.

The requested extension of time for the proposed multiple dwelling development is recommended for approval subject to retaining the original conditions of approval.

Background

Zoning: R 12.5

Date request for extension received: 29 August 2018

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

August 2015 Council grant planning approval for proposed multiple dwellings.

May 2017 Council grant planning extension to approval for proposed multiple dwellings.

Consultation

Advertising

The application was advertised to surrounding neighbours between 6 July 2015 and 20 July 2015 originally. At the close of advertising no submissions were received. The application for an extension of time to the current planning approval was not readvertised.

Community Design Advisory Committee

This application was not referred to this Committee again. The Town Planning Advisory Panel previously reviewed the development.

Statutory Environment

Planning and Development Act 2005

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

Planning and Development (Local Planning Schemes) Regulations 2015 Clause 77 of Schedule 2 - Part 9.

Policy Implications

Nil

Financial Implications

Nil

Strategic Implications

The Town of East Fremantle Strategic Community Plan 2015 – 2025 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

As previously undertaken in 2015

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 |

LOT 1 (Existing Dwelling)

The proposed dwelling has been assessed under R12.5 of TPS3.

Town Planning Scheme No. 3 Assessment

| Scheme Provision | Status |
|---------------------|--------|
| 4.2 Zone Objectives | A |
| 4.3 Zoning Table | A |

Residential Design Codes Assessment Proposed Lot 1

| Design Element | Required | Proposed | Status |
|----------------|-----------------|-----------------|--------|
| Open Space | 55% | 68.2% | A |
| Outdoor Living | N/A | N/A | N/A |
| Car Parking | 2 | 2 | A |
| Site Works | Less than 500mm | Less than 500mm | A |
| Overshadowing | 25% | Less than 25% | A |
| Drainage | On-Site | On-Site | 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 |
| LPP Residential Design Guidelines Provision | Status |
| 3.7.5 Demolition | N/A |
| 3.7.6 Construction of New Buildings | N/A |
| 3.7.7 Building Setbacks and Orientation | A |
| 3.7.8 Roof Form and Pitch | A |
| 3.7.9 Materials and Colours | A |
| 3.7.10 Landscaping | A |
| 3.7.11 Front Fences | A |
| 3.7.12 Pergolas | N/A |
| 3.7.13 Incidental Development Requirements | A |
| 3.7.14 Footpaths and Crossovers | A |
| 3.7.15-20 Precinct Requirements | A |

LOT 2 (Unit 1)

The proposed dwelling has been assessed under R12.5 of TPS3.

Town Planning Scheme No. 3 Assessment

| Scheme Provision | Status |
|---------------------|--------|
| 4.2 Zone Objectives | A |
| 4.3 Zoning Table | A |

Residential Design Codes Assessment

| Design Element | Required | Proposed | Status |
|-------------------|------------------------|---------------|----------|
| Open Space | 55% | 55% | A |
| Outdoor Living | N/A | N/A | A |
| Car Parking | 2 | 2 | A |
| Site Works | Less than 500mm | 550mm | D |
| Overshadowing | 25% | Less than 25% | A |
| Drainage | On-Site | On-Site | A |

Local Planning Policies Assessment

| LPP Residential Design Guidelines Provision | Status |
|---|----------|
| 3.7.2 Additions and Alterations to Existing Buildings | N/A |
| 3.7.3 Development of Existing Buildings | N/A |
| 3.7.4 Site Works | A |
| 3.7.5 Demolition | N/A |
| 3.7.6 Construction of New Buildings | A |
| 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 | A |
| 3.7.12 Pergolas | A |
| 3.7.13 Incidental Development Requirements | A |
| 3.7.14 Footpaths and Crossovers | A |
| 3.7.15-20 Precinct Requirements | A |

LOT 3 Unit 2

The proposed dwelling has been assessed under R12.5 of TPS3.

Town Planning Scheme No. 3 Assessment

| Scheme Provision | Status |
|---------------------|--------|
| 4.2 Zone Objectives | A |
| 4.3 Zoning Table | A |

Residential Design Codes Assessment

| Design Element | Required | Proposed | Status |
|-------------------|------------------------|---------------|----------|
| Open Space | 55% | 60% | A |
| Outdoor Living | N/A | N/A | A |
| Car Parking | 2 | 2 | A |
| Site Works | Less than 500mm | 600mm | D |
| Overshadowing | 25% | Less than 25% | A |
| Drainage | On-Site | On-Site | A |

Local Planning Policies Assessment

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

| | |
|--|----------|
| 3.7.5 Demolition | N/A |
| 3.7.6 Construction of New Buildings | A |
| 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 | A |
| 3.7.12 Pergolas | A |
| 3.7.13 Incidental Development Requirements | A |
| 3.7.14 Footpaths and Crossovers | A |
| 3.7.15-20 Precinct Requirements | A |

LOT 4 Unit 3

The proposed dwelling has been assessed under R12.5 of TPS3.

Town Planning Scheme No. 3 Assessment

| Scheme Provision | Status |
|-------------------------|---------------|
| 4.2 Zone Objectives | A |
| 4.3 Zoning Table | A |

Residential Design Codes Assessment

| Design Element | Required | Proposed | Status |
|-----------------------|------------------------|-----------------|---------------|
| Open Space | 55% | 60% | A |
| Outdoor Living | N/A | N/A | A |
| Car Parking | 2 | 2 | A |
| Site Works | Less than 500mm | 700mm | D |
| Overshadowing | 25% | Less than 25% | A |
| Drainage | On-Site | On-Site | A |

Local Planning Policies Assessment

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

LOT 5 Unit 4

The proposed dwelling has been assessed under R12.5 of TPS3.

Town Planning Scheme No. 3 Assessment

| Scheme Provision | Status |
|---------------------|--------|
| 4.2 Zone Objectives | A |
| 4.3 Zoning Table | A |

Residential Design Codes Assessment

| Design Element | Required | Proposed | Status |
|-------------------|------------------------|--------------|----------|
| Open Space | 55% | 64% | A |
| Outdoor Living | N/A | N/A | A |
| Car Parking | 2 | 2 | A |
| Site Works | Less than 500mm | 880mm | D |
| Overshadowing | 25% | On Driveway | A |
| Drainage | On-Site | On-Site | A |

Local Planning Policies Assessment

| LPP Residential Design Guidelines Provision | Status |
|---|----------|
| 3.7.2 Additions and Alterations to Existing Buildings | N/A |
| 3.7.3 Development of Existing Buildings | N/A |
| 3.7.4 Site Works | A |
| 3.7.5 Demolition | N/A |
| 3.7.6 Construction of New Buildings | A |
| 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 | A |
| 3.7.12 Pergolas | A |
| 3.7.13 Incidental Development Requirements | A |
| 3.7.14 Footpaths and Crossovers | A |
| 3.7.15-20 Precinct Requirements | A |

The following are the areas that Council previously exercised its discretion. For the purposes of this assessment, only the assessments under the Performance Criteria of the R-Codes and variations to the Town's other relevant policies are discussed below (extracts from the original report only), with inclusions to ensure the report is current. An additional section has also been included to address Condition 6 of the WAPC subdivision approval.

Heritage

The existing dwelling is listed on the Town's MHI as a C category dwelling. A Category C rating refers to properties involving "some heritage significance at local level" and that "places to be ideally retained and conserved". This is supported in this application by the retention of the dwelling. In practical terms, it is considered an effort should be made to allow a subdivision/ redevelopment of the subject lot to occur and include the retention of the dwelling.

Site Area Requirements

The proposed development has been designed to significantly comply with the minimum area for R30 densities, with the exception of Lots 3 and 4, which are only 10m² under the minimum lot size. As noted previously this application comprises the retention of the existing MHI listed dwelling and is based on four additional survey strata lots.

The Town Planning and Building Committee approved the original development at approximately an R40 coding in October 2014 with the proposed development modified and approved by Council in August 2015 at approximately a R30 density.

Whilst the proposed density is approximately R30, the proposed development has been designed to significantly comply at an R12.5 density, with the exception of the actual number of dwellings permitted on the lot and some minor development standard specifications as discussed in detail below.

Building Setback

Unit 1: Buildings on the boundary: 2 walls proposed with a nil setback.

Unit 2: Setback requirements for western wall: 1.5 metres required. 1.2 metres provided.

Unit 3: Setback requirements for western wall: 1.5 metres required. 1.2 metres provided.

Unit 4: Setback requirements for western wall (ground floor): 1.5 metres required. 1.2-1.65 metres setback provided. Setback requirements for western wall (first floor): 1.2 metres required. 1.98 metres provided.

With the exception of the western ground and first floor to unit 4, all other set back variations to the 'Deemed to Comply' provisions are internal and have no impact to adjoining properties or to the streetscape. The variations to the western boundary for unit 4 are considered minor and will not significantly impact on the western dwelling.

Overall the proposed setback variations are considered minor and will not significantly impact on the adjoining neighbours, the character of the heritage dwelling or on the streetscape. In all other respects the proposed dwellings to the Lots comply with the 'Deemed to Comply' set back requirements of the R-Codes. The proposed variations as detailed above are considered can be supported.

Overlooking / Privacy Requirements

A condition is included in the officer's recommendation to require the owner to screen the boundary to a height of 1.6 metres above altered ground level to provide appropriate screening to the northern neighbour's property (should there be appropriate screening to a height of 1.6 metres at the altered ground level from the boundary fence, no additional screening is required).

The 'Design Provisions' are considered to be adequately addressed, through the provision of screening of the lot boundary to a height of 1.6 metres and offsetting the location of windows so that viewing is oblique away from any habitable area. The recommendation for screening is considered to protect the neighbour's amenity and therefore it is considered the overlooking as conditioned can be supported.

Site Fill / Retaining Wall

It is proposed a retaining wall is required on the northern and southern boundaries to a maximum height of approximately 0.88 metres, reducing to 0.55 metres. A maximum excavation of 0.8 metres is also proposed.

The applicant is proposing to retain the rear garden areas to the dwellings and to excavate the driveway.

It is proposed to fill / grade to approximately a maximum of 0.88 metres to the rear of unit 4, reducing to 0.55 metres to unit 2 and no retaining wall required for unit 1. The proposed fill will establish new finished ground levels to the dwelling enabling a level pad / ground level for the dwelling, with both excavation and fill being proposed at equal heights.

The impact on the subject lot and adjoining lots is considered minimal, as the proposed fill only assists in establishing a suitable finished floor level for the foundations to the proposed dwelling. The proposed fill is staggered / graded and landscaping is proposed. As noted above, a condition has been included in the Officer Recommendation requiring suitable privacy screening to be provided.

It is considered the proposed fill / retaining wall significantly respects the natural ground level at the boundary of the site and the adjoining properties as viewed from the street. The proposed retaining wall is consistent with other retaining walls in the locality. It is considered the proposed fill suitably addresses the overall streetscape and is sympathetic with adjoining dwellings.

Roof Form and Pitch

The proposed primary roof pitches of the dwellings are 30° pitched roofs, consistent with the development requirements of the RDG. The rear of each of the dwellings has a 20° pitch. The roof form is significantly consistent in form with the surrounding dwellings. The rear single storey element of each of the dwellings is simplistic and reduces the overall scale, height and bulk of the dwelling to the northern properties.

WAPC Condition 6

Condition 6 of WAPC subdivision approval 1093-15 states the follow:

Dwellings being constructed to plate height on each of the proposed lots prior to the submission of the diagram or plan of survey (deposited plan).

The intent of this condition was to ensure the construction of the dwellings were constructed to 'plate height', which usually is the first stage inspection of a new dwelling undertaken (once brickwork has been completed to roof level). This was to ensure the project could not be subdivided (titles issued) prior to construction works to plate height being complete, therefore ensuring the development is substantially constructed and consistent with the approved plans. This condition restricts the development and subdivision of the property, without any practical benefit to the Town. The approved design, plan and heritage agreement of the property is still required to be complied with. The proposal will add to the Town's density in the area that is wholly consistent with the proposal.

Scheme Amendment No. 10 provisions to LPS No.3 stated that development of a higher density dual code of R40 could only occur if it was designed so that the dwellings could be developed concurrently, therefore Condition 6 as discussed above was included in the subdivision approval to ensure all dwellings were constructed concurrently. Scheme Amendment No. 10 was substantially modified by the Department of Planning, therefore the higher density dual code of R40 was not supported and deleted from the amendment. The condition is now unnecessary given the provisions of Amendment No. 10 were modified.

Additionally in the current economic environment where finance is difficult to obtain, it is considered this condition requiring the dwellings to be developed concurrently is overly onerous on the applicant. Whilst Council cannot consider directly the economics of a project, this condition is considered to add costs and complications to the project and is unnecessary. It is recommended that Council recommend to the WAPC that condition number 6 of WAPC approval 1093-15 be removed from the approved subdivision conditions. This is considered to have no significant impact to the Town.

Conclusion

The proposed development was previously approved by Council in August 2015. Mr Gauci has not been able to commence the project due unforeseen circumstance, however would like an extension to the

existing approval to enable the project be undertaken. Due to the scale of the development it is recommended the approval be extended for a further two years. There has been no material change in the legislative assessment requirements of the proposal since previously determined by Council, therefore there is no impediments to approving the extension of the development.

The proposed development variations ultimately comes down to one significant planning issue, that of density. As assessed above, the proposed development significantly complies with the R12.5 development standards, however the proposed four grouped dwellings and retention of the existing heritage dwelling does exceed the permitted density for the area.

The proposed impacts to adjoining neighbours are considered minimal as the development has been designed to significantly comply with the 'Deemed to Comply' provisions of the R-Codes and the Acceptable Development provisions of the RDG, except where outlined above. The proposed development is considered consistent with the adjoining R30 density developments to the north and south. Whilst Scheme amendment 10 has not been supported by the Department of Planning, the proposal does support the proposed future strategic intent of the zoning and redevelopment of the area.

Based on the previous Council approval it is considered the proposal can be supported, subject to similar conditions.

11.5 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP071018

Cr M McPhail moved, seconded Cr Nardi

That Council:

- (1) Grant an extension of time to the existing planning approval (DA P70/15) for the retention and restoration of an existing dwelling and the construction of four two storey dwellings situated at 41 (Lot16) Osborne Road, East Fremantle on the following basis and subject to the following conditions in accordance with the application plans date stamp received on 24 August 2015:**
 - (a) Prior to the issue of a Building Permit the existing dwelling at 41 (Lot16) Osborne Road is to be included on the Heritage List pursuant with clause 7.1.3 of TPS No. 3.**
 - (b) Prior to the issue of a Building Permit the land owner is to enter into a Heritage Agreement pursuant with section 29 of the Heritage of Western Australia Act 1990 in the form of words contained within the attached the draft agreement.**
 - (c) Prior to the issue of a Building Permit, a Landscape Plan, prepared by a qualified Landscape Architect, shall be submitted and approved by the Chief Executive Officer. The Landscape Plan shall include details of all plant species to be introduced and retained, a management plan for the installation and maintenance of all landscaped areas inclusive of adjacent street verge.**
 - (d) Any new crossover which is constructed under this approval is to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's RDG Policy all to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
 - (e) 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.**
 - (f) All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**

- (g) Screening to a height of 1.6 metres above the altered ground level is to be provided on the northern boundary, to ensure appropriate screening to the northern neighbour's property. Screening finish is to be by way of agreement between the affected property owners and at the applicant's expense. (Should there be appropriate screening to a height of 1.6 metres above the altered ground level from the boundary fence, no additional screening is required).
 - (h) Details of the materials, colours and finishes of the dwelling are to be provided at building permit application stage and approved by the Chief Executive Officer, in consultation with relevant Council Officers prior to the issue of a Building Permit.
 - (i) Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)
 - (j) 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.
 - (k) 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.
 - (l) 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.
 - (m) The proposed dwellings 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.
 - (n) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 - (o) 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.
 - (p) 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.
 - (q) This planning approval to remain valid for a period of 24 months from the date 2 May 2019.
- (2) Recommends to the Western Australian Planning Commission that it supports the removal/deletion of Condition No. 6 of WAPC approved Survey Strata Plan 1093-15 for the subdivision of No. 41 (Lot 16) Osborne Road, East Fremantle.

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 owner.*
- (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) In regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (vi) With regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (vii) The 'alfresco' areas may not be enclosed without the prior written consent of Council.*
- (viii) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (ix) 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 20 June 2017 this application deemed determined, on behalf of Council, under delegated authority.

Cr Natale declared a proximity interest in the following item as he resides at the rear adjoining property and left the meeting at 7.28pm.

11.6 Munro Street No. 3 (Lot 5059) – Additions and Alterations to Existing Dwelling, Including a Double Carport

| | |
|----------------------------|--|
| Applicant/Owner | G Young and C Terry |
| File ref | P/MUN3; P057/2018 |
| Prepared by | Christine Catchpole, Senior Planning Officer |
| Supervised by | Andrew Malone, Executive Manager Regulatory Services |
| Voting requirements | Simple Majority |
| Documents tabled | Nil |
| Meeting date | 2 October 2018 |
| Attachments | Nil |

Purpose

This report considers a development approval application for single storey additions and alterations to the existing dwelling, including a carport at No. 3 Munro Street, East Fremantle.

Executive Summary

The application involves additions and alterations to the existing residence, including the extension of the existing roof line toward the front property boundary to accommodate a double carport and porch in the front setback area.

The existing residence will be retained and modified internally. The roof structure to the rear outdoor living area will be refurbished to provide an undercover outdoor space and the unused carports to either side of the dwelling will provide an additional bathroom, pantry and storeroom. The extension of the existing roof line to the front of the property will provide a double carport, which will allow for the removal of the second crossover on the southern side of the property.

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

- Street front setback;
- Lot boundary setback;
- Building setbacks and orientation; and
- Location of carport.

The variations to the R-Codes and the Residential Design Guidelines can be supported with conditions of approval to ensure the heritage character and amenity of the site and streetscape is maintained. Development conditions in respect to prohibiting enclosure of the carport and patio, front fencing, crossover width, external roof fixtures and pool pump equipment are recommended.

Background

The existing dwelling was constructed c1958.

Consultation

Advertising

The application was advertised to surrounding land owners from 30 July to 7 August 2018. No submissions were received.

Community Design Advisory Committee (CDAC)

This application was referred to the CDAC meeting of 27 August 2018. The Committee made the following comments:

- (a) *The overall built form merits;*
- The Committee support the development on the basis of:
 - Retention of the existing house;
 - No enclosure of carport / installation of garage door;
 - Retaining heritage – Committee appreciates retention and any enhancements of existing features; and
 - Not setting a precedent for other carports or garages in the front setback.
- (b) *The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development.*
- Architectural design remains sympathetic to original design / character.
- (c) *The relationship with and impact on the broader public realm and streetscape;*
- The development is consistent with the existing streetscape.
- (d) *The impact on the character of the precinct, including its impact upon heritage structures, significant natural features and landmarks;*
- The Committee consider there is no significant change.
 - The Committee commented on the proposal not being disruptive to 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;*
- The Committee believe retention of existing features and dwelling will have a positive contribution in terms of sustainability.
 - Utilisation of the existing footprint of the building is encouraged.
- (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;*
- Committee considered carport obstructed passive surveillance.
 - The Committee suggest altering internal layout of store, kitchen and pantry to improve street surveillance.
 - Committee also suggest increasing side setback for rear access purposes. This may assist with storage and allow for effective internal layout.

Applicant response

In relation to item (f) the following information explaining why design choices have been made is provided.

- *Keeping the kitchen orientation the same as the original dwelling ensures passive surveillance and line of sight to pool area which we consider essential given our young family. The removal of internal walls allows for much better surveillance from what is the heart of the household, and potentially even from the rear of the property.*

- *As the current dwelling has no real eaves, we find this leads to reduced use of the front rooms and our front window blinds being closed to reduce glare and to provide privacy. The extended porch will address this issue.*
- *The reduction of the surveillance from the existing porch due to the relocation of the carport is more than offset by the new porch on the other side of the property as it is more useable and connected to an active/living space rather than a bedroom.*
- *Side setbacks are unchanged from the original dwelling given existing carports. Changes to the side setbacks would alter the roofline, potentially altering the front aspect and add cost to the project.*

Officer response

The applicant's response is considered reasonable in regard to addressing the CDAC comments and no further changes to the plans are considered necessary.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

Policy Implications

Town of East Fremantle Residential Design Guidelines 2016

Municipal Inventory – Category C - Post-World War II International style (c1958)

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

LPS 3 Zoning: Residential R17.5
Site area: 736m²

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 |

| Design Element | Required | Proposed | Status |
|---|---|----------------------------------|----------------------|
| Street Front Setback (minor incursion) | 5.0m | 3.0m | D |
| Lot Boundary Setback | North – 1.0m North (carport) – 1.0m South – 1.5m | 983mm 983mm 867mm | D D D |
| Open Space | 50% | 67% | A |
| Outdoor Living | 36 ² m | 144m ² | A |
| Car Parking | 2 | 2 | A |
| Site Works | Excavation or fill behind a street setback line ≤ 500mm | Compliant | A |
| Retaining Walls | Retaining walls set back from lot boundaries – 1.0 Retaining walls up to or within 1.0m of a lot boundary - <0.5m high | Compliant | A |
| Overshadowing | 25% | 5.6% | 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 | D |
| 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 | 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 | A |
| 3.7.18.3 Garages, Carports and Outbuildings | D |
| 3.7.15-20 Precinct Requirements | D |

| Building Height Requirement | Required | Proposed | Status |
|---|--|----------|--------|
| Building Height (RDG) (top of an external wall concealed roof) | 6.5m Roof pitch not greater than 5° | 3.356m | A |

The applicant has stated the following in support of the application:

“The existing residence will be retained and sympathetically updated and modified to provide a functional dwelling which meets modern needs and future requirements for the occupants. The reconfiguration of internal walls will open the north-facing street-side of the house and provide a second living space adjacent to the rear alfresco area. The roof structure to the rear outdoor living area will be refurbished to provide a quality undercover outdoor living space with strong connection to both these internal living areas.

Portions of the existing non-functional and unused undercover carports to either side of the dwelling will be infilled to provide an additional bathroom, pantry and storeroom. The extension of the existing roof line to the front of the property will provide a double carport, which will allow for the removal of the second crossover to the property. The roof extension will also provide a porch area which is north facing, adjacent to the living areas of the house and in keeping with the architectural character of the existing dwelling.”

The applicant is seeking Council discretion with regard to a number of provisions of the R-Codes and the Town’s Residential Design Guidelines. These matters are discussed below.

Street Front Setback - Minor Incursions (Porch)

The R-Codes allow for minor incursions into the setback for structures such as verandahs, porches, stairs and architectural features but these elements cannot protrude more than 1.0 metre into the setback area without Council approval. The porch will project an additional 2.0 metres into the setback area.

As noted above the CDAC supported the proposal, primarily because the existing dwelling was being maintained and the carport was not being enclosed. There are no objections to the proposed setback given it is not out of character with the design of the existing dwelling (forms an extension of the roof line of the residence) and is considered to comply with the ‘Design Principles’ of the R-Codes in that it is setback an appropriate distance to ensure maintenance of the established character, privacy and open space, accommodates utilities and landscaping and allows for services.

The proposal also complies with the Residential Design Guidelines in that additions and alterations are to match the existing front and side setbacks of the immediate locality. The proposed alterations and additions still present as a single storey house so the size and scale of the dwelling is not inappropriate.

The CDAC did not consider the alterations to detract from the streetscape. The façade is articulated, is considered to contribute positively to the streetscape and is not contrary to the development context of the area. The porch incursion into the street setback is therefore supported.

Lot Boundary Setbacks

The lot boundary setbacks of the dwelling are not fully compliant with the R-Codes as outlined in the above table. However, the non-compliance is minimal and is a result of the applicant wishing to retain the existing building setback on each side of the dwelling and use this space to extend the house (i.e. the unused carports). This is considered to be the best design outcome in terms of retaining the dwelling's heritage character and resulting in minimal change to the façade.

Building Setbacks and Orientation

Whilst the additions to the 'contributory' building under the Residential Design Guidelines do not meet the 'Acceptable Development Provisions' the 'Performance Criteria' are considered satisfied in that the addition is setback so as to not adversely affect its visual presence to the street, the side setbacks are complementary to the streetscape and the development is oriented to address the street.

The proposed side setback is determined by the existing roofline of the dwelling, with a portion of the existing unusable carports being infilled as outlined above. The proposal has no adverse effect on the amenity of the adjoining lot being only 2.2 metres high, with a floor level approximately 500mm below the adjoining property and under the existing roofline. The proposed wall height reduces the impact of building bulk on the neighbours. For similar reasons it does not impact views or ventilation.

Location of Carport

The application proposes the construction of a double carport to the front of the dwelling 3.0 metres from the front boundary. The Residential Design Guidelines require the carport to be setback 1.2 metres behind the building line. To comply with this provision and accommodate a double carport the existing façade of the house would need to be substantially altered; a change that would impact on the heritage elements of the dwelling and is not considered desirable. Existing single carports are located along each side of the dwelling as an extension of the main roof of the house. The carports are not used and it is intended to extend the residence into this space.

It is also noted that the proposed setback of the carport complies with Clause 5.1.2 of the R-Codes in that the setback of the carport is not further forward of the 50% street setback reduction allowed (i.e. 6.0m front setback required; carport setback 3.0m). It also complies with the other requirements for carports in the front setback in that there will be an unobstructed view between the dwelling and the street. The applicant's argument that the façade of the dwelling remains the dominant element from the street and that the 'framing' of the carport reflects that of the original dwelling as does the pitch of the roof is supported.

The carport will sit well with the original dwelling in that it will be constructed with the same materials and roofing as the dwelling and have the same pitch as the existing roof. Also, the width of the verge at approximately 7.0 metres somewhat compensates for the carport being forward of the main building line as it provides greater 'green' space and increases the distance between the carport and the street. For this reason conditions are recommended which prevent side enclosure, gates or a garage door being installed.

Number of crossovers

The application is proposing one crossover of a compliant width, whereas two crossovers are currently in place. The applicant is proposing to remove the crossover on the southern side. It is therefore considered

necessary to impose conditions to ensure the redundant crossover is removed, the verge reinstated and the crossover to be retained to be constructed to the correct width.

Conclusion

The Richmond Hill Precinct comprises dwellings of various scales and built forms. Many are two storey and comprise large homes. Properties in the area are characterised by the dwellings oriented to obtain river and city views. The application in regard to the subject site does not follow this pattern but is to be retained as a single storey. In doing so it complies with most of the R-Code and Town's Residential Design Guidelines provisions with the exception of the porch and carport being closer to the street front boundary and the side boundary setbacks than permitted.

Extending the living space on the ground level toward the side boundaries has required that the carport be constructed within the front setback area. This same area is already used to park vehicles on a section of hardstand. The design of the porch and carport is in keeping with the roof line of the existing dwelling and neither is enclosed. This maintains an open façade which is considered to not have a negative effect on the amenity of the neighbouring properties or result in a detrimental impact on the streetscape. However, it will make a positive contribution to the streetscape character by the removal of an additional crossover. The activation of the front facade with additional street facing windows and an additional undercover outdoor porch area to the front of the property is also of benefit. All other additions and alterations are to the rear and not visible from the street.

The variations can be supported with conditions of approval to ensure the heritage character and amenity of the site and area is maintained. Development conditions in respect to prohibiting enclosure of the carport, garage door, roof installations, front fencing, crossover width, external fixtures and pool pump equipment are recommended to ensure the proposal complies with the requirements of the R-Codes and the Residential Design Guidelines.

11.6 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION 081018

Cr Nardi moved, seconded Cr White

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

- (i) Clause 5.1.2 – Street Setback of the Residential Design Codes of WA to permit a street setback of less than 6.0 metres and a minor incursion of less than 5.0 metres;**
- (ii) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a lot boundary setback of less than 1.0 metre for the northern boundary and 1.5 metres for the southern boundary;**
- (iii) Clause 3.7.7.3 – Building Setback and Orientation of the Residential Design Guidelines to permit an addition to a contributory building to be less than the front setback of the immediate locality and have a setback less than 100mm from the primary frontage of the existing building; and**
- (iv) Clause 3.7.17.3 – Garages, Carports and Outbuildings of the Residential Design Guidelines to allow a carport to be setback less than 1.2m behind the building line,**

for additions and alterations to the existing dwelling, including a double carport at No. 3 (Lot 5059) Munro Street, East Fremantle, in accordance with the plans date stamped received on 27 June 2018, subject to the following conditions:

- (1) No enclosure of the carport on any side and no installation of a garage door or gate to the front or side of the carport.**
- (2) No enclosure of the porch on any side with permanent or temporary devices.**

- (3) No external fixtures, fittings, satellite dishes, telecommunication devices, solar collectors, solar hot water systems or appliances, or the like to be installed on the roof of the dwelling or carport without further Council approval.
- (4) The crossover width not to exceed 5.0 metres and to be in accordance with Council's crossover policy as set out in the Residential Design Guidelines 2016 (as amended).
- (5) The redundant crossover on the southern side of the lot to be removed. Refer to condition 6.
- (6) In cases where there is an existing crossover which is redundant the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council.
- (7) If requested by Council within the first two years following installation, the Colorbond 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.
- (8) If pool filter and pump equipment is to be relocated it is to be located a minimum distance of 1.0 metre away from all other boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
- (9) 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.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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.
- (14) 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.
- (15) 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) *If front fencing is proposed a fresh development application is to be submitted for Council's consideration.*
- (ii) *This decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iii) *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.*
- (iv) *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.

- (v) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (vi) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (vii) 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 20 June 2017 this application deemed determined, on behalf of Council, under delegated authority.

Cr Natale returned to the meeting at 7.30pm and it was noted that he did not participate in the discussion nor vote on the above item.

11.9 Petra Street, No. 55 (Lot 1) – Second Storey Additions and Alterations to a Grouped Dwelling

COMMENT

The above item was deferred to a subsequent Committee meeting pending approval being received from adjoining Strata Owner at 55A Petra Street.

11.9 Petra Street, No. 55 (Lot 1) – Second Storey Additions and Alterations to a Grouped Dwelling

COMMENT

The above item was deferred to a subsequent Committee meeting pending approval being received from adjoining Strata Owner at 55A Petra Street.

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 7.30pm.

I hereby certify that the Minutes of the ordinary meeting of the Town Planning Committee of the Town of East Fremantle, held on 2 October 2018, Minute Book reference 1. to 14 were confirmed at the meeting of the Committee on:

..... 6/11/18



Presiding Member