



AGENDA

Town Planning & Building Committee

Tuesday, 5 March 2019 at 6.30pm

Disclaimer

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

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

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

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

Copyright

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

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

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

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

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

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

A Deputation invited to attend a Council meeting:

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

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

Procedure for Presentations

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

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

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

Procedure for Public Question Time

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

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

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

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

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

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

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

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NOTICE OF MEETING

Elected Members

An Ordinary Meeting of the Town Planning Committee will be held on Tuesday, 5 February 2019 at East Fremantle Town Hall, 135 Canning Highway, East Fremantle commencing at 6.30pm and your attendance is requested.

GARY TUFFIN
Chief Executive Officer

28 February 2019

AGENDA

1. DECLARATION OF OPENING OF MEETING/ANNOUNCEMENTS OF VISITORS

2. ACKNOWLEDGEMENT OF COUNTRY

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

3. RECORD OF ATTENDANCE

3.1 Attendance

3.2 Apologies

3.3 Leave of Absence

4. MEMORANDUM OF OUTSTANDING BUSINESS

5. DISCLOSURES OF INTEREST

5.1 Financial

5.2 Proximity

5.3 Impartiality

6. PUBLIC QUESTION TIME

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

6.2 Public Question Time

7. PRESENTATIONS/DEPUTATIONS

7.1 Presentations

7.2 Deputations

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

8.1 Town Planning and Building Committee (5 February 2019)

8.1 OFFICER RECOMMENDATION

That the minutes of the Town Planning and Building Committee meeting held on Tuesday 5 February 2019 be confirmed as a true and correct record of proceedings.

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

10. REPORTS OF COMMITTEES

Nil.

11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)

11.1 Hubble Street No 38 (Lot 199) - Subsequent approval of verandah enclosure

Owner	Graeme Lillis
Applicant	Hartree and Associates Architects
File ref	P009/19; HUB38
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	5 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Location plan2. Photographs3. Place Record Form4. Plans date stamped 1 February 2019

Purpose

This report considers a planning application for a verandah enclosure to include a bathroom and scullery subsequent to the development at No 38 (Lot 199) Hubble Street, East Fremantle.

Executive Summary

The applicant is seeking Council approval for a verandah enclosure subsequent to the development. The works have already been completed.

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

Background

Zoning: Residential R20
Site area: 506m²

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

Development application P54/16 – 21 July 2016 – alterations, additions and granny flat
Building Permit 201652 – 20 October 2016 – alterations and additions to existing residence

Consultation

Advertising

The application was supported by the northern neighbouring property at 36 Hubble Street.

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC.

Statutory Environment

Planning and Development Act 2005
Residential Design Codes of WA
Town of East Fremantle Local Planning Scheme No. 3 (LPS No. 3)

Policy Implications

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

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the proposed development resulting in a SAT appeal	Possible (3)	Moderate (3)	Moderate (5-9)	COMPLIANCE Some temporary non-compliances	Accept Officer Recommendation

Risk Matrix

Consequence Likelihood		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	9
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6m	11.4m for verandah enclosure	A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
<u>North</u>	1.0m	1.2m	A
<u>East</u>	1.0m	23m	A
Open Space	50%	>50%	A
Building Height			

Wall height	6m	2.9m	A
Roof height	9m	4.9m	A
Setback of Carport			N/A
Primary street setback			N/A
Car Parking	2	2	N/A
Site Works	Less than 500mm		N/A
Retaining Wall	Less than 500mm		N/A
Overshadowing	≤25%	18.5%	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	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	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
3.7.16.4.3.3 Fremantle Port Buffer Area	N/A
3.7.17.3.3 Garages and Carports	N/A
3.7.17 Precinct Requirements	D

Heritage

The subject property is listed as Category C property on the Municipal Heritage List. The works are considered to have no significant heritage impact.

Comment

The previous development application P054/16 involved the approval of alterations, additions and a granny flat. The approved plans included a wall on the western end of the northern verandah to provide shelter for a barbeque area. Subsequent to this the northern verandah of the subject property was enclosed to create more area for a modified ensuite and a scullery. This was not included in the original development approval.

It is noted that the northern neighbouring property owner at 36 Hubble Street provided a signed statement supporting the development.

The works have had no impact on the setback behind the established building line or the heritage qualities of the dwelling and have had minimal impact on the aesthetics of the building. The development has utilised an existing dwelling with existing setbacks from the front boundary. The wall at the end of the verandah has been moved 1.8m towards the street and is approximately 12m behind the front boundary. The existing dwelling verandah is setback 6m from the front boundary. The properties north and south of the subject property are approximately 2.2m and 6m respectively from the front boundary. In place of what was proposed to be a rubbish bin storage area it is now the wall of the ensuite, and rather than

having a blank wall there is now a window that is considered an improved outcome. This is all located under the previously approved verandah area.

Although the full enclosure of the verandah did not have approval it is compliant with both the Residential Design Codes and the Residential Design Guidelines and for this reason is supported.

The approval of the application for development approval subsequent to works being carried out is at the discretion of Council.

Conclusion

The development application is recommended for approval subject to conditions.

11.1 OFFICER RECOMMENDATION:

That Council exercises its discretion in regard to granting subsequent approval for the enclosure of the verandah and the addition of a bathroom and scullery within this verandah at No. 38 (Lot 199) Hubble Street, East Fremantle, in accordance with the plans date stamped received 1 February 2019, subject to the following conditions:

- (1) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (2) The Building Permit issued shall be in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (3) With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
- (4) All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (5) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (6) 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.
- (7) This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- (ii) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (iii) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (iv) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (v) matters relating to dividing fences are subject to the Dividing Fences Act 1961. under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – "An Installers Guide to Air Conditioner Noise".*

NO. 38 (LOT 199) HUBBLE STREET – P009/19- RETROSPECTIVE VERANDAH ENCLOSURE – CATEGORY C



● Signed off



PLACE RECORD FORM



PRECINCT	Plympton
ADDRESS	38 Hubble Street
PROPERTY NAME	N/A
LOT NO	Lot 199
PLACE TYPE	Residence
CONSTRUCTION DATE	C 1895 and modified Post-World War II
ARCHITECTURAL STYLE	Adapted Federation Bungalow
USE/S	Original Use: Residence/ Current Use: Residence
STATE REGISTER	N/A
OTHER LISTINGS	N/A
MANAGEMENT CATEGORY	Category C
PHYSICAL DESCRIPTION	<p>No 38 Hubble Street is a single storey cottage constructed in rendered masonry with a hipped tiled roof. The place is an example of a Federation Bungalow adapted in the Post-World War II period. It is asymmetrically planned with a thrust bay and part width skillion roofed verandah. The verandah is supported on timber posts. The entrance has been relocated to the side of the thrust bay. The thrust bay features a sliding window. Almost all openings have been re-worked to include casement and picture windows.</p> <p>There are additions to the rear.</p>

	The place is consistent with the pattern of development in Plympton and plays an important role in the pattern of development of a working class suburb.
HISTORICAL NOTES	Plympton is a cohesive precinct where most of the places were constructed in the late nineteenth century and the first quarter of the twentieth century. It is comprised primarily of homes for workers and their families with a high concentration of small lots with timber, brick and stone cottages.
OWNERS	Unknown
HISTORIC THEME	Demographic Settlements - Residential Subdivision
CONSTRUCTION MATERIALS	Walls - Rendered masonry Roof - Tiles
PHYSICAL SETTING	The house is on a near flat site and has a post rail and chain-link fence on the lot boundary.
STATEMENT OF SIGNIFICANCE	No 38 Hubble Street is a single storey house constructed in rendered masonry with a tiled roof. The place has historic and aesthetic value with its contribution to Plympton's high concentration of worker's cottages and associated buildings. It contributes to the local community's sense of place. The place has some heritage value for its intrinsic aesthetic value as an adapted Federation Bungalow and it retains a moderate to low degree of authenticity and a high degree of integrity. The rear additions have no significance.
AESTHETIC SIGNIFICANCE	No 38 Hubble Street has some aesthetic value as an adapted Federation Bungalow. It retains the basic characteristics of the period with considerable loss of detail.
HISTORIC SIGNIFICANCE	No 38 Hubble Street has some historic value. It was part of the suburban residential development associated with the expansion of East Fremantle during the Goldrush period of the 1880s and 1890s.
SCIENTIFIC SIGNIFICANCE	N/A
SOCIAL SIGNIFICANCE	No 38 Hubble Street has some social value. It is associated with a significant area of worker's cottages which contributes to the community's sense of place.
RARITY	No 38 Hubble Street is not rare in the immediate context but Plympton has rarity value as a working class suburb.
CONDITION	No 38 Hubble Street is in good condition.
INTEGRITY	No 38 Hubble Street retains a high degree of integrity.
AUTHENTICITY	No 38 Hubble Street retains a moderate to low degree of authenticity.
MAIN SOURCES	

11.2 King Street No. 67 (Lot 328), East Fremantle – Home Occupation (child and adult art, massage and meditation services)

Applicant	K Neville
Owner	K Neville and M Collins
File reference	P/KIN67
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	5 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Location Map2. Photographs3. Place Record Form4. Plans and information date stamped received 14 and 25 January 2019

Purpose

This report deals with an application for a home occupation for child and adult art, meditation and massage services at No. 67 King Street, East Fremantle.

Executive Summary

An application for a home occupation for child and adult art, massage and meditation services is proposed for the above site. Some of the services are already in operation on the site and others will be introduced if the application is approved by Council.

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

- impact on residential amenity (level and frequency of business activity);
- number of people attending the site at any one time and traffic implications;
- adequacy of available car parking; and
- length of planning approval.

The application was advertised to surrounding land owners. Four submissions objecting and four in support of the application have been received.

This type of application is not strictly in keeping with the definition of a home occupation. It will occupy an area greater than 20m² and the parking demand is likely to be for a greater number of bays than would normally be required for a single dwelling. It is difficult to assess the impact on amenity because it cannot be determined how many clients will walk to the site or require parking. Similarly, the degree of activity on the site is also difficult to assess in relation to its appropriateness for a residential area. If the application is approved it is likely that the activity levels will increase beyond what would normally be the case for a residential lot.

It is therefore recommended that Council exercise caution in approving a home occupation that does not strictly comply with the Planning Scheme requirements and is reliant on clients accessing services as individuals and groups, as opposed to a sole operator with no clients attending the site. It is therefore recommended that a conditional temporary approval for six (6) months be considered. If there are no issues arising from the use of the property, under the conditions imposed which restrict the number of

clients and hours and days of operation then the applicant will have the opportunity, at the end of the six (6) month period, to make another application for continuation of the home occupation. At which time further advertising will occur and feedback from the nearby residential properties can be obtained.

Background

Zoning: Residential R20

Site area: 508m²

The applicant has provided information in support of the application date stamped received 14 and 25 January 2019 which is noted below:

"This cover letter is to accompany an occupancy application for First Breath Art and Wellbeing to deliver services from the residence of 67 King Street, East Fremantle.

First Breath Art and Wellbeing was founded by Karen Neville. Karen is a myotherapist, coach, healer, artist and child and adult mindfulness and meditation teacher. Karen has experience in the industry for over 30 years delivering community based Early Childhood programs for Fremantle Hospital, Fremantle and Cockburn Councils as well as delivering wellbeing services in the private medical sector.

Karen's passion is community focused and she develops programs that bring women and their families together to learn skills to better manage our very fast daily lives.

First Breath Art and Wellbeing is a successful owner operated business that creates a space that helps members of the community to deeply relax and de-stress. Whether that is with massage, healing, balancing, coaching, visualisation, relaxation and meditation, or playful and mindful art dives.

First Breath currently provides the following services within the local community:

- *Pregnancy and Baby Massage*
- *Remedial and Relaxation Massage (Mon to Fri 8am-5pm; Sat 8-12am; 1 client per visit)*
- *Wellbeing Groups and Classes*
 - *Adult Meditation Classes at East Fremantle Primary School*
 - *Children's Mindfulness and Art Program's for East Fremantle Primary School children (Mon and Wed 3-5pm; Groups of up to 10 children):*
 - *Little Buddha's (girls years 1-6)*
 - *Dreaming Dragon's (boys years 1- 6)*
- *First Breath Community Fairy Garden Verge Program (over 30 gardens now in Plympton Ward).*
- *One off art and meditation (9.30am – 4.30pm; groups of 5). Please take into consideration that the art and meditation services are all within the local community so there is little to no road traffic.*

The majority of First Breath services are run during business hours with some individual services flowing into Saturday morning up until lunch time. All massage services are provided to local women and their families, in a one to one treatment environment and children's mindfulness classes start with Karen collecting the children from EFPS and walking them to her residence for an afternoon of art, meditation, conversation, fun and games. Parents can often be seen walking to Karen's to collect their children at the end of each class.

The residence, 67 King Street, has capacity to accommodate up to four cars - two off street car parks in the residential driveway and two further vehicles could park at the front of the house."

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

Nil in respect to this application

Consultation

Advertising

The proposed application was advertised to surrounding land owners from 25 January to 11 February 2019. Four submissions objecting to the proposal have been received. The objections are summarised below:

- Parking and traffic demand - insufficient parking and the business will generate additional traffic. The applicant has not factored their own parking requirements into consideration;
- The applicant relies on street parking – this is not available for clients as there is limited parking in the street;
- Business scale and intensity - not in keeping with the definition of a home occupation under LPS 3 (parking requirements and operating area of greater than 20m²). A business is currently operating at the site utilising the garden and the recently approved studio. The business currently operates elsewhere; not in a Residential zone;
- Current parking and traffic issues - already evident within the Plympton Precinct and King Street. George Street businesses utilise King Street for parking; and
- The proposal will set a precedent for other similar businesses – which are not suited to a Residential zone.

Four submissions in support of the application have been received. These are not from land owners whom were invited to comment on the proposal but from existing clients who have commented on the individual and community benefits of the services offered. Amongst other comments these submissions express the opinion that parking and traffic are not currently issues in the immediate area and are unlikely to eventuate.

Applicant response

Parking

Parking: In relation to vehicles and parking, the proposed business/ home occupation, does not result in (i) the requirement for a greater number of parking facilities than normally required for a single dwelling, or (ii) an increase in traffic volume in the neighbourhood.

This statement is based on the fact that the proposed remedial massage and wellbeing side of the business purely caters for individual clients at any one time, with appointment spacing allowing for clients to leave the premises prior to the next client arriving, therefore negating any adverse effects from vehicle movement and noise.

The children's mindfulness through art and play runs two afternoons per week, for one hour each afternoon, only during the school term. As I walk with the children from East Fremantle Primary School, there is no increase in traffic volume that would immediately and adversely impact neighbours. When the children are being collected at finish time, there are only two parents that regularly use their vehicles. The other families walk to and from our residence.

The Children's programs meet the day to day needs of local families within Plympton's community and improves the vibrancy of the residential environment and Town as a whole. There are 4 parking bays - 2 off street and 2 on street. Our vehicle is normally parked in front of our residence, as per the majority of residents in King Street.

The statement that no car has been parked in our driveway for several years is incorrect. The statement that our driveway exists behind a closed gate is correct. The statement that our driveway contains a number of items, including a fridge is correct. However, to clarify, our driveway/residence is not a retail outlet for dog food. There is a collection point for organic dog food at our home, as a convenience residents in the local community. Up until two years ago, the previous collection point was 70 King Street.

Our neighbours are correct in stating the clients are local and walk to our premises. First Breath provides services appropriate to the needs of the local community. All the children in the Little Buddha's and Unicorn classes are enrolled at East Fremantle Primary/Prep School in order to attend the classes. As stated previously, there are only two parents that regularly use their vehicles to collect their children. All of the other families walk to and from our residence. First Breath advertising is word of mouth within the community.

We disagree with the statements above, in relation to 'high street parking pressure and flow on effects from George Street businesses' and that 'pressure' is predicted to increase with the growth of further businesses'. King Street, in between George and Marmion Streets has approximately 52 residences, of which 3 do not have off street parking. All other residences have at least one off street car parking bay, with 30 residences have 2 or more off street car parking bays.

If granted, this business will favourably affect the amenity of the neighbourhood by meeting day to day family needs. The business will also contribute to the improvement of street security for King Street Residents without resulting in the requirement for a greater number of parking facilities or an increase in traffic volume and noise in the neighbourhood as the business is limited in scale.

It is our understanding, that there are numerous home occupancy agreements in the Plympton residential area that meet East Fremantle Council strategic objectives for being small business friendly and for making our community more 'sustainable, "locally" focused and easy to do business with'. First Breath is aligned with council objectives and has a strong local community focus.

Scale of Activities

In reference to the occupation of space, the massage and meditation side of the business is in line with the home occupancy requirements. However, the children's 'Little Buddha's' program, combines inside and outside activities, depending on the children's needs on the day. The first half of the one hour 'Little Buddha' class is held as per the requirements Schedule 1 clause 1.7.2 page 46 (c).

The second half of the program, the children may participate in an activity which is held within the confines of the pergola area or back garden.

Apart from Little Buddha classes, all other First Breath services would be delivered from within the room alongside of our driveway as indicated in the application and in keeping with the requirements of home occupancy. Given I am dealing with clients on a one to one basis, there is no need to occupy an area greater than 20 square metres.

The first part of the above statement is incorrect. Other than Little Buddha in term children's classes, there are no First Breath children's workshops or First Breath adult painting events held at our residence.

We do not understand the relevance of the last sentence in the above statement that we are constructing a new art studio."

As previously stated, the majority of First Breath business is with individual clients (on a one to one basis), with appointment spacing allowing for clients to leave the premises prior to the next client arriving, negating any significant adverse effects from vehicle movement, noise and car parking.

Community Design Advisory Committee

The application was not referred to the Advisory Committee as the proposed home occupation is considered to have no impact on the streetscape or the heritage elements of the site.

Statutory Environment

Planning and Development Act 2005

Town of East Fremantle Local Planning Scheme No. 3

LPS No. 3 - Heritage List

Policy Implications

Municipal Heritage Inventory – Category B – Federation Bungalow

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

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

3.1.2 Plan for a mix of inclusive diversified housing options.

3.2 Maintaining and enhancing the Town's character.

3.2.1 Ensure appropriate planning policies to protect the Town's existing built form.

3.3 Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.

3.3.1 Continue to improve asset management practices.

3.3.2 Optimal management of assets within resource capabilities.

3.3.3 Plan and advocate for improved access and connectivity.

Natural Environment

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

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

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

4.1.2 Plan for improved streetscapes parks and reserves.

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the development application	Unlikely (2)	Minor (2)	Low (1-4)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

Consequence \ Likelihood		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	4
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

February 2019. However, an inspection will be undertaken by the Town's Environmental Health Officer if an approval is granted and prior to the home occupation use commencing.

Comment

Statutory Assessment

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

The applicant is seeking approval for a home occupation for child and adult art, meditation and massage services. The home occupation involves massage appointments available from 8am - 5pm Monday to Friday and 8am to 12pm Saturday mornings. Well-being classes and groups of 10 children two afternoons per week and one-off groups of 5 adults from 9.30am - 4.30pm time slots (number of groups and days of the week not stated). It is intended that the business will be operated on a sole trader basis and that no other staff from outside the residence will be employed. The massage will take place in a dedicated room within the house and the garden and patio will be used for the other activities listed above. Some of the activities mentioned are already in operation on the site and the others will commence if approval is granted.

A Home Occupation is classified as a "P" use in the Residential zone, which means:

"means that the use is permitted by the Scheme providing the use complies with the relevant development standards and requirements of the Scheme." (LPS No. 3, sub-clause 4.3.2)

The following table provides compliance details in relation to Home Occupation use as defined under Local Planning Scheme No.3.

Home Occupation - Required	Comment
Does not employ any person not a member of the occupier's household	Employees are all within the household.
Will not cause injury to or adversely affect the amenity of the neighbourhood	Potential to impact on neighbourhood. However, conditions relating to days/hours of operation of the business and number of clients at any one time are recommended to be imposed.
Does not occupy an area greater than 20 square metres	Occupies area of the site that is greater than 20m ² . Use of room within the dwelling, patio and garden.
Does not display a sign exceeding 0.2 square metres	Condition applied.
Does not involve the retail sale, display or hire of goods of any nature	Condition applied.
In relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2	It is anticipated there will be vehicle movements that are greater than that anticipated for the recognised daily number of vehicle movements for a residential site within a Residential zone.

tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles;	<p>Driveway parking does not meet Australian Standards for width of car bays and vehicle access.</p> <p>Street parking directly in front of the house for one car is available.</p> <p>R-Code requirement for parking = 1 bay (within 250m of a high frequency transport route).</p>
Does not involve the use of an essential service of greater capacity than normally required in the zone;	Complies.

The proposed home occupation which incorporates a number of services and clients attending the site, as outlined above, is considered to have the potential to result in additional traffic and parking pressures in the street. It is also possible that noise and disturbance for neighbours might increase as a result of the activities proposed and an increase in the number of people visiting the site. The matters of concern are discussed below.

Parking

In accordance with Australian Standards for on-street parking bays parallel to the kerb, the lot has space for one vehicle to be parked on the street directly in front of the property. Plans submitted for a recently issued Building Permit (studio) indicate the driveway is ~2.8 metres wide. This is not wide enough to park vehicles and open vehicle doors because there are obstructions either side of the driveway. Also, the driveway does not meet current minimum recognised standards for driveway widths. The owners can use the driveway and the on-street bay directly in front of the property, however the driveway cannot be included in the parking bay assessment for the home occupation use because it does not meet standard parking bay dimensions as required under LPS No. 3. For practical purposes the occupants of the house may be able to use the driveway as their vehicle size allows and they only require access from one side of a vehicle. This cannot be assumed to be the case for clients driving to the site. It is very unlikely visitors to the site will use the driveway given its narrowness and if the gates are mostly kept closed. The driveway can be considered to provide parking for the residents only. It is therefore, likely that visitors/clients will look for parking in the street. As noted only one bay in front of the site can reasonably be argued to be available for clients/visitors to the site as other residents and resident’s visitors should also have access to street bays. The number of clients proposed at various times clearly exceeds the number of bays that can be provided.

Traffic and vehicle movements

Furthermore and related to parking demand is traffic generation from the site. Traffic engineering industry guidelines estimate that residential properties experience 10 vehicle movements a day. If the home occupation was to operate with massage and meditation clients each week day and on a Saturday between the hours stipulated, in conjunction with the other activities proposed and the normal residential activities of the household, 10 vehicle movements per day would be exceeded. The applicant has argued that most clients will walk, however whilst this may be the case now there is no guarantee this will continue and that all new clients will walk to the site. The Town cannot monitor or control travel to the site. The total number of traffic movements of the residence and the home occupation would also increase the pressure on traffic in the area in general and on parking demand.

Operation of home occupation

If the applicants use the driveway for parking then it is important that clients do not occupy the bays that may be required by other residential visitors to the street. In light of the existing parking pressures in the precinct, the limited number of bays available on and off-street and the comments from neighbours it is recommended that the number of clients for massage and meditation services be limited to four (4) per day with only one (1) client on the premises at any one time. A maximum of four (4) clients per day in conjunction with the other activities planned on some days (groups of 5 or 10 persons) can be trialled in the six (6) month approval period. This is only considered reasonable because some of the activities have already been operating on site, without any complaints to the Town and the applicants claim that most clients and children walk to the site. However, the introduction of additional services by appointment could result in a detrimental impact on resident amenity if clients drive rather than walk to the property. The Saturday appointments will also add to the number of people and cars in the area. Clients on this day should also be trialled with a maximum of two (2) clients only for a half-day session. The applicant should also be advised that failure to comply with the above conditions of this approval, or if the activity causes a nuisance or annoyance to owners or occupiers of land in the neighbourhood, Council may revoke its approval of the home occupation.

Trial period

During the six (6) month trial period the impact of the number of clients per day, group sessions along with vehicle parking, noise, vehicle movements and days and hours of operation can be monitored. A review of the home occupation after six (6) months will assess impact on neighbours and street parking through the advertising process and submissions received. This will determine whether the number of clients per day, hours and days of operation for the massage and meditation, in addition to the currently operating children's group and proposed adult group classes are acceptable and whether renewal of the home occupation is appropriate in the first instance, or requires even further restrictions.

It is therefore recommended a restriction be placed on the hours and days that individual clients can be treated for massage and meditation. It is recommended that the days be restricted to Monday to Friday between 9.30am and 4.00pm and on Saturdays between 9.00am and 1.00pm with no services available on Sundays or Public Holidays. This is so traffic movements do not coincide with peak hour work and school movements and so that there are no commercial activities on Sundays and Public Holidays when pressures from the George Street commercial strip are also likely to be greater. The group activities for children should also be confined to that stated in the applicant's additional information; Monday and Wednesday from 3.00pm to 5.00pm and of no more than 10 children per group session. Similarly, the adult group sessions should be for no more than 5 persons per session and are to operate within the days and hours stipulated for individual client massage and meditation services. Only one adult group session per day is permitted.

Conclusion

Home occupations are uses that are generally only permitted in Residential zones when they are considered to be very low scale activities that will not bring about any noticeable change to resident amenity or parking demand. If it is considered possible that there may be impacts that are unreasonable for existing residents then it is considered necessary to proceed with caution in regard to granting approval. Conditions of approval which restrict the scale and intensity of the commercial activity are usually applied. A trial period with ability to revoke the approval is considered warranted in this circumstance. This will allow Council to receive feedback on the operation of the home occupation under the conditions imposed by Council rather than on the basis of the business operating without formal Council approval. A number of conditions in respect to the number of individual clients and group sessions

per day, hours/days of operation, parking, signage and other standard planning and environmental health conditions are also recommended to be imposed.

It is considered a six (6) month approval period is warranted so that the home occupation can be closely monitored for any negative impacts, particularly given the concerns expressed by neighbours. As this proposal is within a Residential zone which is already subject to parking and traffic pressures and has dwellings located in close proximity it is considered important that caution be applied to home occupation approvals of this nature and that renewals be required rather than being granted on a permanent basis. If the home occupation does not operate as the applicant has specified and in strict accordance with the conditions imposed by Council then the approval may be revoked by Council.

11.2 OFFICER RECOMMENDATION:

That Council exercises its discretion in regard to granting approval for a home occupation (child and adult art, meditation and massage services) at No. 67 (Lot 328) King Street, East Fremantle in accordance with the plans date stamped 14 January 2019 subject to the following conditions:

- (1) Approval is for a temporary period of six (6) months only from the date of this development approval.**
- (2) Continuation of the home occupation use after the six (6) month approval period has expired will require the submission of a new development approval application for Council's consideration.**
- (3) The applicant is to comply with the Medicines and Poisons Act 2014.**
- (4) A copy of the massage qualification is to be forwarded to Council within 14 days of the date of the Council development approval being issued.**
- (5) The premises are to be inspected by the Town's Environmental Health Officer prior to the business operating and annually thereafter should a further planning approval be granted following the six (6) month initial approval period.**
- (6) Only four (4) individual clients for massage and meditation per day are permitted from Monday to Friday between the hours of 9.30am to 4.00pm and on Saturdays between the hours of 9.00am to 1.00pm.**
- (7) Only one (1) client vehicle may be parked at the premises at any one time.**
- (8) Only one (1) client for individual massage and meditation appointments may be on the premises at any one time.**
- (9) The hours and days of operation for the adult group sessions are as per the individual client hours as specified in condition 6 above and the groups are not to exceed five (5) adults per session with no more than one (1) group session per day.**
- (10) The hours and days of operation of the children's group classes are Monday and Wednesday only from 3.00pm to 5.00pm with the groups not exceeding 10 children per session and only one (1) group session per day.**
- (11) The home occupation is not to operate on Sundays or Public Holidays.**
- (12) The applicant will be the sole provider of the services.**
- (13) The home occupation is not to occupy any other area of the dwelling other than the room indicated on the plan, the rear garden and patio date stamped received 14 January 2019.**
- (14) No signage shall be displayed exceeding 0.2 square metres.**
- (15) The home occupation shall not employ any person who is not a member of the occupier's household.**
- (16) The home occupation approval is valid for a period of six (6) months only from the date of the "Approval to Commence Development" and the applicant is required to seek a renewal thereafter to enable the continuance of the home occupation. During the review of the**

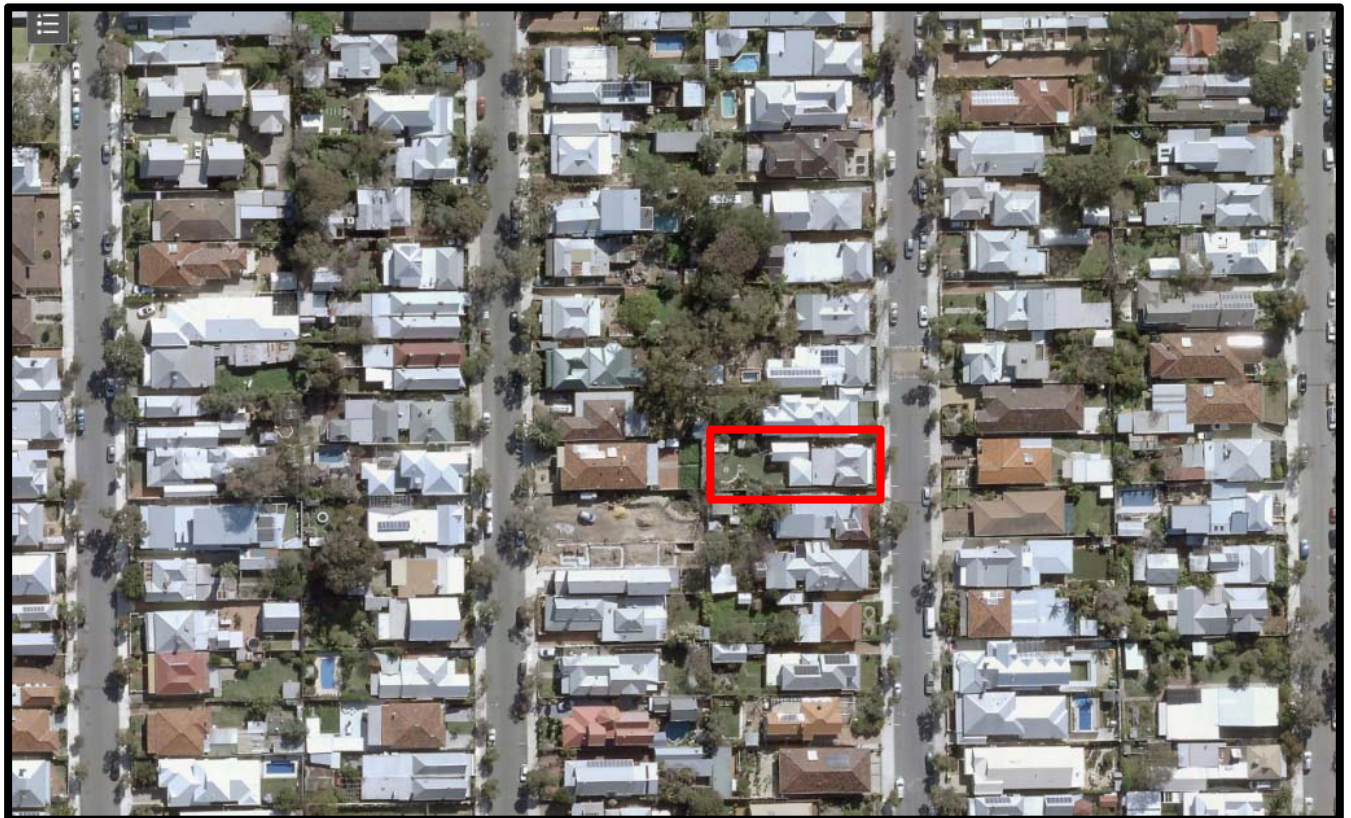
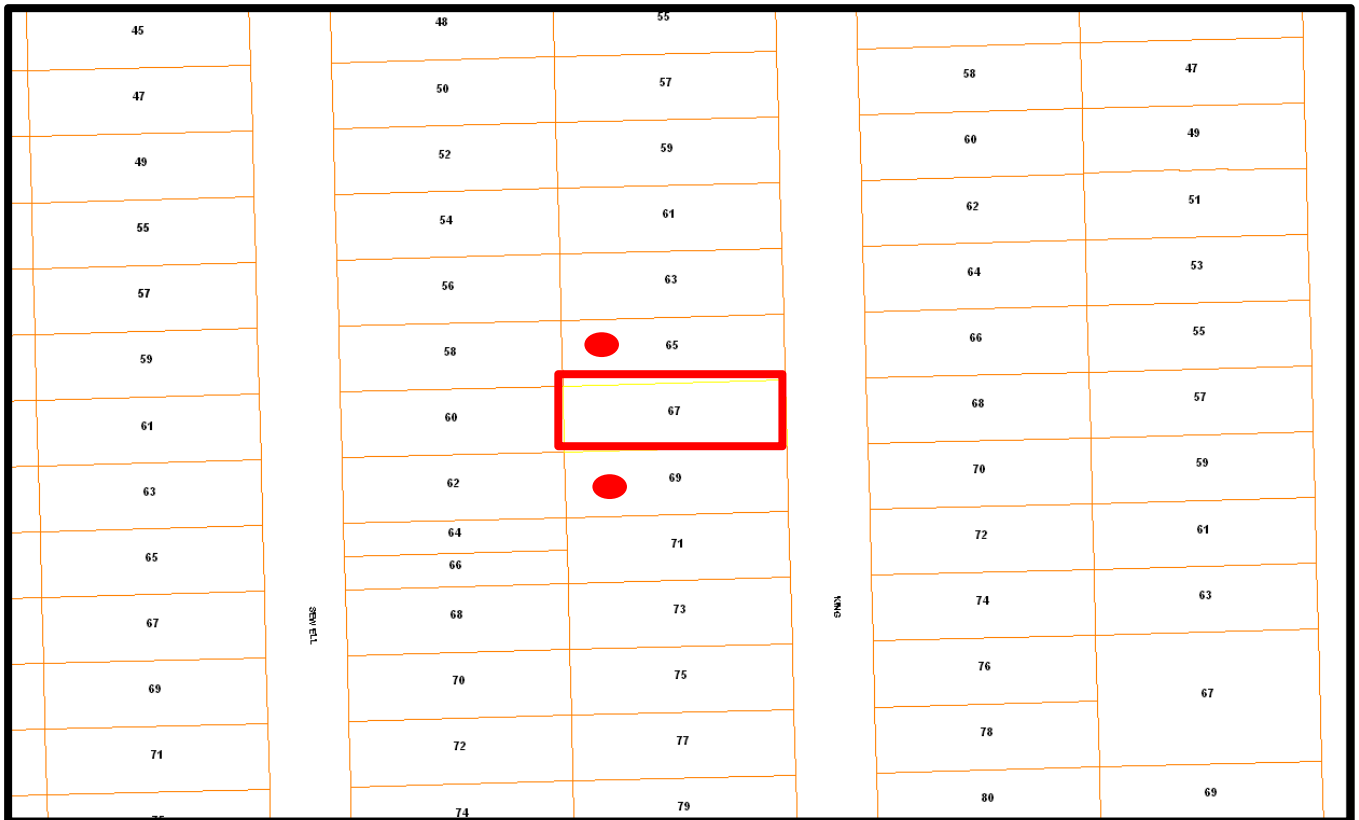
renewal process, assessment of number of clients per day, group session numbers, car parking, noise, vehicle movements, safety, resident amenity and compliance with Home Occupation requirements and Scheme requirements will be undertaken.

Footnote

The following is not a condition but a note of advice to the applicant/owner:

- (i) The applicant be advised that failure to comply with the above conditions of this approval or if the home occupation causes a nuisance or annoyance to owners or occupiers of the land in the neighbourhood, Council may revoke its approval of the home occupation.*
- (ii) A fresh development (planning) approval application is to be made for Council's consideration at the expiry of the six (6) month temporary approval period should the applicant wish to continue the use;*
- (iii) The applicant be advised that following receipt of planning approval the Town's Principal Environmental Health Officer is to be contacted to arrange for an inspection of the premises (telephone 9339 9315).*
- (iv) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site;*
- (v) a copy of the approved plans as stamped by Council are attached and the use is to conform with the approved plans (14 January 2019) unless otherwise approved by Council; and*
- (vi) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

NO. 67 (LOT 328) KING STREET – P002/19- HOME OCCUPATION: COUNSELLING SERVICES – CATEGORY B





PLACE RECORD FORM



PRECINCT	Plympton
ADDRESS	67 King Street
PROPERTY NAME	N/A
LOT NO	Lot 328
PLACE TYPE	Residence
CONSTRUCTION DATE	C 1910
ARCHITECTURAL STYLE	Federation Bungalow
USE/S	Original Use: Residence/ Current Use: Residence
STATE REGISTER	N/A
OTHER LISTINGS	N/A
MANAGEMENT CATEGORY	Category B
PHYSICAL DESCRIPTION	<p>No 67 King Street is a single storey cottage constructed in timber framing and rusticated weatherboard cladding with an 'M' format corrugated iron roof. It is a simple expression of the Federation Bungalow style with later modifications. The front elevation is symmetrically planned with a central door and hopper light flanked by sidelights and double hung sash windows. The facade features a full width bullnosed verandah supported on timber posts.</p> <p>There are additions to the rear.</p> <p>The place is consistent with the pattern of development in Plympton and</p>

	plays an important role in the pattern of development of a working class suburb.
HISTORICAL NOTES	Plympton is a cohesive precinct where most of the places were constructed in the late nineteenth century and the first quarter of the twentieth century. It is comprised primarily of homes for workers and their families with a high concentration of small lots with timber, brick and stone cottages.
OWNERS	Unknown
HISTORIC THEME	Demographic Settlements - Residential Subdivision
CONSTRUCTION MATERIALS	Walls - Timber frame and rusticated weatherboard cladding Roof - Corrugated roof sheeting
PHYSICAL SETTING	The residence is situated on a slightly sloping site with a brick pier and timber picket fence at the lot boundary.
STATEMENT OF SIGNIFICANCE	No 67 King Street is a single storey house constructed in timber framing and rusticated weatherboard cladding with a corrugated iron roof. The place has historic and aesthetic value with its contribution to Plympton's high concentration of worker's cottages and associated buildings. It contributes to the local community's sense of place. The place has some heritage value for its intrinsic aesthetic value as a Federation Bungalow and it retains a moderate degree of authenticity and a high degree of integrity. The additions to the rear have no significance.
AESTHETIC SIGNIFICANCE	No 67 King Street has considerable aesthetic value as a typical Federation Bungalow. It retains all the characteristics of the period with some loss of detail.
HISTORIC SIGNIFICANCE	No 67 King Street has some historic value. It was part of the suburban residential development associated with the expansion of East Fremantle during the Goldrush period of the 1880s and 1890s.
SCIENTIFIC SIGNIFICANCE	N/A
SOCIAL SIGNIFICANCE	No 67 King Street has some social value. It is associated with a significant area of worker's cottages which contributes to the community's sense of place.
RARITY	No 67 King Street is not rare in the immediate context but Plympton has rarity value as a working class suburb.
CONDITION	No 67 King Street is in good condition.
INTEGRITY	No 67 King Street retains a high degree of integrity.
AUTHENTICITY	No 67 King Street retains a moderate degree of authenticity.
MAIN SOURCES	



The Residents – Karen Neville and Michael Collins
13/1/19

67 King Street

East Fremantle WA 6158

To Whom It May Concern – East Fremantle Council

This cover letter is to accompany an occupancy application for First Breath Art and Wellbeing to deliver services from the residence of 67 King Street, East Fremantle.

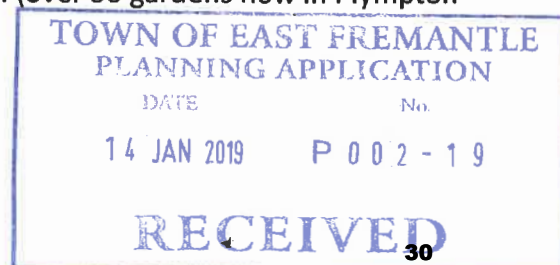
First Breath Art and Wellbeing was founded by Karen Neville. Karen is a myotherapist, coach, healer, artist and child and adult mindfulness and meditation teacher. Karen has experience in the industry for over 30 years delivering community based Early Childhood programs for Fremantle Hospital, Fremantle and Cockburn Councils as well as delivering wellbeing services in the private medical sector.

Karen's passion is community focused and she develops programs that bring women and their families together to learn skills to better manage our very fast daily lives.

First Breath Art and Wellbeing is a successful owner operated business that creates a space that helps members of the community to deeply relax and de-stress. Whether that is with massage, healing, balancing, coaching, visualisation, relaxation and meditation, or playful and mindful art dives.

First Breath currently provides the following services within the local community:

- Pregnancy and Baby Massage
- Remedial and Relaxation Massage
- Wellbeing Groups and Classes
 - Adult Meditation Classes at East Fremantle Primary School
 - Children's Mindfulness and Art Program's for East Fremantle Primary School children
 - Little Budha's (girls years 1 – 6)
 - Dreaming Dragon's (boys years 1 – 6)
- First Breath Community Fairy Garden Verge Program (over 30 gardens now in Plympton Ward)





The majority of First Breath services are run during business hours with some individual services flowing into Saturday morning up until lunch time. All massage services are provided to local women and their families, in a one to one treatment environment and children's mindfulness classes start with Karen collecting the children from EFPS and walking them to her residence for an afternoon of art, meditation, conversation, fun and games. Parents can often be seen walking to Karen's to collect their children at the end of each class.

The residence, 67 King Street, has capacity to accommodate up to four cars - two off street car parks in the residential driveway and two further vehicles could park at the front of the house.

Please find attached the application for owner business occupation at said residence.

Kind regards

Karen Neville

First Breath Art and Wellbeing - Director

0407473575



Luke Smith

From: Karen Neville <karenleeneville@gmail.com>
Sent: Friday, 25 January 2019 12:49 PM
To: Luke Smith; TOWN OF EAST FREMANTLE
Subject: IEM72059 - Re: Regarding Development Application - 67 King Street, East Fremantle

SynergySoft: IEM72059

Hi

Thanks for you clarification regarding my application for home business operation.

Hours of operation:

Massage and Meditation: Monday to Friday 8am to 5pm, Saturday 8am to 12pm. One client at a time.

Children's Art and Meditation: Monday and Wednesday 3pm to 5pm. Groups of up to 10 children that I walk home from the East Freo Primary School - parents walk to my house to collect them as majority of families live in the Plympton precinct.

One off art and meditation days for local women. 9.30am to 4.30pm. Groups of 5.

Please take into consideration that the art and meditation services are all within/and for our local community so there is little to no road traffic.

If I can assist with anything further please contact me at your earliest convenience.

Kindest regards

Karen Neville
0407473575

On Fri, 25 Jan 2019 at 11:40 am, Luke Smith <lsmith@eastfremantle.wa.gov.au> wrote:

Good morning Ms Neville,

Thank you for submitting your development application for your home occupation at the above address.

In regards to the information provided to Council I advise that slightly more information is required.

Could you please submit to Council the following:

- Hours of Operation

- No. of clients present on the premises at any one time

Please send the remaining information to admin@eastfremantle.wa.gov.au .

Once received you will receive a letter from Council outlining the remainder of the process.

Kind regards and have a lovely long weekend!

Luke Smith

Luke Smith
Admin Support Regulatory Services

P 08 9339 9325

Town Hall, [135 Canning Highway](#), East Fremantle
PO Box 1097 Fremantle 6959
www.eastfremantle.wa.gov.au

E lsmith@eastfremantle.wa.gov.au

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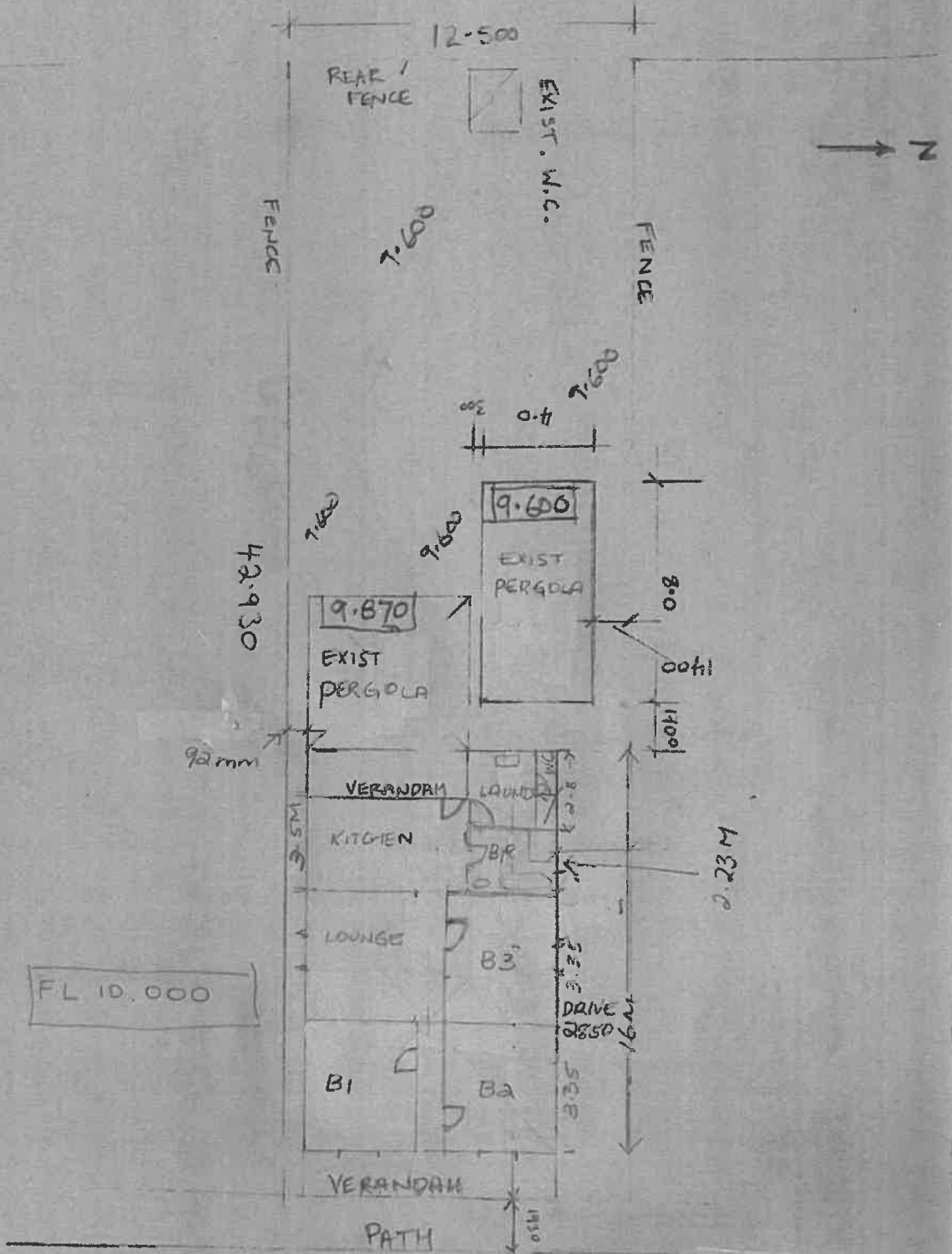
Online Community
Directory



Share your
Ideas

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KAREN NEVILLE
67 KING STREET EAST FREMANTLE



1:200

67 KING STREET
SITE PLAN

11.3 Locke Crescent, No. 36 (Lot 4981) – Demolition and Construction of Three Level Dwelling

Owner	R Petanceski
Applicant	Indian Ocean Homes
File ref	P/LOC36; P/083/18
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Voting requirements	Simple Majority
Meeting date	5 March 2018
Documents tabled	Nil
Attachments	1. Location Plan 2. Photographs 3. Plans date stamped received 6 December 2018

Purpose

This report considers a development application for the demolition of the existing dwelling and construction of a three level dwelling incorporating a double garage and pool at No. 36 (Lot 4981) Locke Crescent, East Fremantle.

Executive Summary

A development application is being considered for the demolition of the existing dwelling and construction of a three level dwelling with double garage and pool. The site is on the north east corner of Wauhop Road and Locke Crescent.

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

- Lot boundary setback: partial reduced setback to eastern boundary;
- Site works: fill behind a street setback line and non-compliance with building height and setback.
- Retaining walls: greater than 500mm in height and within 1 metre of the lot boundary;
- Building height: height exceeds 5.6 metres to the top of an external wall (all elevations) and 8.1 metres to the top of the roof ridge (northern elevation);
- Garage width: exceeds 30% of lot frontage width; and
- Crossover width: exceeds 5 metres.

It is considered the above variations can be supported subject to conditions of planning approval being imposed to ensure visual privacy, openness of the streetscape is maintained, pool equipment location is satisfactory and resident amenity is maintained.

Background

The existing house is to be demolished and a new two storey dwelling over three levels is planned for the site. The dwelling will address Wauhop Road, with the main entry to the dwelling from this street. A double garage will be accessed from Locke Crescent. The undercroft level will include a games room, alfresco area, kitchenette, bathroom and storeroom. The first level (ground floor) contains the bedrooms, laundry, bathrooms and store. The upper level comprises the main living area with kitchen, study and scullery. The upper level has a large balcony facing north. The swimming pool is located on the northern side of the lot. The dwelling is positioned more toward Locke Crescent to take advantage of the upwards slope of the land and the river views.

Consultation

Advertising

Surrounding land owners considered to be impacted by the proposal were contacted by mail and comments invited for a two week period from 2 to 19 October 2018. A sign was also placed on the site for the same two week period. Four (4) submissions were received which expressed objection to the proposal on various grounds. The planning issues raised were discussed with the applicant and amended plans have been submitted and re-advertised. All land owners contacted in the previous round of advertising were invited to comment from 21 January to 6 February 2019. Two (2) submissions have been received. The submissions are provided below and the applicant response follows:

Submission 1

"I am against the proposal. I believe the build is bulk scale for this area with very few three storey homes in the area. The build is set back from Locke Crescent and has been altered thus not meeting correct setbacks to code, more so not aligning to the existing homes alongside. I still question the overall height of the proposed plan.

In closing I am happy to approve the development as long as the proposed plan meets all building codes in East Fremantle."

Submission 2

"Although the proposal appears to have addressed maximum height provisions by changing to a pitched roof, positioning changes to overall positioning of the building have seen it moved forward so that it no longer complies with front setback provisions. A setback of 3 metres as opposed to 6 metres as per the R-Codes. Alterations to building positioning have done nothing to address bulk and scale concerns as per comments in previous submission.

Three (3) level dwellings are out of character for the immediate vicinity, however if the design can be delivered to meet the design code provisions then personally we have no concerns. I see no reason why this cannot be achieved by shifting the position of building as it is in the current proposal back to that of the original proposal thus meeting setback provisions. We understand owners are endeavouring to maximise view potential but should do so within prescribed design rules as has been done by other recent builds in the vicinity."

Applicant Response

"As per our previous responses, there are currently numerous examples of three storey residences that utilise the slope of the site to form a two storey facade facing Locke Crescent with an undercroft below. Examples of this can be found at 27, 30, 40, 42, 44 and 46 Locke Crescent. Three storey residences facing the street can also be found over the road from the subject site at 15 and 17 Habgood Street and 17 Chauncy Street. We believe the bulk and scale of the proposed residence is compatible with the area due to these existing examples with the exception being the site is a corner lot. The existing residence has a floor level of 24.04 whilst the new residence has a proposed level of 24.00. The proposed design has the same heights and levels as the existing residence does and would be if it was to be renovated with a second storey addition. The proposed entry is in the same location and height of the existing residence.

After consultation with the Town of East Fremantle and referencing the Residential Design Codes, the setback to Locke Crescent has been reduced to 3 metres. The existing residence's primary setback and front door currently face Wauhop Road and as such we wish to maintain this frontage. The R-Codes allow a 3

metre setback to secondary streets and this can be even further reduced to 1.5 metres. By maintaining the existing 6 metre setback to Wauhop Road and reducing the setback to Locke Crescent, we have been able to further reduce the bulk and scale of the proposed development by sinking it further into the site reducing the impact upon the surrounding residences. We have increased the proposed setbacks above the minimum requirements to the rear and side to reduce any perceived impact on the adjoining properties and reduce any potential overshadowing. The fact that we have also set back the residence behind the adjoining residence means we have not restricted their access to river views to the west or to natural light.

To further reduce the bulk and scale of the residence we are now currently proposing a pitched roof design. By doing so we have reduced the incursion above the allowable height limits whereby this is primarily limited to the open style balcony roof and eave. All wall heights are now below the 6.5 metre wall height limit as viewed from Locke Crescent and well below the allowable 8.1 metre roof height limit. By changing the design to a pitched roof this has further reduced any perceivable effects the design would have on river view corridors. The roof now allows unobstructed views to the eastern and western side of the roof structure.

Whilst we appreciate the comments submitted, the proposed design meets the ‘performance criteria’ of the Town of East Fremantle policies as well as the design principles of the R-Codes. There are numerous examples of similar developments in the area and the slope of the site must be considered when assessing the application. We have consulted with the Town of East Fremantle from the outset and have worked with the Council to create a development that is compatible and sympathetic to the area. The owners have amended the design numerous times to address the issues raised, and we believe that any more additional amendments would be unreasonable when looking at the existing homes in the locality.

Given the state of the existing residence and the previous issues of squatters, criminal activity and anti-social behaviour, the proposed residence is a vast improvement on the streetscape and community. We also believe we meet the desired outcomes of the Town of East Fremantle’s design guidelines as proven by the overwhelming support of the Community Design Advisory Committee.”

Community Design Advisory Committee (CDAC)

The application was referred to the CDAC meeting on 1 October 2018 and the following comments were noted.

- (a) The overall built form merits;*
 - The Committee considers the proposal to be positive in terms of built form merits, stating that the design is in keeping with the area and that the materials and general design allows for contrast, interest and articulation.

- (b) The quality of architectural design including its impact upon the heritage significance of the place and its relationship to adjoining development;*
 - The Committee consider the design is acceptable.

- (c) The relationship with and impact on the broader public realm and streetscape;*
 - The Committee consider the development is consistent with the surrounding area.

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

- (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 consider the dwelling has been designed with good environmental practices; most notably passive solar light generation, landscaping, ventilation and the north facing angle of the development.
- (f) *The demonstration of other qualities of best practice urban design including “Crime Prevention” Through Environmental Design performance, protection of important view corridors and lively civic places.*
- The Committee consider the passive surveillance to be of an acceptable standard.

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.

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the proposed development	Possible (3)	Moderate (3)	Moderate (5-9)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

Consequence \ Likelihood		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	9
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

October 2018

Comment

LPS 3 Zoning: Residential R17.5

Site area: 718m²

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 (Wauhop - existing)	6.0m	6.073m	A
Secondary Street Setback (Locke - existing)	1.5m	3.0m	A
Lot Boundary Setback (east)	GF: 1.7m	1.5 – 2.6m	D
Open Space	50%	60.8%	A
Outdoor Living	No minimum	280m ²	A
Car Parking	2	2	A
Site Works	Less than 500mm	Fill 500mm – 2.0m	D
Retaining Walls	Greater than 500mm and closer than 1m from lot boundary	500mm – 1.4m	D
Overshadowing	25%	≤25%	A
Drainage	On-site	On-site	A

Local Planning Policy Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	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	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	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	D
3.7.18.3 Garages, Carports and Outbuildings	D
3.7.15-20 Precinct Requirements	D

Building Height Requirement (Residential Design G/Lines)	Required	Proposed	Status
Maximum external wall height (to top of wall from NGL)	5.6m	<u>Midpoints</u> North: 7.6m South: 6.4m East: 6.4m West: 6.6m	D D D D
Maximum roof height (to top of pitched roof from NGL)	8.1m	<u>Midpoints</u> North: 8.8m South: 7.1m East: 7.6m West: 7.8m	D A A A

The variations to the R-Codes and the Residential Design Guidelines are discussed below.

Primary and secondary street setbacks

The nominated primary and secondary street frontages proposed by the applicant are as per the orientation and frontage of the existing dwelling. This is considered acceptable. The adjacent dwelling on Wauhop Road also faces this street as does the dwelling on the opposite side of the road so it is considered reasonable to allow this pattern of development where dwellings face Wauhop Road to continue. The resultant setbacks will subsequently be as per the above streets. The design of the dwelling is considered acceptable to the streetscape.

Lot boundary setback

The eastern lot boundary setback for the ground floor is the only non-complying boundary setback (required: 1.7m; provided: 1.5 – 2.6m). With exception of the protrusion of a laundry wall 2.2m in length which is considered minor and the garage wall (approximately 6m in length) the remainder of the setback complies.

For the most part the dwelling is set back from the lot boundaries a greater distance than that required by the R-Codes for all levels of the dwelling. There are no parapet walls proposed and the upper level is set back a considerable distance from the southern lot boundary to maintain view corridors and lessen the visual impact of the dwelling on Locke Crescent.

Building height

The R-Code provisions in respect to building height are substituted by the height control under the Residential Design Guidelines. Clause 3.7.17.4.3.1 states that:

Where views are an important part of the amenity of the area and neighbours' existing views are to be affected the maximum building heights are as follows:

- 8.1 metres to the top of a pitched roof;
- 6.5 metres to the top of an external wall (concealed roof); and
- 5.6 metres to the top of an external wall and where the following apply.

- (i) *the proposal demonstrates design, bulk and scale that responds to adjacent development and established character of the area or other site specific circumstances;*

- (ii) *the provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped and ;*
- (iii) *subject to the 'Acceptable Development' standards of the R-Codes – Element 9 – Design for Climate and |Element 8 – Privacy being met.*

As the site slopes away from Locke Crescent the external wall and roof ridge height increases from natural ground level. For the most part the dwelling is compliant being under the 8.1 metre maximum height limit specified in the Residential Design Guidelines. However, the maximum external wall height of 5.6 metres is exceeded by between 800mm and 2.0 metres. This is a result of the undercroft adding to the total wall height calculations for a portion of the dwelling. It should be noted, however that the proposed dwelling has the same finished floor level as that of the existing dwelling (i.e. ~RL 24.0).

The undercroft adds height to the northern end of the dwelling from natural ground level (proposed 8.8 metres). The building height from all other perspectives is compliant or below the height limit for the top of a roof ridge. Notwithstanding the non-compliance, the additional height is not considered to significantly impact surrounding properties in respect to views because the undercroft level is positioned on lower ground with the remainder of the dwelling positioned a on higher portion and this portion of the dwelling is compliant with building height limits. Regardless, views will inevitably be impacted with the development of a two storey residence on this lot. The ground level on the other side of Locke Crescent is not sufficiently high enough to afford uninterrupted views from the ground level and if a two storey building is constructed this will restrict views from upper floors.

In this circumstance non-compliance with the height limit must be assessed in respect to the 'Performance Criteria' of the Residential Design Guidelines. Technically the building does not strictly comply. For the most part the building is within the maximum height limit (i.e. 8.1 metres or lower) and the proposal demonstrates a design, bulk and scale that responds to adjacent development (as viewed from Locke Crescent) and is not considered out of character for this locality with many other homes of similar design and scale already constructed. Also, more than 50% of the site is landscaped (open space). Therefore the 'Performance Criteria' are considered satisfied.

Visual privacy

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

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

The proposed development does comply with the 'Deemed to Comply' provisions of the R-Codes in respect to the balcony on the northern elevation. However, this is because a screen has been indicated on the plans which runs along the eastern elevation of the balcony. To ensure this is permanently installed in accordance with R-Code requirements a condition of planning approval is recommended. All other major openings (as defined by the R-Codes) facing the eastern boundary are setback the required distance as per the R-Codes.

Garage width and crossover

The crossover indicated on the plans is greater than 5 metres in width (i.e. 5.2 metres) so a condition is recommended which will ensure compliance with Council's crossover provisions as outlined in the

Residential Design Guidelines. The provision requires crossovers not exceed more than 5 metres in width where the lot is 12 metres or more in width.

It is commonplace for new dwellings in this Precinct to be designed with very large garages and driveways adding to the hard paved areas in the front setback and on the verge which in turn detracts from the open landscaped feel of the suburb. Minimising hardstand, is therefore considered important, particularly in the Richmond Hill Precinct where a high level of amenity in respect to open streetscapes and verges is expected. A condition is therefore recommended to ensure the crossover does not exceed 5 metres in width.

The double garage and driveway are positioned reasonably close to the Locke Crescent frontage and the garage (due to the truncation of the lot) exceeds the width permitted under the Guidelines (i.e. proposed 37.8% of width: permitted 30%). If the truncation was included in the calculation the garage would comply as it would account for 27.8% of the lot width. The variation in regard to garage width is considered acceptable because the proposal is considered to meet the 'Performance Criteria' of the Residential Design Guidelines for new dwellings which states:

"Garages and carports are designed to be incorporated into and compatible with, the design of the dwelling."

The garage is setback 3.0 metres from the secondary street boundary (required setback under the R-Codes from Locke Crescent is 1.5 metres) and it is positioned slightly below street level. The minor excavation of the garage also assists in reducing its visual impact on the streetscape and this is considered to be a better design outcome. Further, the upper storey is not constructed over the garage but is setback a further ~6.6 - 9.0 metres from the Locke Crescent lot boundary. This is considered to further assist in reducing its visual impact on the streetscape and combined with requiring the crossover not exceed 5 metres in width, will reduce the impact of car parking and vehicle access points on the streetscape by maximising the amount of open space, garden area and verge space that can be landscaped.

Site works and retaining walls

The proposed fill is in excess of the 'Deemed to Comply' provisions of the R-Codes. On some sections of the lot the fill is greater than 0.5 metres and closer than 1 metre from the boundary and therefore requires assessment under the 'Design Principles' of the R-Codes which state as follows.

P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.

P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the boundary of the site and the adjoining properties and as viewed from the street.

The subject lot has a fall of almost ~4.5 metres from Locke Crescent toward the river. The development proposal indicates fill of up to 2.0 metres to raise the level of the ground floor to a level closer to the Locke Crescent ground level. This assists in maximising views but also provides an easy grade for pedestrians and vehicles to access the dwelling. At this level it is possible to gain views from the upper level and not exceed the height limit from the Locke Crescent and Habgood Street perspective. The height limit of the dwelling is exceeded for the northern-most portion of the dwelling because the ground level is 2 metres lower.

Despite the fill exceeding 500mm as permitted under the 'Deemed to Comply' provisions of the R-Codes, the levels proposed are considered acceptable. The floor level of the adjoining property (garage of 34

Locke Crescent) is indicated at RL 23.68 and the proposed floor level of dwelling is RL 24.00. The dwelling will be compliant with the height limit for the sections of the site where the fill is proposed with the exception of the northern end of the dwelling where the dwelling height is 8.8 metres, 700mm greater than that allowed. The height of the dwelling for the remaining elevations ranges from 7.1 – 7.8 metres. The proposed dwelling as viewed from Locke Crescent and Habgood Street has a roof ridge height below 8.1 metres. The 'Performance Criteria' of the R-Codes is considered met in that the building as viewed from Locke Crescent sits below the height limits.

The fill proposed is considered acceptable because the building setbacks on the whole meet the R-Code requirements as discussed above and the majority of the dwelling does not exceed the roof ridge height of 8.1 metres. The non-compliance with wall height does not impact on the maximum building height for the most part, and in that regard is considered to not substantially impact views. The views for surrounding properties will most likely be impacted to some degree as a result of two storey rather than single storey construction on the site.

Minor excavation of up to ~500mm at the Locke Crescent end of the site is required so the garage is at the same level as the ground floor of the dwelling. There is no objection to this change in ground level.

Conclusion

In light of the above comments the application is recommended for approval subject to conditions. The redevelopment of lots with two storey dwellings and undercroft parking or other amenities is not uncommon in this locality and is a permitted use of the land under the R17.5 code. It is considered the proposal will not significantly impact existing dwellings or the amenity of the surrounding area and is generally in keeping with the streetscape pattern. Conditions relating to visual privacy, front fencing, location of pool equipment and crossover width are recommended to ensure visual privacy, openness of the streetscape is maintained, pool equipment location is satisfactory and resident amenity is maintained.

11.3 OFFICER RECOMMENDATION

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 an eastern lot boundary setback of less than 1.7 metres for the ground level;**
- (ii) Clause 5.3.7 – Site Works of the Residential Design Codes of WA to permit fill behind a street setback line greater than 0.5 metres from natural ground level and within 1 metre of the lot boundaries;**
- (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 lot boundaries;**
- (iv) Clause 3.7.17.3 – Garages, Carports and Outbuildings of the Residential Design Guidelines 2016 to allow the width of the carport to exceed 30% of the lot frontage; and**
- (v) Clause 3.7.17.4.1.3 – Building Height, Form, Scale and Bulk of the Residential Design Guidelines 2016 to permit an external wall height of greater than 5.6 metres for all elevations and the top of the roof ridge to exceed 8.1 metres for the northern elevation,**

for a three level dwelling at No. 36 (Lot 4981) Locke Crescent, East Fremantle, in accordance with the plans date stamped received on 6 December 2018, subject to the following conditions:

- (1) Installation of a permanent visual privacy screen in accordance with Clause 5.4.1 C1.2 of the Residential Design Codes of WA. The privacy screen to extend the full length of the eastern elevation of the balcony, so screening extends to the northern corner of the balcony.**

- (2) The kitchen window on the eastern elevation to not exceed an area of greater than 1m² and be permanently installed with obscure glazing as indicated on the plans date stamped received 6 December 2018.
- (3) Front fencing on the Wauhop Road and Locke Crescent frontages to be in full compliance with the Council's Residential Design Guidelines, including all gates, height of the solid section and the visual permeability of all infill panels.
- (4) Any new crossovers which are constructed under this approval are to be a maximum width of 5.0 metres (including splays) and the crossover to be constructed in compliance with Council's Residential Design Guidelines 2016.
- (5) In cases where there is an existing crossover or footpath from the lot boundary to the road reserve these are to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council. Any landscaping treatments on the verge (road reserve) are subject to further Council approval.
- (6) No external fixtures, fittings, masts, 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 garage without further Council approval.
- (7) Pool filter and pump equipment to be located a minimum distance of 1.0 metre away from all lot boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
- (8) The proposed works are not to be commenced until approval from the Water Corporation has been obtained and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
- (9) If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
- (10) The development approval is for a single residential dwelling only and the dwelling is not to be used for the purposes of a home occupation, ancillary dwelling, short term or bed and breakfast accommodation.
- (11) 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.
- (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 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.
- (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.

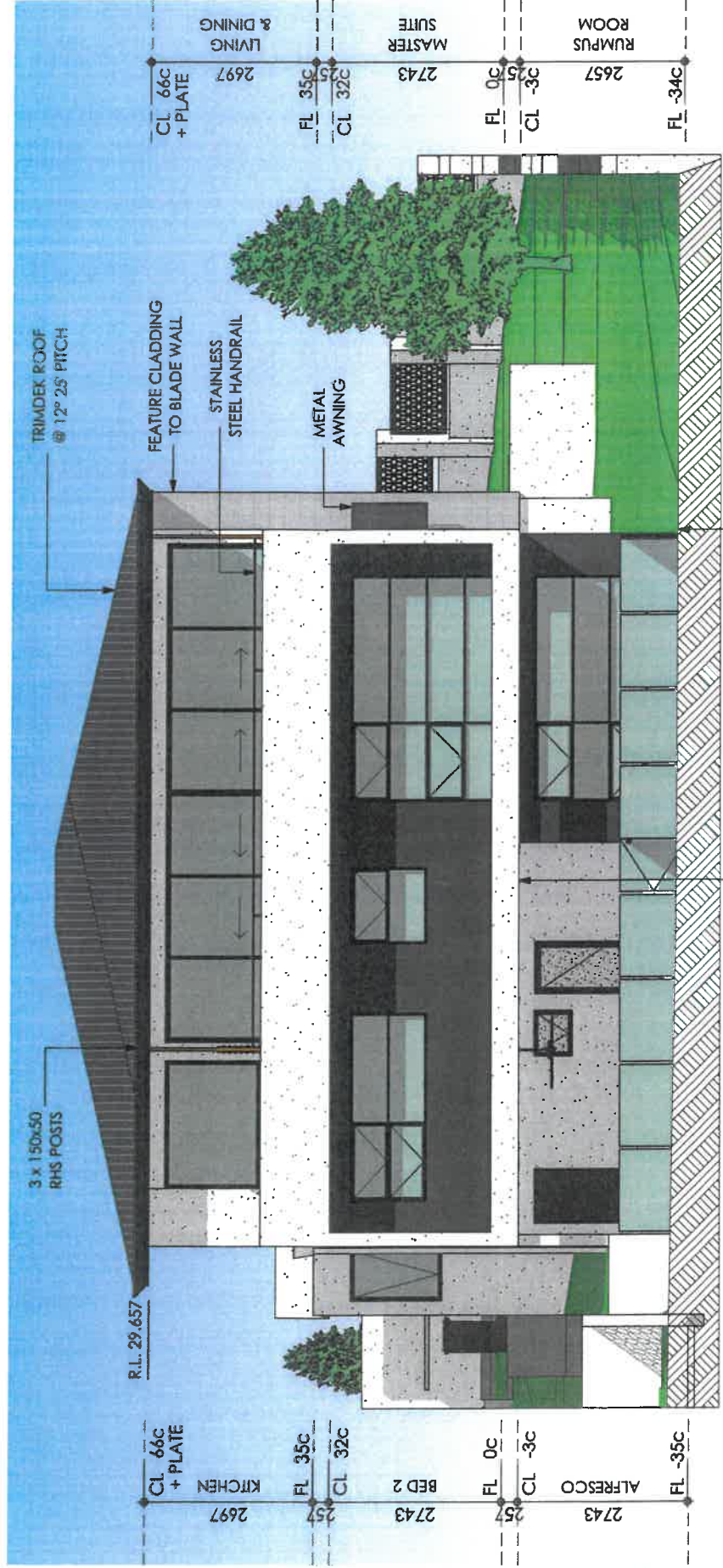
Footnote:

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

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







NORTHERN ELEVATION

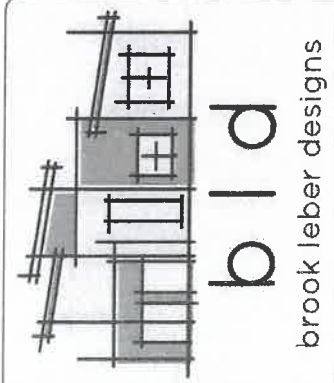
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WESTERN ELEVATION

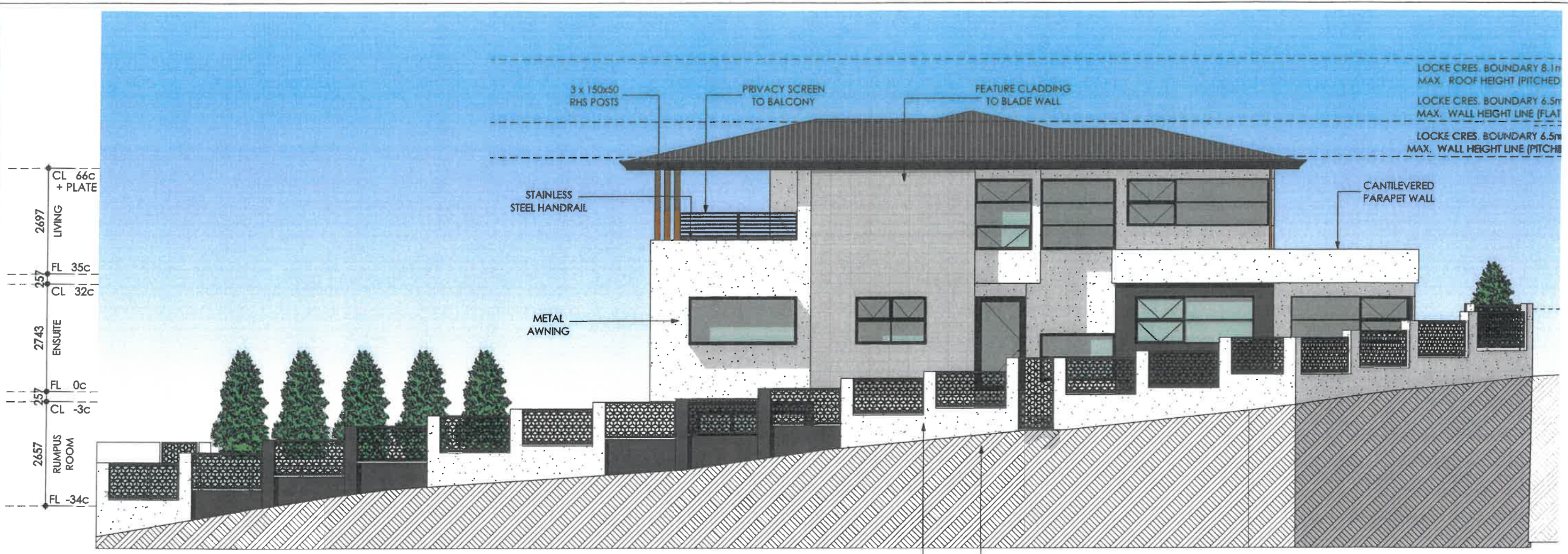
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Town of East Fremantle
 06 DEC 2018
RECEIVED



The "PETANCESKI & VAHTEL" Residence ©
#36 LOCKE CRESCENT, EAST FREMANTLE

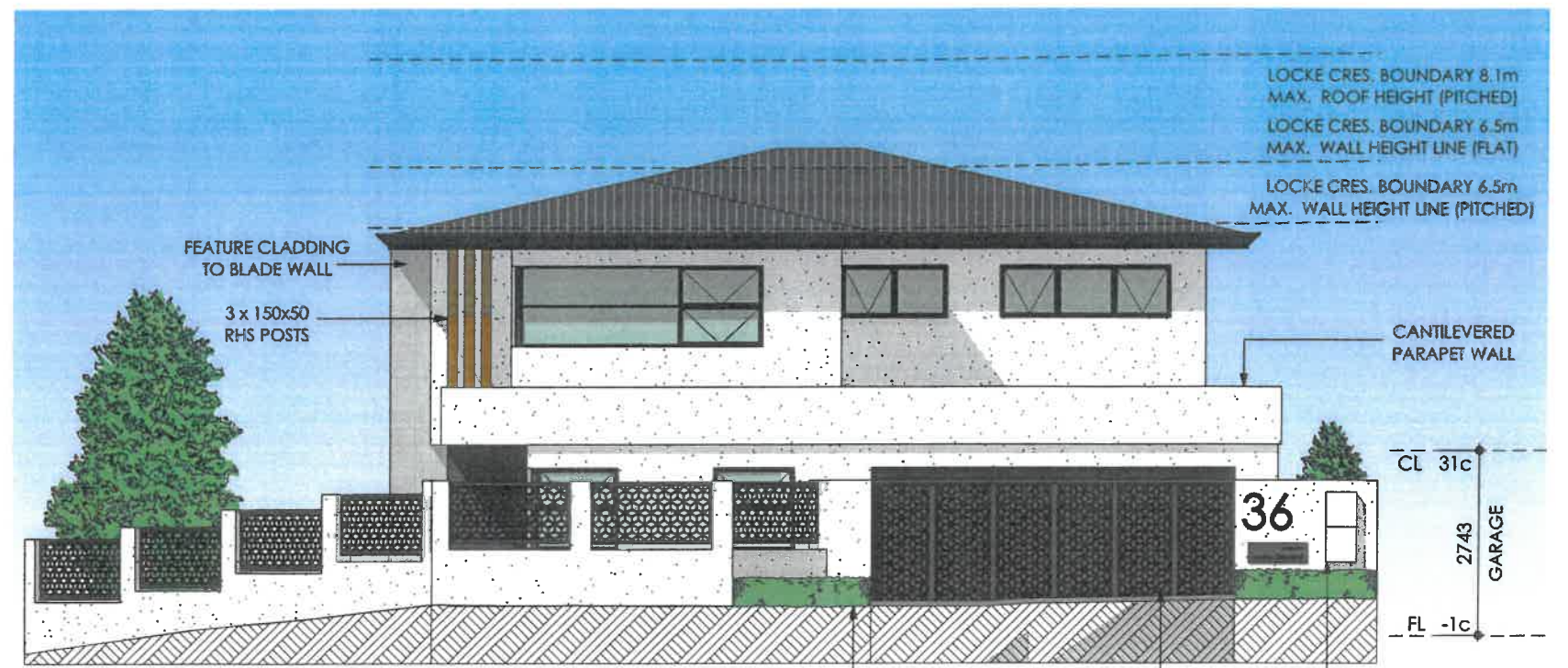
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WAUHOP ROAD ELEVATION

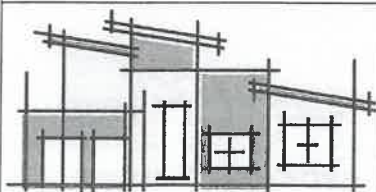
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Town of East Fremantle
06 DEC 2018
RECEIVED



LOCKE CRESCENT ELEVATION

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The "PETANCESKI & VAHTEL" Resi
#36 LOCKE CRESCENT, EAST FREMANTLE
File : 2018-12 PETANCESKI & VAHTEL 1-12-18
Drawn By: BL Date: 04 Dec 2018 20:20:29

bld
brook leber designs

SEC Dome	Power Pole	Phone Pits	Water Conn.	Top Pillar/Post
TP 10.00	TR 10.00	TR 10.00	TR 10.00	TR 10.00
TF 10.00	TF 10.00	TF 10.00	TF 10.00	TF 10.00

DISCLAIMER:
Due to lack of survey marks/pegs, all building offset dimensions & features are approximate only and positioned from existing pegs/fences and walls which may not be on the correct alignment and are to be verified when repegged. Any design that involves additions to any structures shown or portion of structures remaining after any demolition has taken place requires boundaries to be repegged and exact offsets provided to your designer/client before any plans are produced and before any work is started on site.

DISCLAIMER:
Cottage & Engineering surveys accept no responsibility for any physical on site changes to the ground or portion of the parcel of land shown on this survey including any adjoining neighbours levels and features that have occurred after the date on this survey. All Sewer details plotted from information supplied by Water Corporation.

DISCLAIMER:
Survey shows visible features only and will not show locations of underground pipes or conduits for internal or mains services. Verification of the location of all internal and mains services should be confirmed prior to finalisation of any design work.

DISCLAIMER:
Survey does not include verification of cadastral boundaries. All features and levels shown are based on information to existing pegs and fences only which may not be in correct cadastral alignment. Any designs based or dependent on the location of existing features should have those features' location verified in relation to the true boundary.

DISCLAIMER:
Lot boundaries from on survey are based on bearings and distances. Survey does not include title search and as such may not show easements or other interests not shown on plan. This should be checked to verify all lot details and for any easements or other interests which may affect trading on the property.

LOT MISCLOSE

0.009 m

SOIL DESCRIPTION

Sand
Refer to Survey

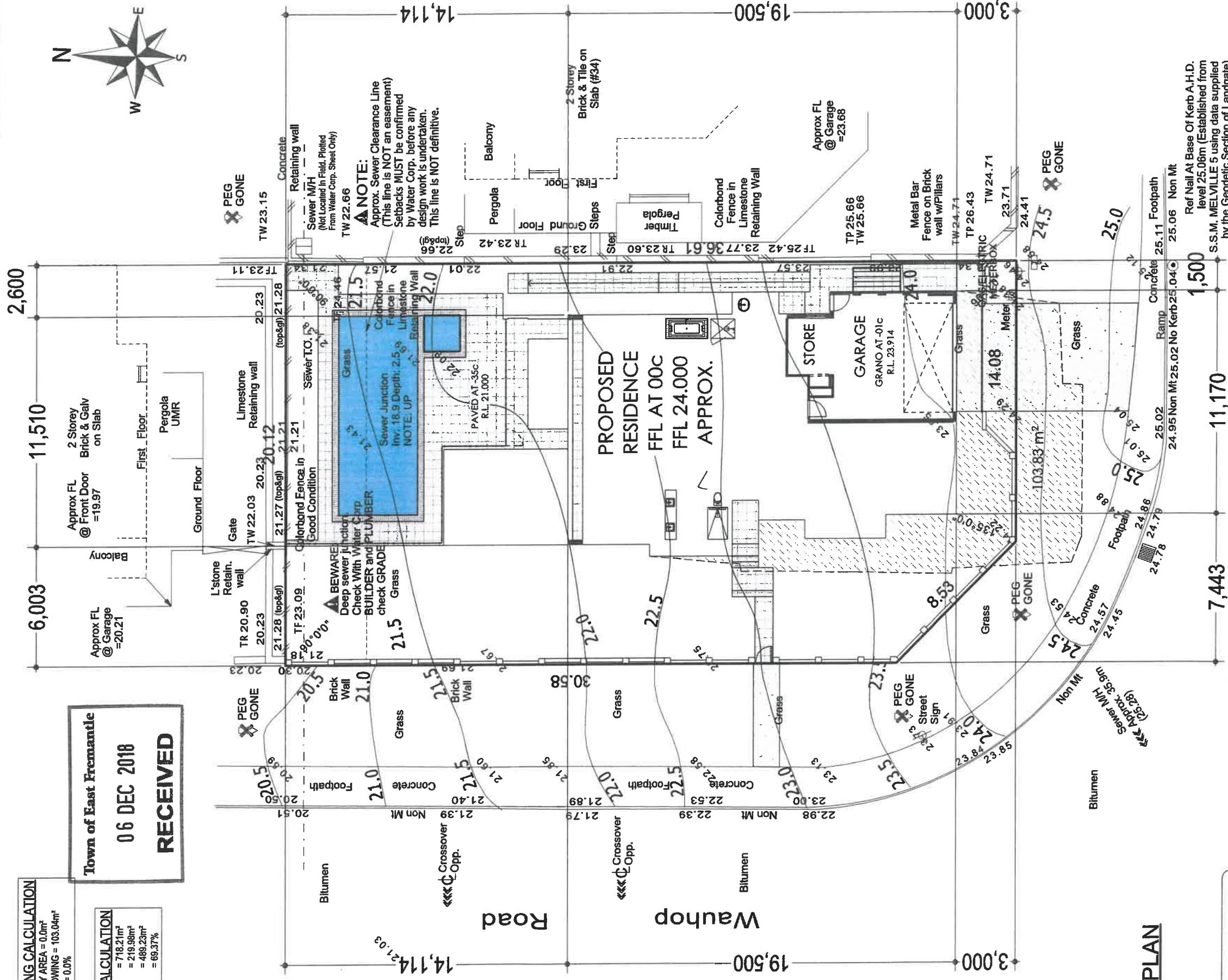
OVERSHADOWING CALCULATION

ADJOINING PROPERTY AREA = 0.0m²
AREA OF OVERSHADOWING = 103.04m²
OVERSHADOWING % = 0.0%

OPEN SPACE CALCULATION

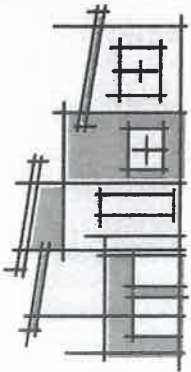
TOTAL SITE AREA = 718.27m²
SITE COVERAGE = 219.98m²
OPEN SPACE = 488.29m²
OPEN SPACE % = 69.37%

Town of East Fremantle
06 DEC 2018
RECEIVED



SITE PLAN

1:200



bid

brook leber designs



Locke Crescent

Bitumen

Wahup Road

COTTAGE & ENGINEERING SURVEYS
 Licensed Surveyors ©
 87-89 Guthrie Street, Osborne Park, Western Australia
 Telephone: (08) 9446 7361 Facsimile: (08) 9445 2998
 Email: perth@cottage.com.au Website: www.cottage.com.au
 Builder: CLIENT: Petanceski LOT 4981 #36 Locke Crescent, East Fremantle D.Plan205392
 J/N: 416820 DATE: 10 May 17 SCALE: 1:200 DRAWN: T. Polmeare

LEGEND
 # SEC Dome
 = O = Power Pole
 [] Phone Pits
 [] Water Conn.
 [] Top Pillar/Post
 [] Top Wall
 [] Top Retaining
 [] Top Fence

LOT MISCLOSE
 0.009 m

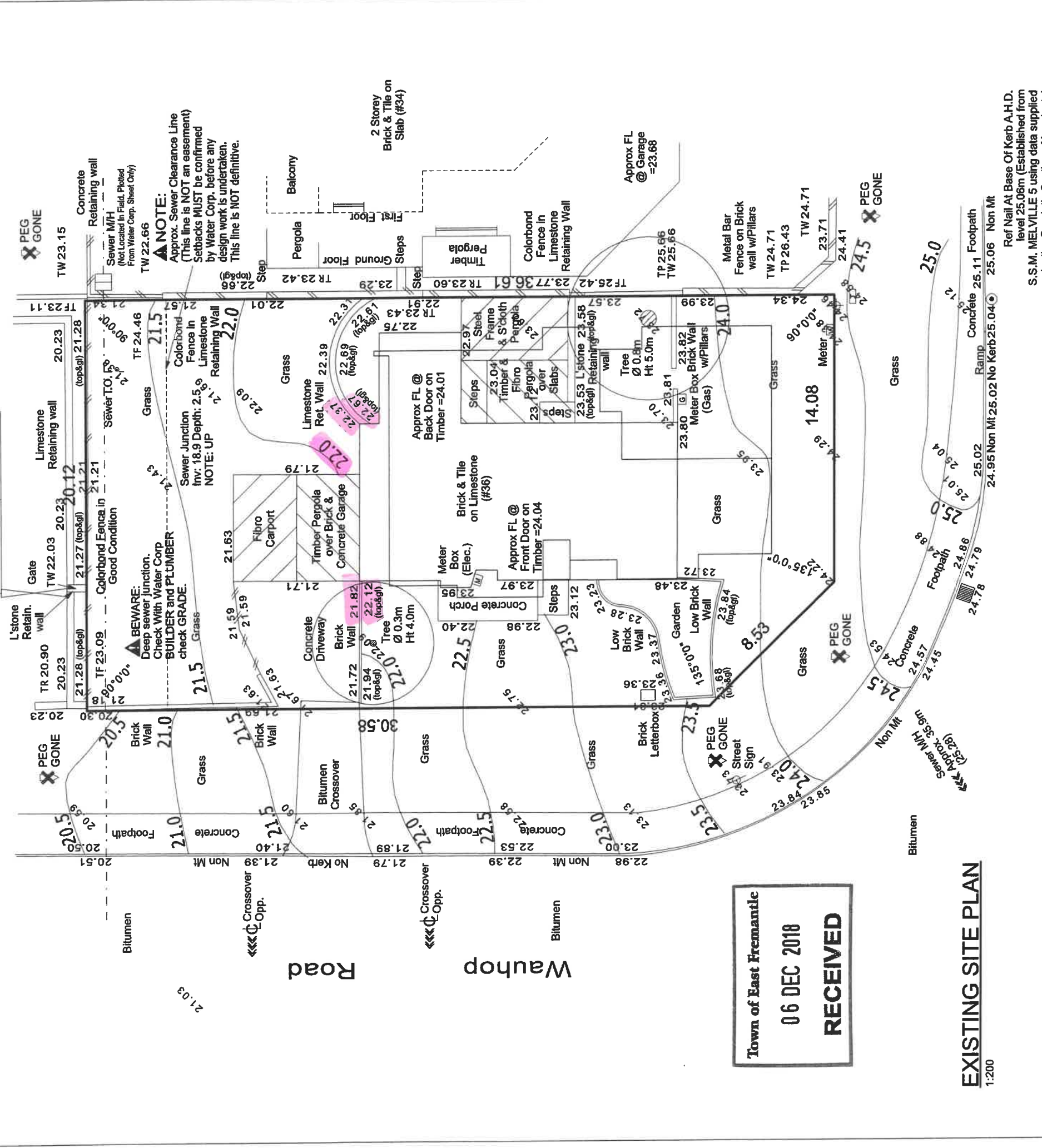
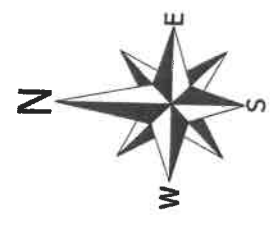
SOIL DESCRIPTION
 Sand
 Refer to Survey

DISCLAIMER:
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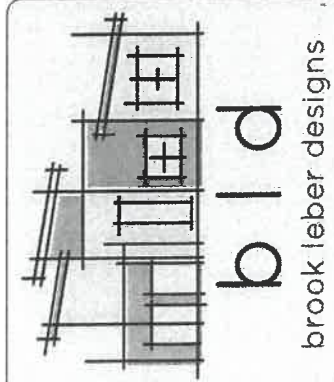
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DISCLAIMER:
 Survey does not include verification of cadastral boundaries. All features and levels shown are based on information to existing pegs and fences only which may not be on correct cadastral alignment. This should be checked to verify all lot details and for any easements or other interests which may affect building on the property.



Town of East Fremantle
 06 DEC 2018
RECEIVED

EXISTING SITE PLAN
 1:200



Locke Crescent
 Bitumen
 Scale 1:200
 0 2 4 6 8

Ref Nail At Base Of Kerb A.H.D. level 25.06m (Established from S.S.M. MELVILLE 5 using data supplied by the Geodetic Section of Landgate)

The "PETANCESKI & VAHTEL" Residence ©
#36 LOCKE CRESCENT, EAST FREMANTLE
 File: 2018-12 PETANCESKI & VAHTEL 1-12-18
 Drawn By: BL Date: 04 Dec 2018 20:20:29
PAGE 8 OF 8

11.4 Preston Point Road No 170 (Lot 8) Proposed cabana, storeroom and powder room

Owner	Simone Glover
Applicant	Brad Glover
File ref	P004/19; PPT170
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	5 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Location plan 2. Photographs 3. Plans dated stamped 16 January 2019

Purpose

This report considers a planning application for a new cabana including a storeroom and powder room at No 170 (Lot 8) Preston Point Road, East Fremantle.

Executive Summary

The applicant is seeking Council approval for the following variations;

- (i) Lot Boundary Setbacks – 1.5m required, nil setback provided
- (ii) Site Works – fill less than 0.5m above natural ground level required, fill greater than 0.5m above natural ground level provided
- (iii) Retaining Walls – retaining walls less than 0.5m in height required, retaining walls greater than 0.5m in height provided

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

Background

Zoning: Residential R17.5

Site area: 1011.71m²

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

Building Permit 109/89 – July 1989 – verandah extension

Development application P66/11 – July 2011 – proposed rear extension (no subsequent building approval submitted)

Consultation

Advertising

The application was advertised to surrounding land owners from 25 January to 11 February 2019.

Officer response

Nil

Community Design Advisory Committee (CDAC)

The application was not referred to CDAC as the proposed development is located to the rear of the subject 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)

Policy Implications

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

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

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

3.1.2 Plan for a mix of inclusive diversified housing options.

3.2 Maintaining and enhancing the Town's character.

3.2.1 Ensure appropriate planning policies to protect the Town's existing built form.

3.3 Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.

3.3.1 Continue to improve asset management practices.

3.3.2 Optimal management of assets within resource capabilities.

3.3.3 Plan and advocate for improved access and connectivity.

Natural Environment

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

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

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

4.1.2 Plan for improved streetscapes parks and reserves.

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the proposed development and the application is appealed to SAT	Possible (3)	Moderate (3)	Moderate (5-9)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	9
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

A site inspection was undertaken.

Comment

Statutory Assessment

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

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	-	-	N/A
Secondary Street Setback	-	-	N/A
Lot boundary setbacks			
<u>South</u>	1.5m	2.0m	A
<u>West</u>	1.5m	0m	D
<u>East</u>	1m	9.6m	A
Open Space	50%	>50%	A
Building Height			
Wall height	5.4m	3.5m	A
Roof height	8.1m	5.0m	A
Setback of Carport			N/A
Primary street setback			N/A
Car Parking	2	2	N/A
Site Works	Less than 500mm	More than 500mm	D
Retaining Wall	Less than 500mm	More than 500mm	D
Overshadowing	≤25%	13%	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	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	A
3.7.8 Roof Form and Pitch	A
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
3.7.16.4.3.3 Fremantle Port Buffer Area	N/A
3.7.17.3.3 Garages and Carports	N/A
3.7.17 Precinct Requirements	D

The application proposes a cabana, storeroom and powder room located at the rear of the subject property. The cabana is located on the western boundary and setback 2m from the southern boundary. There are significant site works with a 19m long retaining wall 1.8m high built along the southern boundary setback 1.85m from the boundary. In addition there are retaining walls for garden beds on the eastern and western boundary that are in excess of 0.5m in height at certain points.

Lot Boundary Setbacks

The proposed development does not comply with the Deemed to Comply requirements of the Residential Design Code in terms of lot boundary setbacks (Clause 5.1.3 C3.1). On the western boundary the proposed cabana has a wall 14.7m long and a maximum 3.5m high from natural ground level. Normally a wall of this size would require a minimum setback from the boundary of 1.5m. In this case the western neighbouring property owners have not objected to the proposed development and provided a letter supporting the proposed development. In line with the Design Principles 5.1.3 P3.2 the wall located along the boundary makes more effective use of space for enhanced privacy for the occupants and the outdoor living areas, reduces impacts of building bulk on adjoining properties, ensures adequate sunlight and ventilation to the building and open spaces on site and adjoining properties, minimises the extent of overlooking and resultant loss of privacy on adjoining properties and does not have any adverse effects on adjoining properties. As such the reduced boundary setback is supported.

Site Works

The proposed development does not comply with the Deemed to Comply requirements of the Residential Design Code for site works (Clause 5.3.7 CC7.3). There are a small number of areas in the rear yard where there is fill behind the front street setback line and within 1m of common boundaries that is above 0.5m from natural ground level. Fill will be up to 0.8m for a small number of areas behind retaining walls for garden beds and within 1m of the western and eastern boundaries. In accordance with Design Principles 5.3.7 P7.2 the fill is supportable as it respects the natural ground levels at the lot boundaries of the sites as viewed from the street.

Retaining Walls

The proposed development does not comply with the Deemed to Comply requirements of the Residential Design Code in terms of retaining wall heights (Clause 5.3.8 C8). The retaining walls for a planter box on western boundary is 0.7m high above natural ground level and a retaining wall for a garden bed on the eastern boundary is up to 0.8m above natural ground level and have a total height of up to 2.2m from their base. In accordance with Design Principles 5.3.8 P8 retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to Provision 5.3.7 Site Works and 5.4.1 Visual Privacy can be supported. In this case the retaining walls help to retain the garden beds and respect the ground levels along the western and eastern boundaries without detrimentally affecting adjoining properties and are therefore recommended for support.

Conclusion

The variations as stated above are considered acceptable and the development application is recommended for approval subject to conditions.

11.4 OFFICER RECOMMENDATION

That development approval be granted under delegated authority and discretion exercised in regard to the following:

- (i) Clause 5.1.3 – Residential Design Codes – Lot Boundary Setbacks – 1.5m required, nil setback provided; and
- (ii) Clause 5.3.7 – Residential Design Codes – Site Works – fill less than 0.5m above natural ground level required, fill greater than 0.5m above natural ground level provided;
- (iii) Clause 5.3.8 – Residential Design Codes – Retaining Walls – retaining walls less than 0.5m in height required, retaining walls greater than 0.5m in height provided;

for a cabana, storeroom and powder room at No. 170 (Lot 8) Preston Point Road, East Fremantle, in accordance with the plans date stamped received 16 January 2019, subject to the following conditions:

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

Footnote:

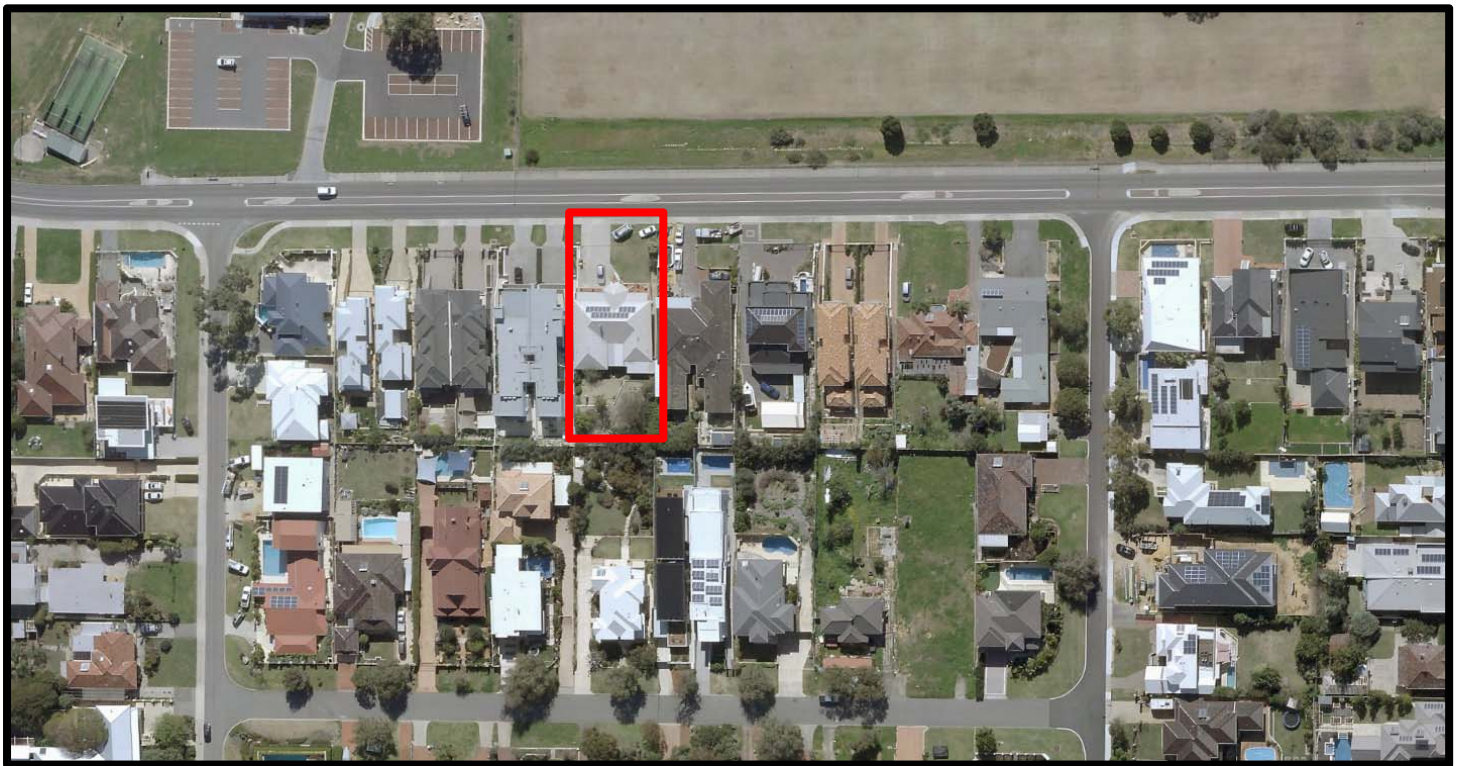
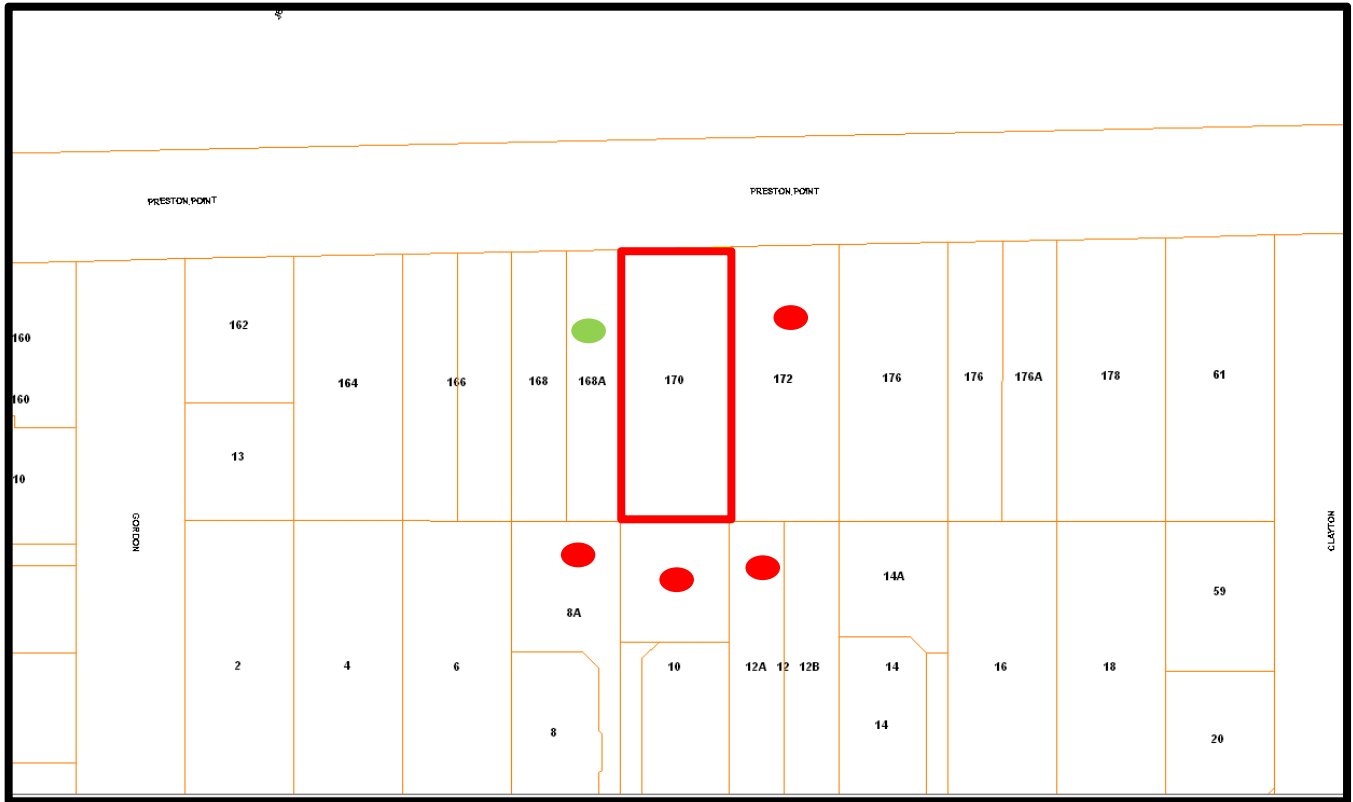
The following are not conditions but notes of advice to the applicant/owner:

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

copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.

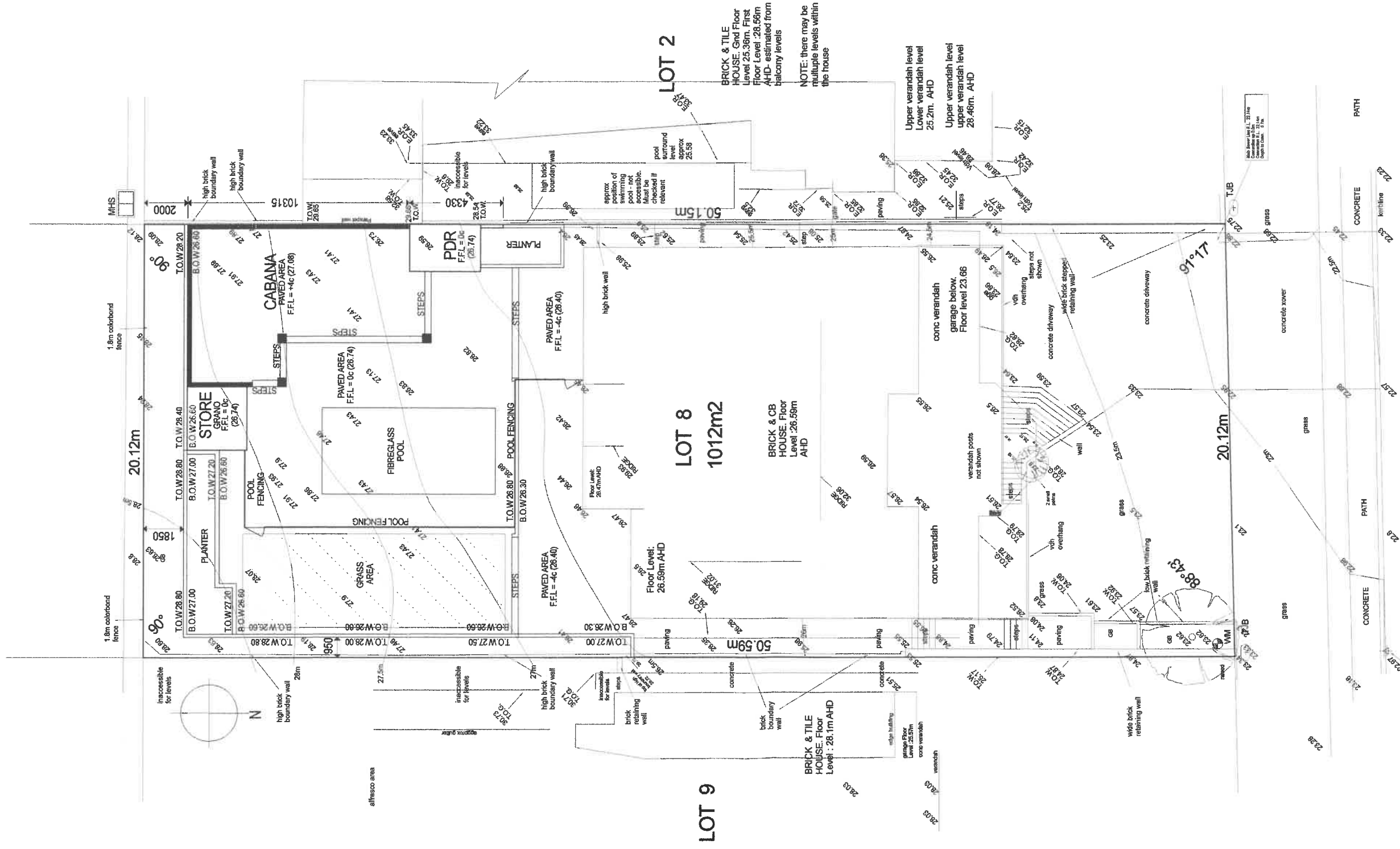
- (iv) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (v) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (vi) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document – “An Installers Guide to Air Conditioner Noise”.*

NO. 170 (LOT 8) PRESTON POINT ROAD – P004/19- CABANA AREA



Plans signed - ●



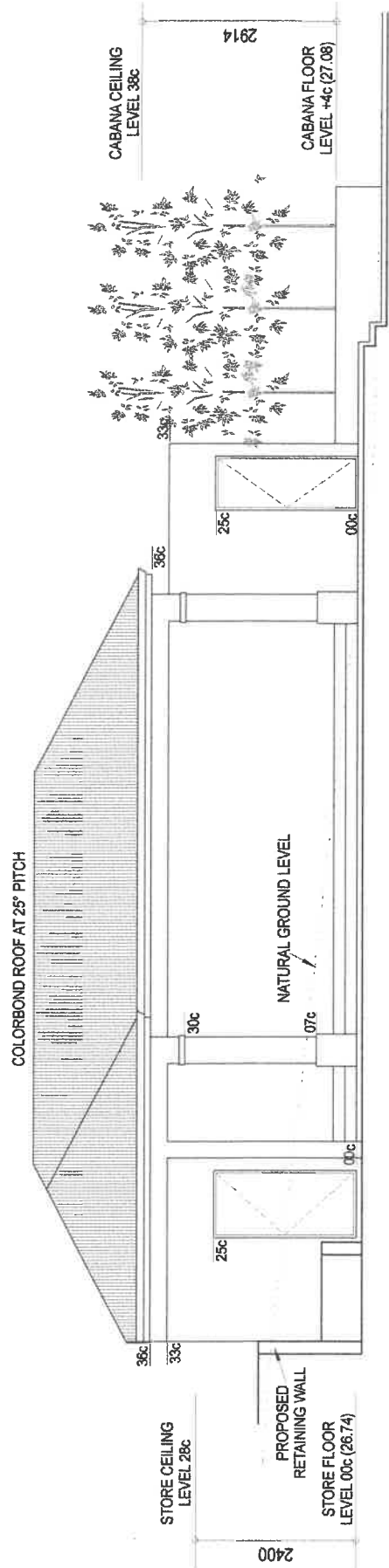


**TOWN OF EAST FREMANTLE
PLANNING APPLICATION**
No. **16 JAN 2019 P 006-19**
DATE

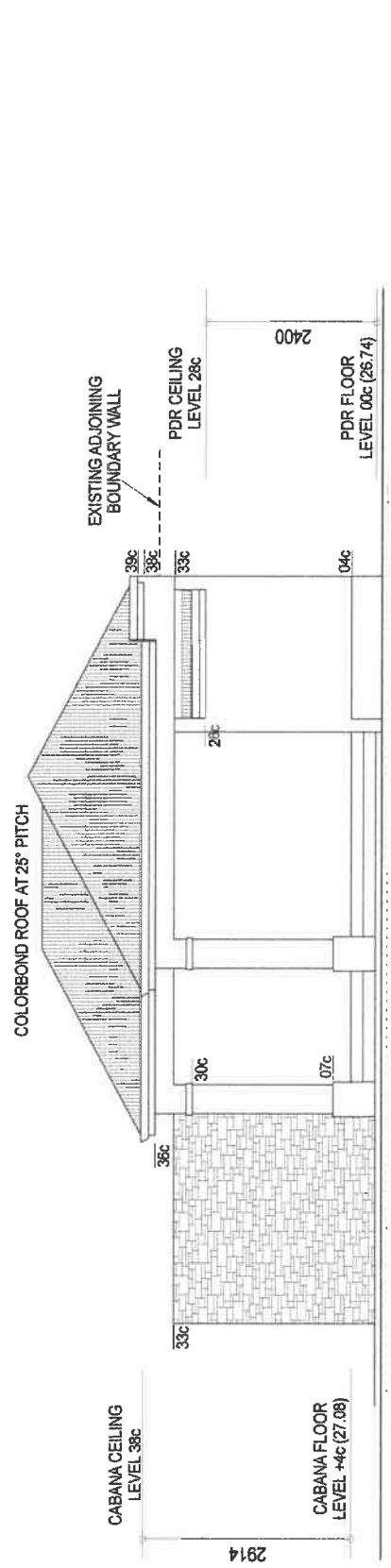
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PRESTON POINT ROAD

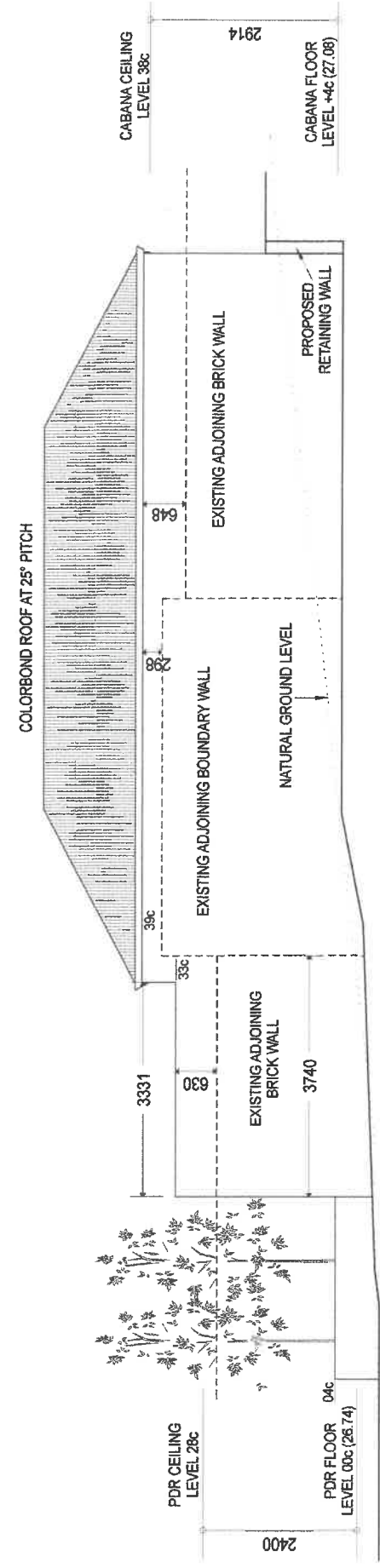
<p>Monaghams MAPPING & SURVEYING</p>	UNIT 11 / 4 FLINDELL ST, O'CONNOR WA 6163 Mob 0418 928 065 Email: jmon@appt.net.au Web: www.fremantlesurveying.com.au		SITE FEATURE SURVEY 170 PRESTON POINT RD, EAST FREMANTLE		CLIENT B. GLOVER
	DRAWN JTM	DATE 17.1.18	SCALE 1:200 A3	DATUM AHD	DRAWN JTM
	CHKD JTM	DATE 17.1.18	DATUM AHD	DATE 11.1.18	DATE 11.1.18
	APPD JTM	DATE 17.1.18	DATUM AHD	DATE 11.1.18	DATE 11.1.18
		ISSUED JTM	DATE 17.1.18	DATUM AHD	DRAWN JTM



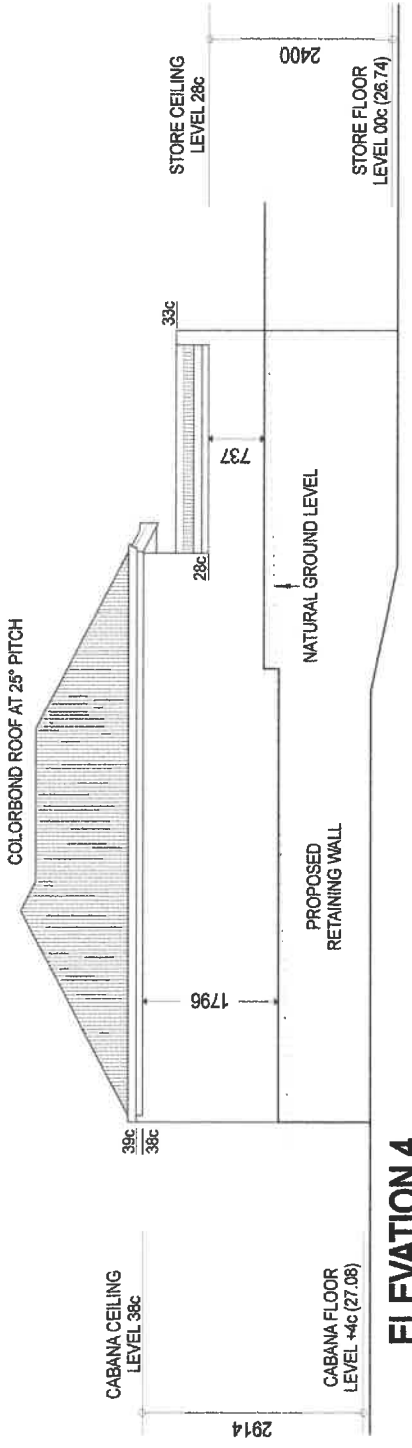
ELEVATION 1



ELEVATION 2



ELEVATION 3



ELEVATION 4

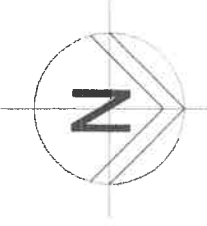
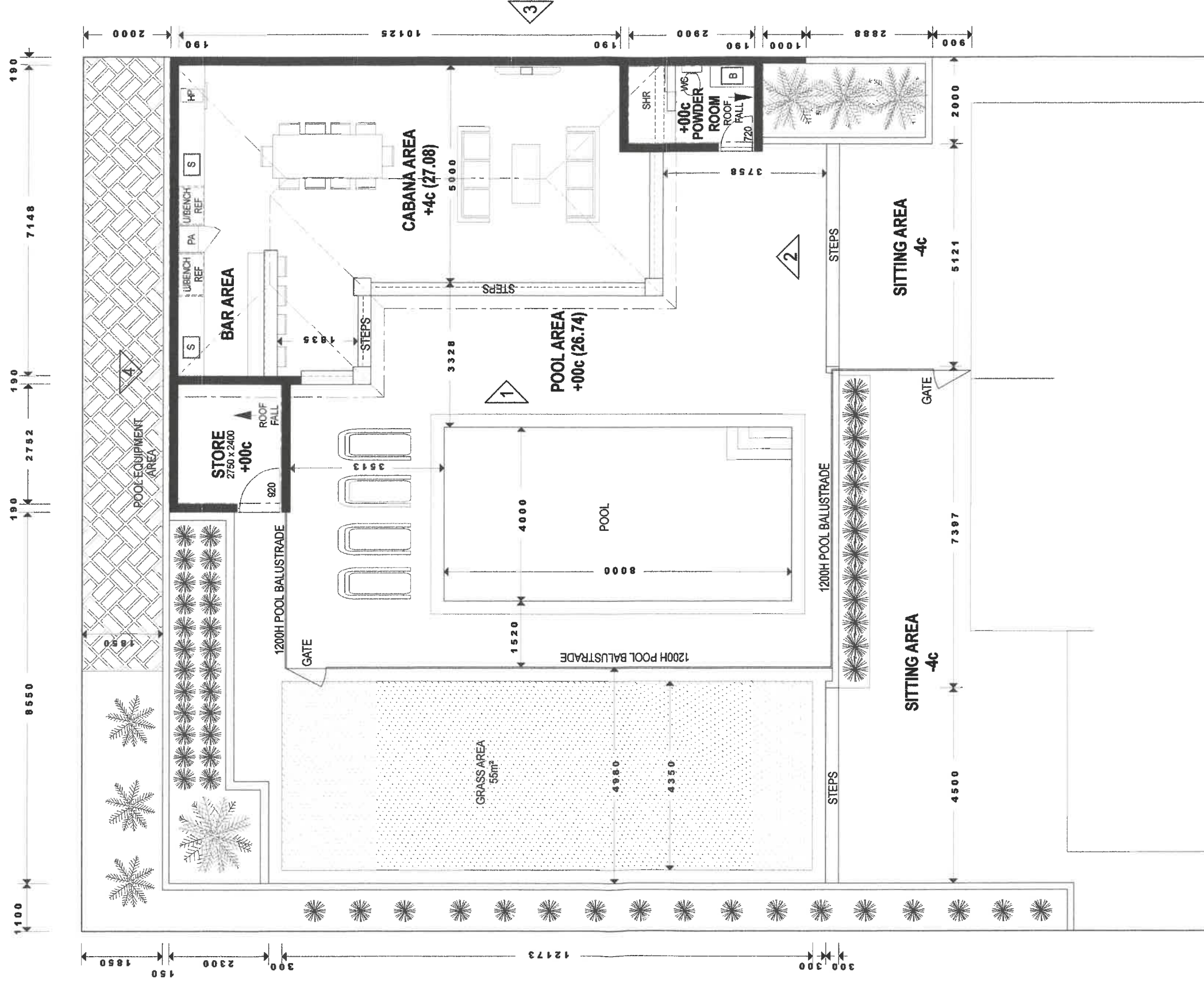
TOWN OF EAST FREMANTLE
 PLANNING APPLICATION
 DATE 16 JAN 2019 P 004-19
 RECEIVED

robertgalipodesign
 +construct
 Residential Design

robert galipo-designer
 3 Shoalwater Street, North Coogee WA, 6162
 P 0410 321 722 E robert@rgd.com.au
 © Copyright of Robert Galipo Design Pty Ltd

DATE : 22/11/2018 SCALE 1:100 SUBJECT TO COUNCIL APPROVAL

CABANA AREA	69.34m ²
STOREROOM	8.18m ²
POWDER ROOM	7.15m ²
TOTAL	84.67m ²



TOWN OF EAST FREMANTLE
 PLANNING APPLICATION
 No. 16 JAN 2019 P 0 0 4 - 1 9
 DATE 16 JAN 2019
RECEIVED

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 robert galipo-designer
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11.5 Richmond Circus No 70 (Lot 226) - Carport

Owner	Mark Hochstadt and Rachel Bodel
Applicant	Softwoods Timberyard Pty Ltd
File ref	P098/18; P/RIC70
Prepared by	James Bannerman Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	5 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. Location plan 2. Photographs 3. Plans date stamped 19 October 2018

Purpose

For Council to consider a planning application for a carport at No. 70 Richmond Circus, East Fremantle.

Executive Summary

A carport is proposed to be constructed within the front setback area of the subject property. The applicant is seeking Council approval for the following variation:

- (i) Carport- primary street front setback- 1.5m from the front boundary.

It is considered that the above variation should be refused.

Background

Zoning: Residential R20

Site area: 585m²

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

28 August 1998: Building Permit 2721 issued for a two storey residence.

22 November 2006: Development Approval for a Verandah/Pergola addition.

The Officer's original recommendation was not supported at a full Council meeting on 19 February 2019 and the administration was directed to prepare an alternative recommendation that is included at the conclusion of this report.

Consultation

Advertising

The application was not formally advertised to surrounding properties by the Town, however, the applicant approached the neighbouring property at No 8 Raceway Road and the owner had no objections to the proposed development.

Officer response

The comments provided by the neighbouring property are noted.

Community Design Advisory Committee (CDAC)

This application was considered at the CDAC meeting of 19 November 2018 and the Committee made the following comments. The applicant's response is provided in italics below the Committee's comments.

(a) *The overall built form merits;*

- The Committee do not support the proposed garage. The Committee commented that the development could set an undesirable design precedence for the area.

The proposed structure is a carport not a garage.

(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 Committee commented on the unacceptable front setback and that the development has an imposing presence on the streetscape.

The proposed development adds to the streetscape and is sympathetic to the design of the existing home and is neither imposing nor undesirable.

(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.

Officer’s response

The CDAC comments and applicant’s response are noted.

Statutory Environment

Planning and Development Act 2005

Residential Design Codes of WA

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

Policy Implications

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

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

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

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

Natural Environment

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

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

Site Inspection

11 December 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 as well as the Residential Design Code. A summary of the assessment is provided in the following tables.

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

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback			N/A
Secondary Street Setback			N/A
Lot boundary setbacks			
South	Zero lot setback for 1/3 of boundary length	Zero lot setback for less than 1/3 of boundary length	A
Open Space	50%	56%	A
Car Parking	2	2	A
Site Works			N/A
Visual privacy setback			N/A
Overshadowing	≤25%	10.3%	A

Drainage	On-site	To be conditioned	A
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Local Planning Policies Assessment

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

Carport Setback

The applicant proposes a carport in the front setback area which fails to comply with the acceptable development requirements of the Residential Design Guidelines Clause 3.7.20.3.3 A2. Although it is possible to locate a carport forward of the building line it must not dominate the streetscape or buildings. In this case the carport would set a precedent where large number of carport structures could be located forward of the building line, thereby creating a streetscape that was potentially dominated by carports and garages constructed in the front setback area. It has been accepted practice in the Richmond Raceway precinct that new carports and garages would comply with the acceptable development provisions of the Residential Design Guidelines and would abide by the desired development outcomes Clause 3.7.20.3.1 that include:

- *Garages and carports shall be incorporated into and be compatible with the design of the dwelling*
- *Garages and carports shall not visually dominate the dwelling as viewed from the street.*

The applicant has made the comment that there are 4 dwellings that are within 80m of the proposed development that have had approvals within the front setback area. However, it must be noted that these 4 properties are located in Woodside precinct, whereas the property that is subject to this development application is situated in Richmond Raceway precinct. There are different design guidelines that are applicable for the 2 areas; in this case the guidelines relevant to Richmond Raceway precinct must be applied, as the outcome would have an undesirable impact on the established character and amenity of the area.

Conclusion

The development application was previously recommended for refusal. The Officer's original recommendation was not supported at a full Council meeting on 19 February 2019 and the administration was directed to prepare an alternative recommendation that is included below.

11.5 OFFICER RECOMMENDATION

That development approval be granted and discretion exercised in regard to the following:

- (i) Clause 3.7.20.3.2 of the Residential Design Guidelines - garages and carports shall be incorporated into and be compatible with the design of the dwelling and garages and carports shall not visually dominate the dwelling as viewed from the street;
- (ii) Clause 3.7.20.3.3 A2 of the Residential Design Guidelines - garages and carports are to be setback a minimum distance of 1.2m behind the building line;

for a single carport in the front setback area at No 70 (Lot 226) Richmond Circus, East Fremantle, in accordance with the plans date stamped received on 19 October 2018 subject to the following conditions:

- (1) The carport is to remain open on all sides and not to be fully enclosed.
- (2) Installation of a garage door is not permitted.
- (3) Any proposal to fully enclose the carport and/or install a garage door is required to have a development application submitted for Council's consideration.
- (4) The construction materials and colours are to be to the satisfaction of the Chief Executive Officer and are to be submitted with the Building Permit application plans.
- (5) The crossover to the carport is not to exceed 3.2 metres in width (including splays).
- (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 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) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (iii) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (iv) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (v) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

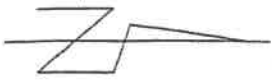
NO. 70 (LOT 226) RICHMOND CIRCUS- P098/18- CARPORT





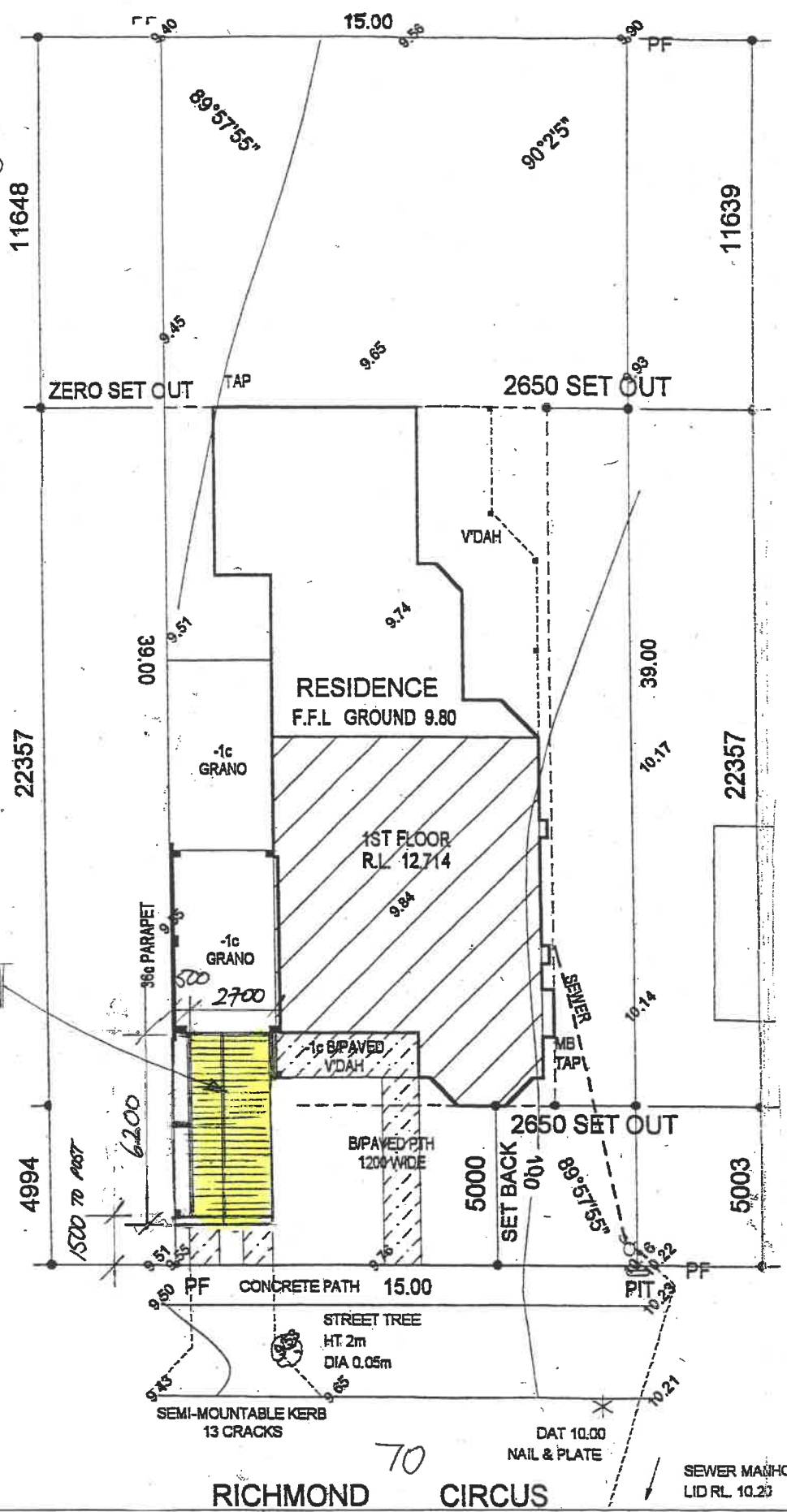
SITE PLAN

1:200



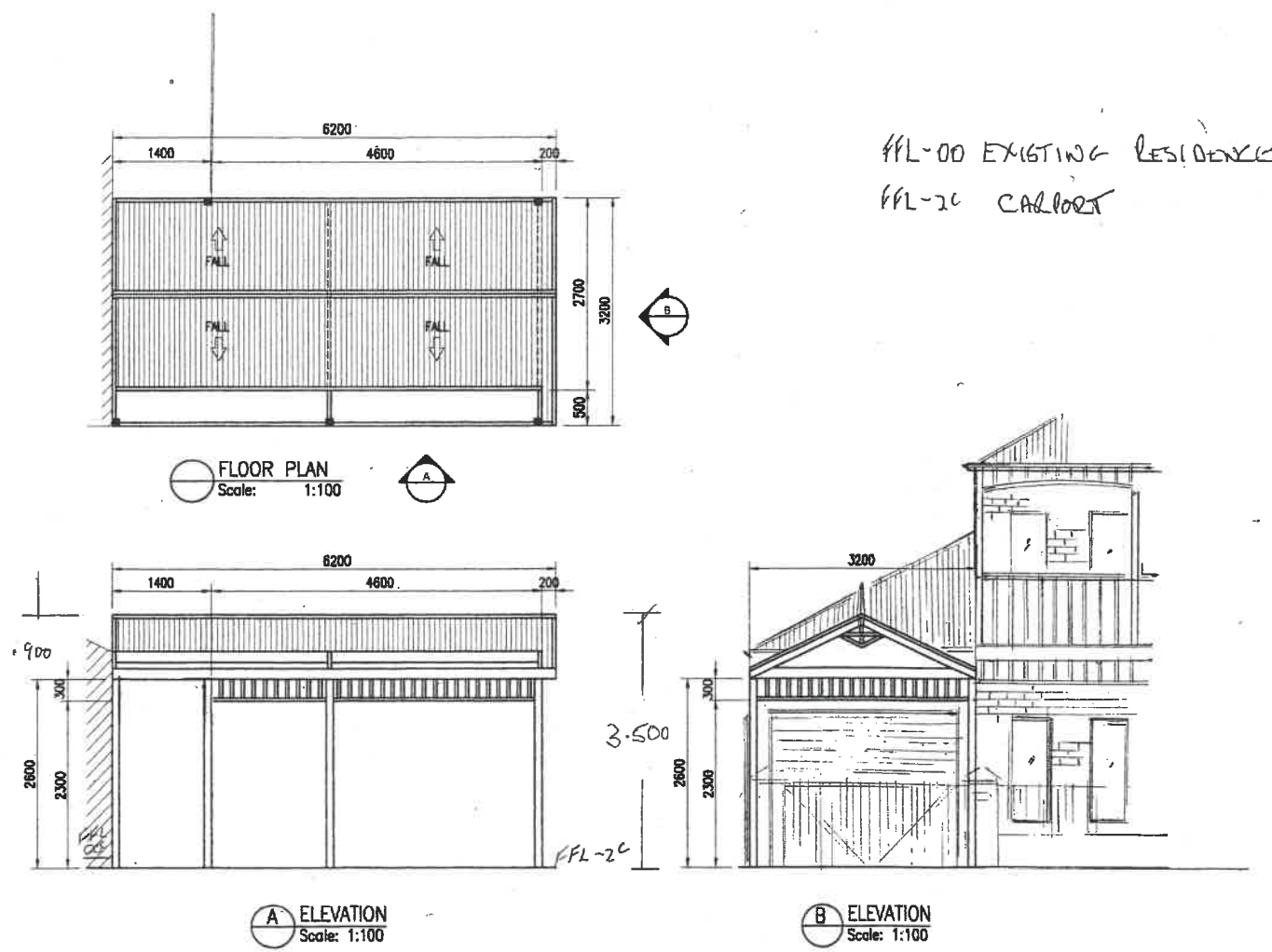
LOT 226

SANDY
 TOWN OF EAST FREMANTLE
 PLANNING APPLICATION
 No. P 098-18
 19 OCT 2018
RECEIVED



ELEVATIONS

1:100



FFL-00 EXISTING RESIDENCE
 FFL-2c CARPORT

Job No.	Issue/Date:	Client: <i>MARK & RACHEL HOCHSTADT</i>
		Address: <i>70 RICHMOND CIRCUS</i>
Sheet		<i>EAST FREMANTLE</i>
	Phone:	Mobile:

patio living
 Softwoods Timberyards Pty LTD
 A.C.N. 076 530 848 trading as Patio Living
 Web: www.patioliving.com.au
 Email: info@patioliving.com.au

Drawn By: _____ Scale: *As ABOVE* **A3**

P.O. Box 1624 West Perth Business Centre, West Perth 6872 Phone: 9322 3777.

11.6 Allen Street No 18 (Lot 48), East Fremantle – Change of Use – Ancillary Dwelling to Short Term Accommodation

Applicant/Owner	CM & AJ Norcross
File reference	P/ALL18; P005/19
Prepared by	Christine Catchpole, Senior Planning Officer
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting date	5 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	<ol style="list-style-type: none">1. Location Map2. Photographs3. Place Record Form4. Plans and accompanying information date stamped received 29 January 2019

Purpose

This report considers an application for a change of use from an ancillary dwelling to short term accommodation at No. 18 Allen Street, East Fremantle.

Executive Summary

An application seeking approval for a change of use from an ancillary dwelling to short term accommodation (1 bedroom) at the property is proposed. A games room was converted to an ancillary dwelling 2018.

The following issues are relevant to the consideration of this use:

- impact on residential amenity;
- number of people accommodated and number of bedrooms for accommodation purposes;
- adequacy of available car parking;
- management of the property;
- BCA requirements and compliance; and
- length of temporary planning approval.

Following advertising no submissions were received. After consideration of the proposal the application is recommended for the standard conditional temporary approval for 12 months. If there are no issues arising from the use of the property, to the satisfaction of the Chief Executive Officer, in the 12 month approval period then the applicant will be requested to make another application for a 12 month temporary approval. This is so commercial uses of this nature can continue to be monitored in residential areas.

Background

Zoning: Residential R12.5

Site area: 1,087m²

The applicant has provided a letter in support of the application date stamped received 29 January 2019 which is repeated in part below:

We obtained planning approval from Council in 2018 to modify our detached dwelling, known colloquially as the Games Room. By addition of a bathroom we have effectively converted the

games room into an additional bedroom (now known as the Garden Studio), initially for use by family members and visiting friends and relatives.

My work circumstances changed in 2018 such that we are now both retired. After careful thought we believe we could provide this additional bedroom as 'Short Term Accommodation' to selected members of the travelling public - and provide us with an 'activity' in our retirement.

We understand that Council does not have a 'gazetted' formal policy or By-law that actively promotes/prevents use of private property as 'Short Term Accommodation' but relies on common sense 'community integration' as a guideline referencing the WAPC Holiday Home Guidelines 2009. Clearly there are numerous properties operating some form of short term accommodation in our community with, or without, formal local government endorsement.

Having referenced Town of East Fremantle documents through Google search we have noted that Council seeks 'management information' as a precursor to planning approval. The information below may not be exhaustive but should address initial enquiries.

- 1. Facility: we propose a bedroom, with attached 'ensuite' bathroom having toilet/shower/basin etc.*
- 2. Target Market: Singles/Couples, with possible inclusion of infant(s). Max 2 adults. Not otherwise suitable for children.*
- 3. Location: as per attached site plan previously submitted as part of Development Application P013/18 and Building Permit Approval 2018033.*
- 4. Car Parking: we propose that guests be able to use our carport, or driveway, or verge/street parking, at their convenience. This is unlikely to ever amount to more than one vehicle. Note that our property used to accommodate 5 vehicles when our adult sons lived at home. Now several nearby neighbours are in that same situation with multiple vehicles on site, or on the street/verge. This is accepted practice and has been since 'time immemorial'.*
- 5. Local Amenity & Advertising: We have not as yet signed onto any website although I expect we shall. We note that there is provision on selected sites to screen guest enquiries and assert guidelines. No pets, no parties, no children, no noise etc. We, or other family members, would expect to be in overnight residence when guests may be present.*
- 6. Fire Risk: We have a garden hose available at the back door, off the ensuite bathroom. There is a kitchen fire blanket and domestic approved fire extinguisher. There is a working mains powered smoke alarm. I am advised that 3 x Residual Current Devices are installed. There are no gas appliances and no cooking facilities other than a microwave. We haven't as yet included an external BBQ although we likely will.*
- 7. We note that we will need to amend our 'Home & Contents' insurance to incorporate a Short Term Accommodation clause. This has already been explored and factored into our early planning.*
- 8. Our immediate neighbours are aware of our low key intentions.*

While this application is being considered we request that Council forward Town of East Fremantle guidelines/policies related to variations on this 'short term accommodation' theme viz: policy on lodgers such as students/professionals seeking accommodation for say 6 months.

Consultation

Advertising

The development application was advertised to surrounding land owners from 12 to 26 February 2019 as required under LPS No. 3. No submissions were received.

Community Design Advisory Committee

The application was not referred to the Advisory Committee as the proposed short term accommodation is considered to have no impact on the streetscape or the heritage elements of the site. The building is already constructed.

Statutory Environment

Planning and Development Act 2005

Town of East Fremantle Local Planning Scheme No. 3

LPS No. 3 - Heritage List

Policy Implications

Municipal Heritage Inventory – Category B – Federation Bungalow c1912

Note:

No local planning policy applies, however, the Western Australian Planning Commission (WAPC) has published 'Holiday Homes Guidelines – Short Stay Use of Residential Dwellings' (September 2009) which can be used as a guide in the assessment of short term accommodation applications.

Financial Implications

Nil

Strategic Implications

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

Built Environment

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

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

Natural Environment

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

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

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

4.1.2 Plan for improved streetscapes parks and reserves.

4.2 Enhance environmental values and sustainable natural resource use.

4.2.1 Reduce waste through sustainable waste management practices.

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

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

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Theme	Risk	Risk Action Plan (Controls or Treatment proposed)
That Council does not approve the development application	Unlikely (2)	Minor (2)	Low (1-4)	COMPLIANCE	Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme
		1	2	3	4	5
Likelihood	Almost Certain	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating is provided below. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	4
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

February 2019

Comment

Statutory Assessment

The proposal has been assessed against the provisions of Local Planning Scheme No. 3 and the WAPC *Holiday Homes Guidelines*.

Use for short term accommodation

The applicant seeks approval for a change of use from an ancillary dwelling to short term accommodation. No further changes to the approved ancillary dwelling are proposed. Short term accommodation is a 'use not specifically mentioned' in the Zoning Table of LPS No. 3 as such the application must be advertised in accordance with Scheme requirements and then Council must determine that the use is consistent with, and not contrary to, the aims and objectives of the Residential zone.

The accommodation will be provided in the existing ancillary dwelling which comprises one bedroom, ensuite bathroom, sitting area and kitchenette. In recent years the ancillary dwelling has undergone renovation and extension. The operators will live on the site and parking is available in the driveway.

As noted in previous Officer reports on short term accommodation, the Council does not have any specific policies or local laws that regulate short term accommodation. The WAPC, however, formulated Guidelines in 2009 for the short term use of residential dwellings. This document identifies the issues or matters to be considered on submission of a development (planning) application. It also makes recommendations in respect to how a local government authority may deal with such applications. The Guidelines provide advice in regard to the following planning considerations:

- requirement to lodge an application;
- advertising and invitation to comment;
- location – potential for conflict between land uses;
- amenity;
- building standards;
- form of approval;
- type of dwelling;
- management of property;
- fire and emergency response plans;
- approval period;
- holiday homes register;
- non-compliance and cancellation of approval; and
- voluntary accreditation.

The application has been assessed with regard to the relevant sections of the Guidelines for this application, LPS No. 3 provisions, residential amenity and the impact the use could have on surrounding neighbours and conditions imposed accordingly.

It is, however considered prudent for Council to remain cautious when considering applications for the commercial use of properties in Residential zoned areas. For this reason it is considered necessary to grant approval for a 12 month period only, in which time the change of use can be monitored in respect to the manner in which it operates and is managed to determine if any negative impacts for residents are eventuating. This is not considered unreasonable given this property is within a Residential zone and it is a realistic expectation of residents that the protection of residential amenity should be a priority. At the expiry of the 12 months, if the applicant wishes to continue the use it will be necessary for a fresh application for development approval to be submitted for the Council's consideration. At that time the application will be readvertised inviting comment from surrounding residents.

Car parking

Car parking is an important consideration and should be monitored during the continuing approval period to determine there is no adverse impact on resident parking, on-street parking or residential amenity. In this case the owner can provide at the very most three parking bays on-site. This is in a tandem arrangement, which is not ideal, however, it is available on the site. Street parking is also available. This is considered acceptable in respect to parking provision for a 1 bedroom accommodation proposal so close to Canning Highway and in light of the fact that parking was not required to be provided for the ancillary dwelling (site is within 250 metres of a high frequency transport route). The number of people permitted to be accommodated will be addressed through a condition of planning approval. This will also limit parking demand. This is discussed below in regard to the number of bedrooms and guests able to stay at the property.

Accommodation

To safeguard residential amenity it is considered necessary to impose the same condition of approval which limits the number of people that can be accommodated to 2 adults or 1 adult and 1 child with the maximum number of bedrooms not exceeding 1 (i.e. only the ancillary dwelling is to be used for short term accommodation). This is considered to be more in keeping with the likely number of occupants of an ancillary dwelling. The accommodation use will be reviewed after a 12 month period as stated above so the level of activity can be monitored. This will be applied as a condition of planning approval and is the same renewal period applied to all short term accommodation approvals in the Town.

Management plan

A management plan is always required to be submitted as part of the conditions of approval. This is recommended as a condition of planning approval to safeguard amenity in the 12 month period in which the use will be monitored. The Management Plan is to include the following details:

- the owner's contact details (during and after business hours);
- details of how nuisance issues such as noise and anti-social behaviour would be addressed by the owner;
- a fire and emergency response plan;
- car parking;
- the number of people occupying the premises and the number of bedrooms; and
- maximum period of stay.

Conclusion

It is considered that the application for short term accommodation can be approved subject to conditions. The most significant being a temporary term of approval for 12 months and the requirement for renewal of the approval on a 12 monthly basis. This is to ensure the use of the property is not having a detrimental impact on the surrounding residential properties. Other conditions restricting the scale of the

accommodation (i.e. limiting the maximum number of guests to 2 adults or 1 adult and 1 child), with only one bedroom to be used for accommodation purposes are also considered necessary to minimise the potential for issues arising relating to car parking and noise.

Uses of this nature within residential areas should be considered with cautiousness and therefore renewals are required every 12 months rather than being granted on a permanent basis. This is considered necessary to ensure monitoring of the use occurs and the expectations of residents in respect to their amenity can be met. It also allows Council to receive feedback on the operation of the business on a regular basis. A number of other conditions in respect to vehicle parking, management and signage are also recommended to be imposed with this approval.

11.6 OFFICER RECOMMENDATION:

That Council exercise its discretion in regard to granting temporary approval (12 months) for a change of use from an ancillary dwelling to a short term accommodation use at No. 18 (Lot 48) Allen Street, East Fremantle as indicated on plans and supporting information date stamped received 29 January 2019 subject to the following conditions:

- (1) Approval is for a temporary period of 12 months only from the date of this development approval.**
- (2) Continuation of the short stay accommodation use after the 12 month approval period has expired will require the submission of a new development approval application for Council's consideration.**
- (3) Maximum accommodation is for 2 adults, or 1 adult and 1 child based on 1 bedroom only being provided for guest/occupant accommodation. This is not to be exceeded on any occasion.**
- (4) Only the ancillary dwelling is to be used for the short term accommodation purposes the subject of this application. The main dwelling or other outbuildings are not to be used for this purpose.**
- (5) No guest/occupant vehicles are to be parked on the Council verge, in or across crossovers due to inadequate or unavailable parking on-site or in the street.**
- (6) A Management Plan to the satisfaction of the Chief Executive Officer is to be submitted within 14 days from the date the development approval is issued.**
- (7) No on-site signage is permitted with respect to the application.**
- (8) The approval may be revoked by Council, if any adverse impacts involving noise, anti-social behaviour, breaches of the management plan, waste removal, security, parking or privacy control measures for adjoining neighbours are unable to be controlled by the applicant/owner in a timely and effective manner which is to satisfaction of the Chief Executive Officer.**
- (9) The approval is valid for a period of 12 months only from the date of the "Approval to Commence Development" and the applicant is required to seek a renewal thereafter to enable the continuance of the short term accommodation use. During the review of the renewal process, assessment of car parking, noise, vehicle movements, number of occupants, any reports of anti-social behaviour and general management of the property will be undertaken.**

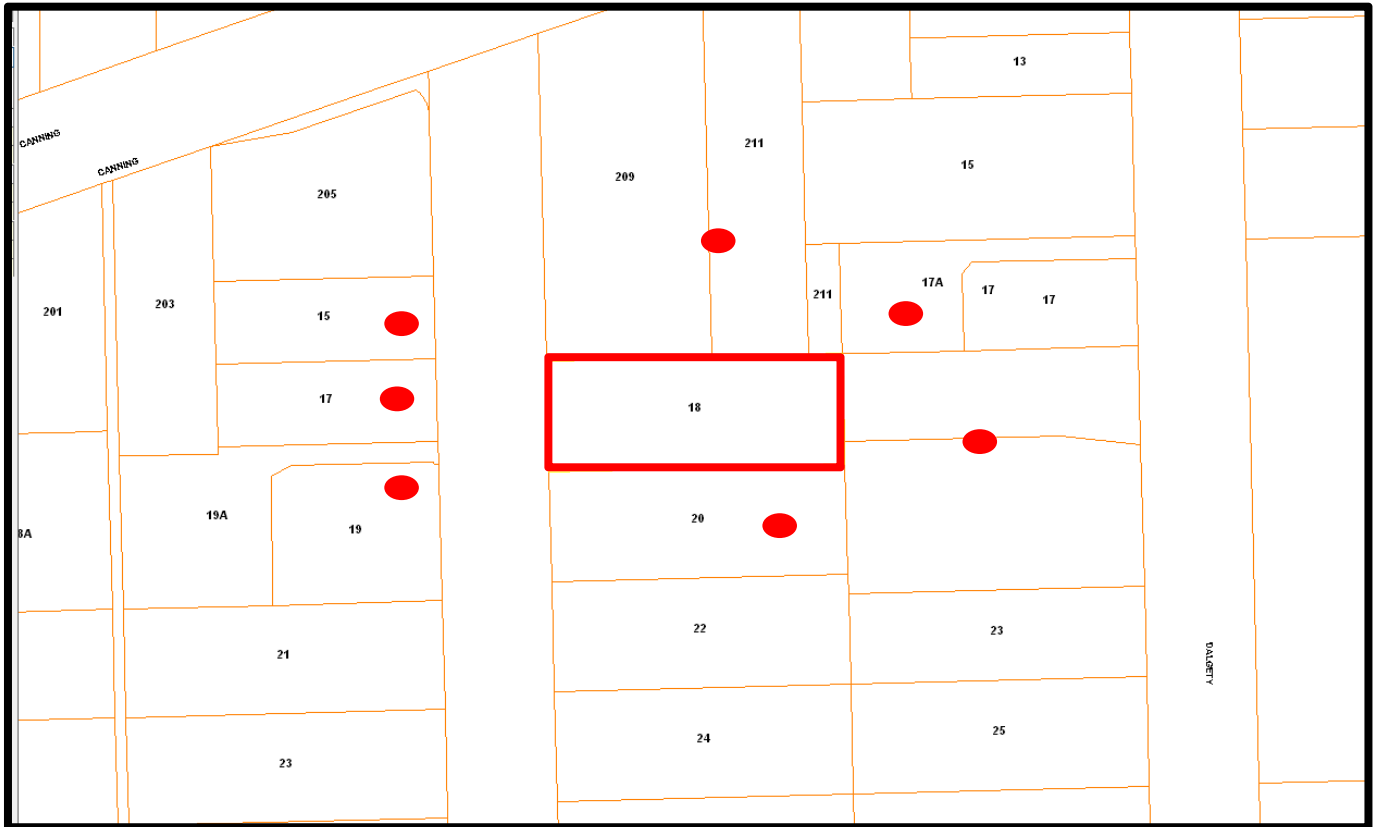
Footnote

The following is not a condition but a note of advice to the applicant/owner:

- (i) a fresh development (planning) approval application is to be made for Council's consideration at the expiry of the twelve (12) month temporary approval period should the applicant wish to continue the use;***
- (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 use is to conform with the approved plans unless otherwise approved by Council; and***

(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".

NO. 18 (LOT 48) ALLEN STREET – P005/19- CHANGE OF USE: SHORT TERM ACCOMMODATION – CATEGORY B





PLACE RECORD FORM



PRECINCT	Woodside
ADDRESS	18 Allen Street
PROPERTY NAME	N/A
LOT NO	Lot 48
PLACE TYPE	Residence
CONSTRUCTION DATE	C 1912
ARCHITECTURAL STYLE	Federation Bungalow
USE/S	Original Use: Residence/ Current Use: Residence
STATE REGISTER	N/A
OTHER LISTINGS	N/A
MANAGEMENT CATEGORY	Category B
PHYSICAL DESCRIPTION	<p>No 18 Allen Street is a single storey house constructed in brickwork with a hipped corrugated iron roof. It is a simple expression of the Federation Bungalow style. The front elevation is symmetrically planned with a central door and hopper light flanked by sidelights and windows. The windows are double hung sash windows with sidelights. The facade features a full width bull nosed roofed verandah set on turned timber posts. A vertical timber balustrade is set between posts. A flight of concrete steps leads down from the verandah to the garden level. The garden is elevated above the street level.</p> <p>The place retains its basic form and details. There are additions to the</p>

	<p>rear and a gabled roofed carport has been added to the south.</p> <p>The place is consistent with the building pattern in the Precinct. The place plays an important role in the pattern of development of a middle class suburb.</p>
HISTORICAL NOTES	<p>Woodside is a relatively cohesive precinct where most of the places were constructed following the subdivision of W.D. Moore's Estate commencing in 1912. Most of the lots were sold between 1912 and 1929 and the majority of buildings were completed in this time. Residences were substantial and of various Federation period styles distinguishing the area from the small worker's cottages of Plympton. The Inter-War Californian Bungalow style residence is also represented in Woodside.</p> <p>The Woodside Precinct remains largely intact in terms of original housing with little infill subdivision or replacement housing.</p> <p>Additions have been made to the rear and a carport added to the side of the house.</p>
OWNERS	Unknown
HISTORIC THEME	Demographic Settlements - Residential Subdivision
CONSTRUCTION MATERIALS	<p>Walls - Brickwork</p> <p>Roof - Corrugated roof sheeting</p>
PHYSICAL SETTING	The residence is situated on a gently sloping site with low limestone retaining wall at the lot boundary.
STATEMENT OF SIGNIFICANCE	<p>No 18 Allen Street is a single storey house constructed in brick with a corrugated iron roof. It has historic and aesthetic value for its contribution to Woodside's high concentration of predominantly Federation period houses and associated buildings. The place contributes to the local community's sense of place.</p> <p>The place has considerable heritage value for its intrinsic aesthetic value as a Federation Bungalow. The place retains a moderate to high degree of authenticity and a high degree of integrity.</p> <p>The additions to the rear and carport have no significance.</p>
AESTHETIC SIGNIFICANCE	No 18 Allen Street has considerable aesthetic value as a typical Federation Bungalow. It retains most of the characteristic features of a dwelling of the type and period.
HISTORIC SIGNIFICANCE	No 18 Allen Street has some historic value. It was part of the suburban residential development associated with the expansion of East Fremantle and the subdivision of W. D. Moore's Woodside Estate from 1912.
SCIENTIFIC SIGNIFICANCE	N/A
SOCIAL SIGNIFICANCE	No 18 Allen Street has some social value. It is associated with a significant area of middle class Federation and Inter-War period development which contributes to the community's sense of place.
RARITY	No 18 Allen Street is not rare in the immediate context but Woodside has rarity value as a cohesive middle class suburb.
CONDITION	No 18 Allen Street is in good condition.
INTEGRITY	No 18 Allen Street retains a high degree of integrity.
AUTHENTICITY	No 18 Allen Street retains a moderate to high degree of authenticity.
MAIN SOURCES	

The Chief Executive Officer
Town of East Fremantle
PO Box 1097
Fremantle 6959

18 Allen St
East Fremantle
WA 6158

Attention : Town Planning

29 January, 2019

Dear Sir/Madam,

We provide the following information in support of our 'Application for Development Approval' submitted on or about January 29, 2019.

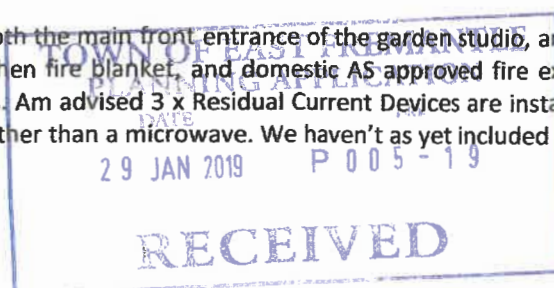
We obtained planning approval from council in 2018 to modify our detached dwelling, known colloquially as the Games Room. By addition of a bathroom we have effectively converted the games room into an additional bedroom (now known as the Garden Studio), initially for use by family members and visiting friends and relatives.

My work circumstances changed in 2018 such that we are now both retired. After careful thought we believe we could provide this additional bedroom as 'Short Term Accommodation' to selected members of the travelling public – and provide us with an 'activity' in our retirement.

We understand that Council does not have a 'gazetted' formal policy or By-law that actively promotes/prevents use of private property as 'Short Term Accommodation' but relies on common sense 'community integration' as a guideline referencing the WAPC Holiday Home Guidelines 2009. Clearly there are numerous properties operating some form of short term accommodation in our community with, or without, formal local government endorsement.

Having referenced ToEF documents through Google search we have noted that Council seeks 'management information' as a precursor to planning approval. The information below may not be exhaustive but should address initial enquiries.

1. Facility: we propose a bedroom, with attached 'ensuite' bathroom having toilet/shower/basin etc.
2. Target Market: Singles/Couples, with possible inclusion of infant(s). Max 2 adults. Not otherwise suitable for children.
3. Location: as per attached site plan previously submitted as part of Development Application P013/18 and Building Permit Approval 2018033.
4. Car Parking: we propose that guests be able to use our carport, or driveway, or verge/street parking, at their convenience. This is unlikely to ever amount to more than one vehicle. Note that our property used to accommodate 5 vehicles when our adult sons lived at home. Now several nearby neighbours are in that same situation with multiple vehicles on site, or on the street/verge. This is accepted practice and has been since 'time immemorial'.
5. Local Amenity & Advertising: We have not as yet signed onto any website although I expect we shall. We note that there is provision on selected sites to screen guest enquiries and assert guidelines. No pets, no parties, no children, no noise etc. We, or other family member, would expect to be in overnight residence when guests may be present.
6. Fire Risk: We have a garden hose available at both the main front entrance of the garden studio, and the back door, off the ensuite bathroom. There is a kitchen fire blanket, and domestic AS approved fire extinguisher. There is a working mains powered smoke alarm. Am advised 3 x Residual Current Devices are installed. There are no gas appliances and no cooking facilities other than a microwave. We haven't as yet included an external BBQ although we likely will.



- 7. We note that we will need to amend our 'Home & Contents' insurance to incorporate a *Short Term Accommodation* clause. This has already been explored and factored into our early planning.
- 8. Our immediate neighbours are aware of our low key intentions.

While this application is being considered we request that Council forward ToEF guidelines/policies related to variations on this '*short term accommodation*' theme viz: policy on lodgers such as students/professionals seeking accommodation for say 6 months.

Yours faithfully,



A J Norcross

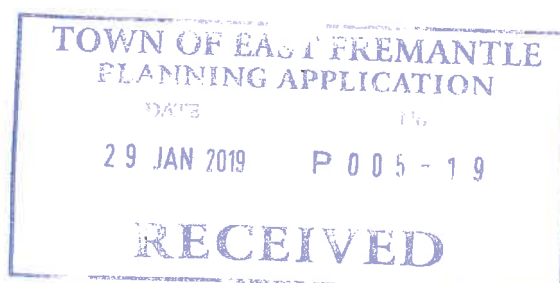
0478 622 676



C M Norcross

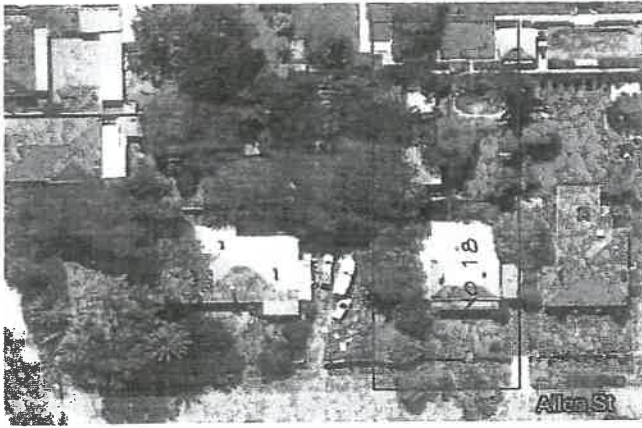
0467 055 901

Attachment: Site Plan



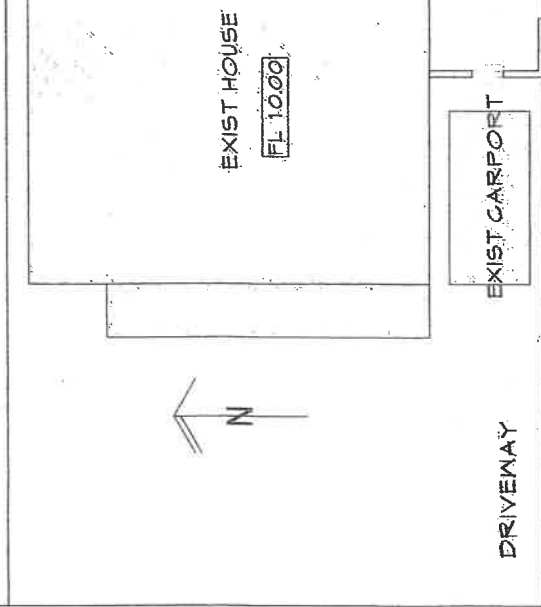
SPECIFICATION NOTES

1. Pay all fees and obtain all necessary approvals before proceeding with the works
2. Check & verify all dimensions before ordering materials
3. Protect all existing property and make good any damage to the same.
4. Effect all insurances required and necessary to indemnify the proprietor against any claim which may arise as a result of the execution of the works
5. Materials, finishes and workmanship are to be the best of their respective kinds & are to match existing where applicable
6. Inspect the site & existing buildings & allow for all conditions as they are at present & how they will affect the works.
7. Do all concrete work in accord with current Australian Standards and the BCA
8. Build in all doors & window frames with straps, lugs, brackets and the like.
9. Build in lintols as required the BCA.
9. Carpentry & Joinery materials & workmanship shall comply with the relevant Australian Standards
10. Finish external walls in weatherboards to match exist. Allow to make good to exist walls where affected by the works
11. Finish internal walls with Aquachek plaster board.
12. Electrical installation shall be carried out by a licensed electrician in strict accordance with SAA wiring codes & Western Power regulations. Make all necessary alterations to exist switch board and connect new points.
13. Plumbing installation shall be carried out by a licensed plumber in strict accordance with WaterCorp codes & regulations. Make all necessary alterations to exist sewer and water services and connect new fixtures and taps.
14. Proceed with the works continuously & diligently and complete in a maximum of 12 weeks.



LOCATION PLAN

Not to Scale



SITE PLAN

Scale: 1:200

PROJECT: PROPOSED CONVERSION OF EXISTING GAMES ROOM TO AN ANCILLARY DWELLING; NORCROSS RESIDENCE
18 ALLEN STREET EAST FREMANTLE

ACN 009 273 812
Telephone (08) 9384 1133 Fax (08) 9383 4993

Broadhurst & Bott Architects

Unit 8/355 Stirling Highway, CLAREMONT WA 6010
Member



DATE	FEBRUARY - 2018
SCALE	AS SHOWN
DRAWN	MB
DRAWING No.	A-01

TOWN OF EAST FREMANTLE
PLANNING APPLICATION
21 FEB 2019 10:13 AM
RECEIVED

TOWN OF EAST FREMANTLE
APPROVED
Application No: 1013/18
Date of Decision
13/4/2018
Authorised by
G.M.

TOWN OF EAST FREMANTLE
PLANNING APPLICATION
DATE
29 JAN 2019 P 005 - 19
RECEIVED

11.7 WALGA Preferred Model - Third Party Appeal Rights in Planning

File ref	A/WALGA; B/PTP1
Prepared by	Stacey Towne, Urban Project Planner
Supervised by	Andrew Malone, Executive Manager Regulatory Services
Meeting Date:	5 March 2019
Voting requirements	Simple Majority
Documents tabled	Nil
Attachments	1. WALGA Preferred Model – Third Party Appeal rights for decisions made by Development Assessment Panels

Purpose

The purpose of this report is for Council to provide comments to the Western Australian Local Government Association (WALGA) regarding their Preferred Model for Third Party Appeal Rights in planning. The closing date for comment was initially 20 February 2019, however, this has been extended to the end of March 2019.

Executive Summary

This matter was considered by Council at its Meeting held on 18 February 2019 and was deferred to the March 2019 Town Planning Committee Meeting.

At the May 2018 WALGA State Council meeting, it was resolved to amend WALGA's policy position from opposing Third Party Appeal Rights, to supporting the introduction of Third Party Appeal Rights only for those decisions made by Development Assessment Panels (DAPs).

State Council also resolved to further consult with members to provide more clarity on the exact details of the criteria that need to be established, before any system is implemented by the State Government. A Preferred Model has now been prepared through a workshop with members, and has been circulated for further comment from the sector.

The new policy position was provided to the State Government and also submitted during the consultation on the Independent Review of the Planning System in July 2018 (the Green paper). The Hon Minister for Planning responded that Third Party Appeal Rights are not included in the Green paper, as they would *"add unnecessary complexity and red tape to the planning framework, contrary to the intent of the review"*. WALGA claims that this statement could perhaps be challenged as the objectives of the Review were also about providing a modern and accountable planning system.

Although agreeing with some of the principles behind WALGA's Preferred Model and the need to make improvements to the accountability and transparency of DAP decision making. It is understood that in the past the Town of East Fremantle has not generally supported Third Party Appeal Rights in planning. The Town's administration is, therefore, reluctant to recommend support for any form of third party appeals as it is likely to pave the way for unwanted future changes, planning delays and involve excessive costs and resources. An introduction of Third Party Appeals could also potentially result in further changes in the future including the possibility for legal challenges to decisions of Council.

The Town's administration recommends further investigation should be undertaken to explore alternative planning reform measures other than the third party appeals process to address DAP functions and processes, that in particular would allow Local Governments to challenge or seek review of a DAP decision.

Background

No Third Party Appeal Rights currently exist in the planning system in Western Australia.

In December 2016, WALGA State Council resolved to undertake research on third party appeals around Australia and further consult with members regarding the current policy position at that time, which opposed the introduction of Third Party Appeal Rights in Western Australia. This action was partially driven by changes to legislation arising from the State's planning reform *Planning Makes it Happen: Phases 1 and 2*, and the introduction of DAPS.

Feedback was sought from the Local Government planning community and Elected Members on a discussion paper that put forward the arguments both for and against third party appeals. Following consideration of submissions, two workshops were held in November 2017 to review various forms of Third Party Appeal Rights and to determine a preferred model.

As a result of a formal request for consideration by members in December 2017, a new position to support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels, was endorsed at the May 2018 WALGA State Council Meeting and has since been amended accordingly.

WALGA has now prepared a Preferred Model for Third Party Appeal Rights for decisions made by Development Assessment Panels and is seeking Council comments and/or resolutions regarding this matter. Comments are sought by 20 February 2019 and WALGA officers are aware that the Town's response may be late due to the date of this Council Meeting. An extension to the comment period would need to be sought if any further delays than this are anticipated.

Details

The Preferred Model – Third Party Appeal Rights for decisions made by Development Assessment Panels is shown as Attachment 1 to this agenda.

The benefits of Third Party Appeal Rights for DAP decisions are purported by the Preferred Model as follows:

- The model provides a good test for the introduction of Third Party Appeal Rights, which could possibly be expanded later if it proves to be beneficial.
- Local Government would be able to appeal a DAP decision and defend the merits of their policies and defend the enforceability of their conditions.
- Other interested parties and community members would be able to appeal a DAP decision.
- Addresses community concerns that decisions are being made by those 'removed' from the local community, leading to improved community confidence in the system.
- More transparent process in both decision making and condition setting, resulting in more accountable DAP members.
- Would allow for an appeal to be made on the conditions of approval or refusal:
 - (i) That may have been removed from a RAR; or
 - (ii) Added to the decision, particularly where no liaison has occurred with the authority responsible for clearing or enforcing the condition; or
 - (iii) Applied inappropriately i.e. the condition would change the intent or design of the development and therefore a new application should have been lodged.
- Limits appeal rights to larger, more complex applications and would filter out 'smaller' impact applications which could potentially overburden the system.
- Provides the opportunity for additional information to be included in the appeal process, particularly if information was not received before the DAP meeting.

- Provides the ability to challenge any new information being presented at the DAP meeting without the responsible authority being able to undertake any assessment of the new information (unassessed revised plans are currently being lodged and approved at meetings).
- Able to appeal the 'Deferral' process being over utilised, i.e. DAPs are tending to defer applications multiple times rather than making a decision to approve or refuse the proposal.
- Can give the Local Government more confidence that the developer will provide a fully complete application and discuss the application with the Local Government first, rather than relying on the DAP to condition the proposal requiring additional critical information.

In summary, the Preferred Model advocates the following for third party appeals against DAP decisions:

- Appellants to be limited to those parties that previously made a submission; the relevant Local Government where decisions have gone against the RAR or the position of Council; and public authorities where decisions have gone against their advice.
- SAT to ensure appeals are made on valid planning grounds, not for commercial or vexatious reasons (a preliminary hearing could determine whether the appeal is justified).
- Optional and compulsory DAP applications decisions to be subject to appeal, together with applications to amend approvals.
- Appeals to be made within 28 days of a decisions (as per usual timeframe for lodgment of appeals) and Local governments to individually determine process for lodgment (for example, Special Council meeting to determine this action).
- For procedural fairness, all parties should be involved including the Local Government or another third party; the respondent (DAP) and the applicant. If the appellant is another third party, then the Local Government should be invited as an observer.
- Any appellant would be required to cover the costs of initiating an appeal, attending SAT directions, mediation and hearings, and costs could also include obtaining expert advice. Potential costs to be counselled to a third party at the time of a Preliminary Hearing.
- The appeals process to be similar to the existing appeal process currently applicable to an applicant.

Consultation

This Preferred Model has been circulated to all WALGA members for comment and possible Council resolution.

Statutory Environment

Changes would be required to the *Planning and Development Act 2005* to allow for Third Party Appeal Rights.

Policy Implications

Nil

Financial Implications

Possible future cost of funding planning appeals/reviews and impact on Council's resources.

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.*

Leadership and Governance

A pro-active, approachable Council which values consultation, transparency and accountability.

- 5.1 *Strengthen organisational accountability and transparency.*
 - 5.1.1 *Strengthen governance, risk management and compliance.*
 - 5.1.2 *Ensure an effective engagement process is undertaken with community and stakeholders.*
 - 5.1.3 *Improve the efficiency and effectiveness of services.*
- 5.2 *Proactively collaborate with the community and other stakeholders.*
 - 5.2.1 *Foster and promote strategic collaborative relationships with neighbouring LGAs, NGOs, State and Federal government representatives and agencies.*
- 5.3 *Strive for excellence in leadership and governance.*
 - 5.3.1 *Deliver community outcomes through sustainable finance and human resource management.*
 - 5.3.2 *Improve organisational systems with a focus on innovation.*
 - 5.3.3 *Increased focus on strengthening and fostering a positive customer service experience.*

Risk Implications

Risk	Risk Likelihood (based on history & with existing controls)	Risk Impact / Consequence	Risk Rating (Prior to Treatment or Control)	Principal Risk Theme	Risk Action Plan (Controls or Treatment proposed)
That Council supports WALGA's preferred model for Third Party Appeal Rights	Unlikely (2)	Moderate (3)	Low (1-4)	COMPLIANCE Minor regulatory or statutory impact	Accept Officer Recommendation

Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Extreme	
		1	2	3	4	5	
Likelihood	Almost Certain	5	Moderate (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
	Likely	4	Low (4)	Moderate (8)	High (12)	High (16)	Extreme (20)
	Possible	3	Low (3)	Moderate (6)	Moderate (9)	High (12)	High (15)
	Unlikely	2	Low (2)	Low (4)	Moderate (6)	Moderate (8)	High (10)
	Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Moderate (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 6 has been determined for this item. Any items with a risk rating over 16 will be added to the Risk Register, and any item with a risk rating over 16 will require a specific risk treatment plan to be developed.

Risk Rating	6
Does this item need to be added to the Town's Risk Register	No
Is a Risk Treatment Plan Required	No

Site Inspection

Not applicable

Comment

It appears that many of the benefits stated in the WALGA Preferred Model refer to a means of addressing issues that have been raised with the DAP approvals system.

Notwithstanding the benefits of the Preferred Model as a means to improve the accountability and transparency of DAP decisions, questions arise as to whether the appeals process is the most appropriate

avenue to deal with these issues, rather than other planning reform measures associated with DAP function and processes.

Possible merit in the WALGA Preferred Model is that it could allow Local Governments the ability to challenge DAP decisions that are either made contrary to recommendations of the Responsible Authority's Report (RAR) which is prepared by the Local Government for a DAP meeting, or decisions made contrary to a particular position of Council.

Changes to allow for general Third Party Appeals is not supported. Even in a modified format as proposed by the WALGA model, it is considered that this could lead to (or facilitate) challenges to Council decisions, or indeed legal challenges as to the wider merits and abilities to appeal any decision. The associated legislation required for Third Party Appeals is considered to have the potential to significantly change the planning landscape and it is believed that more research is required into this matter to ensure any potential issues are fully understood.

However, enabling other third parties to appeal DAP decisions outside of this realm has the potential to cause unnecessary delays and further imposition on Local Government resources resulting in uncertain planning outcomes. The principle to allow for third parties being able to challenge or review a DAP decision, would only be supported in the same circumstances as for Local Government, that is when a decision is made by the DAP that is contrary to the RAR or a particular position of Council.

The Preferred Model put forward by WALGA claims to provide a "... *good test for introduction of Third Party Appeal Rights, which could possibly be expanded later if it proves to be beneficial*". By supporting third party appeals in any form, it has the potential to pave the way for further changes that could extend beyond decisions made by DAPs and beyond the Council's position on a proposal, which is not a desired outcome.

The principle of Local Governments or other third parties being able to challenge and seek review of DAP decisions that are made contrary to the recommendations of a RAR or Council position is supported, however, the WALGA Preferred Model for Third Party Appeal Rights is not supported as the means for this to occur and it is considered that alternative methods should be investigated.

11.7 OFFICER RECOMMENDATION

That Council advise the Western Australian Local Government Association that the Town of East Fremantle:

- 1. does not support Third Party Appeal Rights for planning and therefore does not support the WALGA Preferred Model "Third Party Appeal Rights for decisions made by Development Assessment Panels", received on 12 December 2018; and**
- 2. supports the principle of Local Governments being able to challenge and seek review of DAP decisions that are made contrary to recommendations of a RAR or Council position;**
- 3. supports the principle of other third parties being able to challenge and seek review of DAP decisions only when decisions are made contrary to recommendations of a RAR or Council position;**
- 4. supports the principle of generally improving the accountability and transparency of Development Assessment Panel decisions; and**
- 5. considers that alternative planning reform measures associated with DAP function and processes, rather than the appeals process, would be a more appropriate method of addressing issues associated with DAP decision making.**



Preferred Model

Third Party Appeal Rights for decisions made by Development Assessment Panels

Benefits of Third Party Appeal Right for decisions made by Development Assessment Panels

- The model provides a good test for the introduction of Third Party Appeal Rights, which could possibly be expanded later if it proves to be beneficial.
- Local Government would be able to appeal a DAP decision and defend the merits of their policies and defend the enforceability of their conditions.
- Other interested parties and community members would be able to appeal a DAP decision.
- Addresses community concerns that decisions are being made by those 'removed' from the local community, leading to improved community confidence in the system.
- More transparent process in both decision making and condition setting, resulting in more accountable DAP members.
- Would allow for an appeal to be made on the conditions of approval or refusal
 - i) that may have been removed from a RAR; or
 - ii) added to the decision, particularly where no liaison has occurred with the authority responsible for clearing or enforcing the condition; or
 - iii) applied inappropriately i.e. the condition would change the intent or design of the development and therefore a new application should have been lodged.
- Limits appeal rights to larger, more complex applications and would filter out 'smaller' impact applications which could potentially overburden the system.
- Provides the opportunity for additional information to be included in the appeal process, particularly if information was not received before the DAP meeting.
- Provides the ability to challenge any new information being presented at the DAP meeting without the responsible authority being able to undertake any assessment of the new information (unassessed revised plans are currently being lodged and approved at meetings).
- Able to appeal the 'Deferral' process being over utilised, i.e. DAPs are tending to defer applications multiple times rather than making a decision to approve or refuse the proposal.
- Can give the Local Government more confidence that the developer will provide a fully complete application and discuss the application with the Local Government first, rather than relying on the DAP to condition the proposal requiring additional critical information.



Appellants in a Third Party Appeal

Should not be open to any interested party but be limited to those parties which previously made a submission.

- Should be available for a Responsible Authority where DAP has gone against the RAR; or
- Should be available for a Local Government where DAP has gone against the position of Council itself; or
- Should be available to a public authority (e.g. Main Roads WA, Department of Transport) where DAP has made a decision contrary to their advice.

If any appellant makes a submission

- SAT would need to ensure that appeals are made on valid planning grounds and are not made for commercial or vexatious reasons.
- A Preliminary Hearing could be used to see if the appeal has reasonable planning merit, which would assist in providing clarity for an appellant on what constitutes a valid planning consideration and what would be an invalid planning consideration. The Preliminary Hearing could consider the appellant's justification for submitting the appeal, in particular, whether the grounds of appeal are supported by documentary evidence or other material (a similar process for justifying the lodgement of an appeal already exists through Section 76 of the *Planning and Development Act 2005*).

What can be appealed?

- DAP applications that are compulsory over \$10 million for JDAPs and \$20 million for City of Perth DAP; or
- DAP applications in the optional threshold \$2m – 10m for JDAPs and in the City of Perth \$2 million - \$20 million; or
- DAP applications seeking amendments to approvals (Form 2 applications proposing a change to the development application, but should not include applications for an extension of time).

Timeframe to lodge an appeal

- As per the existing timeframe, an appeal on a decision made by a Development Assessment Panel should be lodged within 28 days of the decision being made public, ie publishing of the DAP minutes.
- Local Governments would need to determine within their own organisation what process to follow in order to decide whether or not to lodge an appeal against a DAP decision. In many cases this may require a Special Council meeting to determine this.

For procedural fairness reasons all parties should be involved.

- The third party - Local Government or
- The third party - another interested party
- The respondent (DAP)
- The applicant

If the appellant is another interested party, then the Local Government should be invited as an observer.



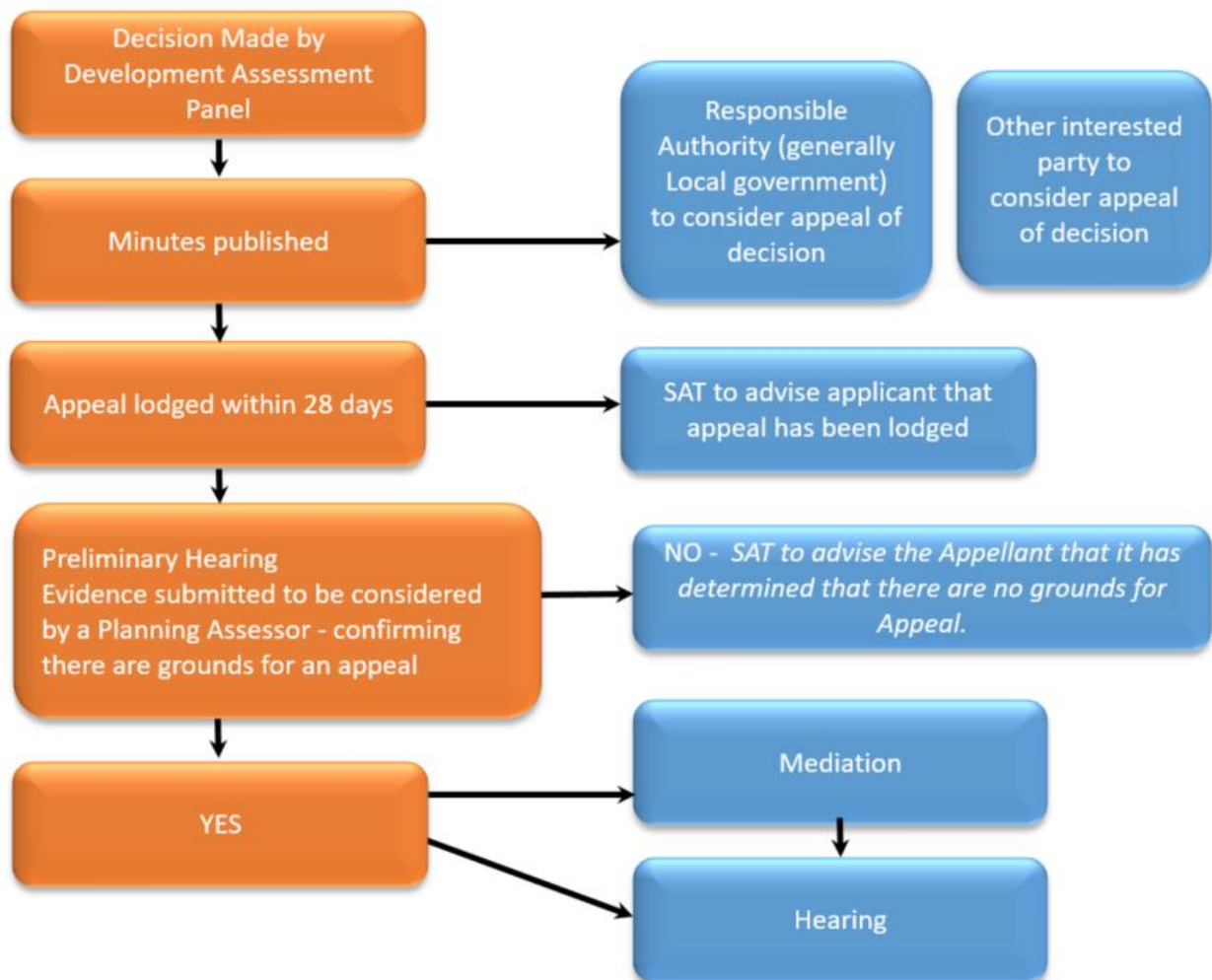
Costs

- Any appellant would need to cover their costs of initiating the appeal, attending SAT directions, mediation and hearings, and costs could also include obtaining expert advice.
- A third party appellant should be counselled as part of the Preliminary Hearing in relation to the potential for costs being awarded against them in the case of an unsuccessful appeal.

Appeals Process



Third Party Appeals Rights for decisions made by Development Assessment Panels



12. REPORTS OF OFFICERS (COUNCIL DECISION)

Nil.

13. MATTERS BEHIND CLOSED DOORS

Nil.

14. CLOSURE OF MEETING