

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 8 MAY, COMMENCING AT 6.30PM.**

**PART II**

**T49.8**      **George Street No 65**  
**Applicants: Mr & Mrs Ross Richardson**  
**Owner: Anne Marie Medcalf**  
**(Application No. P74/2007)**  
*By Chris Warrener Consultant Town Planner on 1 May 2007*

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a retail flower shop on the ground floor, with residential use of the 2 upper floors at Unit No 2, 65 George Street.

The applicants state that it is their intention to reside in the residential space occupying the 2 floors immediately above the proposed flower shop.

**Statutory Requirements**

Town Planning Scheme No. 3 (TPS 3) – George Street Mixed Use zone  
Local Planning Strategy - Plympton Precinct (LPS)  
Residential Design Codes (RDC)  
Delegated Authority D43

**Documentation**

Plans and relevant forms date stamp received on 3 April 2007

**Date Application Received**

3 April 2007

**Additional Information Received**

13 April 2007:      Applicant's description of proposed business

**Advertising**

Surrounding land owners & sign on site

**Date Advertised**

12 April 2007

**Close of Comment Period**

27 April 2007

**No. of Days Elapsed between Lodgement & Meeting Date**

35 days.

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

21 April 1986	Council grants planning consent for 65 George Street to be used for multi-purpose residential and business purposes;
20 March 1995	Council grants conditional approval for therapeutic massage on the ground floor with residence above;
19 June 1995	Council resolves to instruct its solicitors to prosecute for non-compliance with the planning consent provisions relating to the residential/therapeutic massage salon;
21 April 1998	Council decides to prosecute the owner and occupier of 65 George Street for erecting a sign without approval;
20 April 1999	Council decides to ask the Police to investigate as there are strong grounds for believing the premises is operating illegally as a place of prostitution;

27 October 1999      Detective Superintendent of the Organised Crime Division advises in writing that the premises at 65 George Street ceased to operate as a massage parlour on 22 October 1999;

20 June 2000:      Council grants conditional special approval for use of the premises as a service store (health & fitness services) on the ground floor and a residence above;

## **CONSULTATION**

### **Public Submissions**

At the close of the comment period no submissions were received.

### **Site Inspection**

By Consultant Town Planner on 3 April 2007

### **Delegated Authority**

Whilst the Chief Executive Officer has a delegated authority to consider certain applications involving the George Street Precinct, the Chief Executive Officer has chosen to not exercise the authority, in this case, due to some of the subjective issues involved (referred to later in this report), which the Chief Executive Officer considers should be more appropriately dealt with by elected members.

## **REPORT**

### **Issues**

#### Land Use

The proposed lease is for use of the premises as a shop and residence

A shop is an "A" use in the George Street Mixed Use zone.

*'A' means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4. (TPS 3, sub-clause 4.3.2)*

Further TPS 3, sub-clause 5.8.10 states for development in the Mixed Use zone:

*"5.8.10      Development in the Mixed Use Zone: The local government will generally not approve any development or re-development involving a change in use of existing residential floor space in a Mixed Use zone, unless it is satisfied that an appropriate mix of uses, including residential, is to be maintained. No development is to be approved in a Mixed Use zone where it would prejudice the character or amenity of the locality by reason of the nature of the resultant activities, the building design or the impact of traffic or car parking.*

*Note:      While the Mixed Use zones are intended to provide for a range of commercial facilities, residential development is an essential characteristic of these areas, and care needs to be taken to ensure preservation of a residential component."*

Relevant to this particular property in George Street is the decision Council made in June 2000 to conditionally approve the use of the premises as a service store (health and fitness services). The decision stated:

- "1. Council grant special approval to Part Lot 264 (Not 65) George Street to be used as a service store (health and fitness services) on the ground floor and a residence above subject to the following:
  - (a)      the proposed service storey being on the ground floor only.*
  - (b)      the dominant use of the premises remaining "residential".*
  - (c)      the proposal complying with the Council's health standards.*
  - (d)      the applicant receiving approval from the corporate body for the use of the premises to proceed.**
- 2. the applicant be advised that the premises may be the subject of an inspection from time to time to ensure compliance with Council's Local Laws."*

This application is for a flower shop and the applicants intend to reside above the ground floor shop using the residential floor-space above.

#### Heritage

The subject property is in the "George Street Precinct" in which all individual properties are on the Heritage List under TPS 3.

TPS 3, Clause 7.4 states:

#### *"7.4. Heritage assessment*

*Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List."*

#### Car Parking

Schedule 11 Car Parking Standards to TPS 3 specifies that for the use "Shop" the following parking requirements apply:

*"1 space for every 20m<sup>2</sup> net lettable area (5 spaces per 100m<sup>2</sup> NLA)  
Minimum 4 spaces per tenancy or unit"*

The NLA of the proposed flower shop comprises 36m<sup>2</sup> and there will be one tenancy therefore 4 spaces are required for the shop tenancy, and 2 for the residential use pursuant to the RDC, a total of 6 spaces.

However, under the RDC Mixed – Use Development Requirements, the Acceptable Development performance criteria states:

- *on-site parking – as for Multiple Dwellings: may be reduced to one per dwelling where on-site parking for other users is available outside normal business hours;*

The above circumstance applies to the subject property, which has an allocated on-site parking space adjacent to the west wall of the building, and 1 immediately adjacent on-street parking space.

Based on this allowable relaxation the parking standard is 5 spaces.

#### **Discussion on Land Use Issues**

##### *The Premises*

Prior to 2000 the building was briefly used as a residence following its use as a massage parlour.

The premises had, up until February 2007, been leased to the business "Definitive Fitness". Since February Definitive Fitness has been leasing the premises on a monthly basis, and has given notice to vacate at the end of April 2007. Definitive Fitness proposes to occupy premises in the Town Centre zone in Silas Street.

The subject property is in the "Mixed Use" zone, and the intent of the Council decision on 20 June 2000, when it approved the use of the premises by Definitive Fitness, was that the dominant use of the premises remain residential however no one has lived in the building since that decision was made.

In addition to the flower shop this application proposes residential use.

##### *Proposed Business*

The applicants state:

*"The mixed use intention is to change the current use where the premises will be divided into the following:*

- *Top floor for bedroom of Lessee (K and R Richardson)*
- *First Floor for living area of Lessee (K and R Richardson)*
- *Ground Floor for the use of Flower business*

*The flower business is intended to be fresh flowers only. At this stage it is not intended that dried flowers be a product in the store. We also envisage a small range of vases be available to customers.*

*We envisage a small display of flowers in buckets on the pavement outside the premises to entice customers and present our product, although we shall seek all necessary permits required should we go ahead with this idea.*

*Refrigeration options are currently being considered but expected to be fridges located on the ground floor inside the building or as stocks grow, a small refrigerated container located in the courtyard of the premises.*

*The collection of fresh flowers from the wholesalers will be performed using the personal car to be stored and parked in the designated parking spot therefore no additional cars will be used or alternatively we will utilise the delivery service of the flower wholesalers.*

*The hours of operation are expected to be Tue – Fri 8am – 6pm and Sat 8am – 1pm to accommodate customers in a variety of different scenarios ie, mothers dropping children at school/kindy in the early morning and also working people on their way home. This will be a “grab and go store” concept so customers will require access to the premises via street parking but for short periods of time only.*

*At this stage it is intend that Kelsey Richardson be the sole proprietor, although we are in discussion with another trusted party who is very interested in becoming a partner. No other employees are in the plan for at least 12 months, other than off-site accountant/bookkeeper.”*

#### *Prior Consultation*

Being an “A” use in the George Street Mixed Use zone the Consultant Town Planner determined that the application be advertised by way of a sign on site, and surrounding landowners invited to make written submissions.

#### *Land Use*

The property is in the George Street Mixed Use zone within which the objectives stated in TPS 3 are:

- *To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which will not prejudice the amenities of the neighbourhood;*
- *To ensure future development within each of the Mixed Use Zones is sympathetic with the desired future character of each area, and that a significant residential component is retained as part of any new development;*
- *To promote the coordination of development within each of the Mixed Use zones and to facilitate the safe and convenient movement of pedestrians to and within the area;*
- *To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the streetscape.*

Bearing in mind Council's stated intent for the dominant use of the premises to remain residential when it approved the use by Definitive Fitness, it is considered acceptable for Council to support a use change which includes a residential use.

This application intends that the dominant use of the premises will be residential.

## **Discussion on Heritage Issues**

The building at 65 George Street is a relatively modern structure it was designed by architect Brian Klopper as 2 attached terrace houses, and built in 1986-87.

It was considered unnecessary for a Heritage Assessment to be undertaken because this application is for a change of use and does not propose any external alterations to the existing building.

## **Discussion on Parking Issues**

In respect of parking requirements, the CEO's comprehensive report to Council in November 2006 on the Hubble's Yard application contained detailed advice on Scheme provisions in relation to parking, with specific reference to George Street, hence the relevance of this report (and how elected members responded to the report) to this application.

The report also provided an excellent template for considering parking issues as they relate to planning applications and the following advice in italics is quoted from that report, with accompanying advice based on the approach taken in that report.

### *"Relevant Scheme Provisions – Particularly in Relation to Parking*

*The development is within a Mixed Use Zone, one of three types of commercial zone. Under Council's Town Planning Scheme No 3, the following provision applies in the first instance:*

*5.8.5 Car Parking and Vehicular Access: Car parking in respect of development in the Commercial Zones is to be provided in accordance with the standards set out in Schedule 11 of the Scheme and the specifications in Schedule 12 of the scheme."*

It has already been concluded that the applicable standard in this case is 5 spaces.

*"Based on a standard of (5) spaces, one would then turn to how that standard could be met.*

*The Scheme provisions provide 4 means:*

- (i) on-site (section 5.8.6 refers)*
- (ii) immediately adjacent on-street car parking as per 5.8.7 which reads as follows:  
5.8.7 On-Street Parking: The local government may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development, provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.*
- (iii) off-site as per 5.8.6 which reads, in part:  
5.8.6 Location of Car Parking ... subject to the local government's approval, off-site in the immediate vicinity of the development site. In considering a proposal for off-site parking, applicants will need to demonstrate to the satisfaction of the local government that any off-site parking areas will continue to be available for use in conjunction with the development at such times as it might reasonably be required.*
- (iv) cash-in-lieu as per 5.8.8 which reads as follows:  
5.8.8 Cash-in-lieu of Parking: The local government may accept or require cash-in-lieu of all or a proportion of required car parking, based on the estimated cost of providing the requisite parking, including any associated access and manoeuvre facilities.*

*Cash-in-lieu of parking shall be paid into a trust fund and used to provide public parking in the vicinity of the development site(s) in relation to which any cash-in-lieu contributions have been received.”*

In respect of the above the following comments are made:

1. In relation to (i), the applicant has proposed one on-site parking bay.
2. In relation to (ii), one immediately adjacent on-street car parking space is available.
3. In relation to (iii), whilst the applicant has not made specific reference to the public car park in George Street (as have a number of other applicants in recent times) this parking cannot be applied to “meet” the shortfall. In the CEO’s report this was explained as follows:

*“Elected members should note that this provision effectively refers to private off site parking arrangements eg leased bays in a private or public car park. The public car park in George Street for example would not be relevant to this provision as:*

- (i) there are no exclusive bays*
- (ii) there is no guarantee this car park will continue to be available, eg the adjacent building and land may be sold by a future Council.”*

This does not mean the public car park cannot be referred to in terms of *relaxing* requirements – see below.

4. In relation to (iv), it is open to elected members to determine a cash-in-lieu payment in respect of all or part of the identified 3 space shortfall. In terms of the amount involved the CEO advised as follows:

*“The appropriate course of action to determine such a figure is to commission advice from the Valuer General’s Office and were Council to do so, a wait of several weeks would be expected. In 2005 however, the applicable calculation (for open parking) was \$17,000 per bay.*

*That figure may have now increased, however should constitute a reasonable guide.*

*McLeods confirm however that it is open to elected members to set any figure they choose, as long as this is recognised as a relaxation and as long as the exercise of that relaxation power is appropriately done.*

*(There) would also be the issue of where the cash-in-lieu could be applied. According to the Scheme it needs to involve the provision of “public parking in the vicinity of the development site”. The George Street public car park would be an example, although this is largely already developed. On the other hand, Council is due to incur expenditure in relation to this car park in the near future, in respect of creating more car bays by removing the toilets, remarking the car park and installing new lighting, new signs (including illuminated signs) etc.*

*Other sites are however “coming onto the market” particularly land being released by Main Roads, which the Tradewinds is also showing an interest in.”*

The CEO also addresses the issue of relaxations of parking standards, as follows:

**“Relaxations**

*Under clause 5.6 of Town Planning Scheme No 3, the applicable Parking Standard may be relaxed, unconditionally or subject to such conditions as the local government thinks fit.*

However the power conferred in this clause can only be exercised if:

- (i) Council is satisfied the non compliance will not have an adverse effect upon the occupiers and users of the development, the inhabitants of the locality or the likely future development of the locality.
- (ii) Council is satisfied the relaxation would be appropriate having regard to the criteria set out in clause 10.2

and

- (iii) If, in the opinion of Council, the relaxation is likely to affect any owners or occupiers in the general locality or adjoining the site, the Council is to consult the affected parties, as per the provisions of clause 9.4 and have regard to any expressed views prior to making its determination to grant the relaxation.

With respect to (i) above, this is self explanatory and may also be read in conjunction with (ii) below. Note the reference to "likely future development of the locality".

These issues will be largely a matter of subjective judgement by elected members.

With respect to (ii) the criteria extracted from clause 10.2 which appears relevant is as follows:

- (a) the aims, objectives and provisions of the Scheme
- (j) the compatibility of a use or development with its setting;
- (k) any social issues that have an effect on the amenity of the locality;
- (o) the preservation of the amenity of the locality;
- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;
- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (s) whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;

Again, elected members would need to make their own judgements on these issues, most of which are quite subjective. Some are not subjective, e.g. in relation to ... (s) elected members are aware there is no public transport in George Street.

With respect to the provisions of the Scheme, ... , the following are relevant and need to be considered by elected members before any decision on granting a relaxation on parking is considered.

- (i) **Aims of the Scheme**  
To ensure the safe and convenient movement of people throughout the Town, including pedestrians, cyclists, public transport users and motorists.
- (ii) **General objective of all zones**  
To promote the integration of transport and land use, and to encourage the use of low energy transport modes, such as walking, cycling and public transport.
- (iii) **Objectives of mixed use zone**
  - To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which

- will not prejudice the amenities of the neighbourhood;*
- *To ensure future development within each of the Mixed Use Zones is sympathetic with the desired future character of each area, and that a significant residential component is retained as part of any new development;*
- *To promote the coordination of development within each of the Mixed Use Zones and to facilitate the safe and convenient movement of pedestrians to and within the area;*
- *To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the streetscape.*

(iv) *Car parking standards in mixed use zone*  
*Referred to previously.*

(v) *Development in the Mixed Use Zone*  
*No development is to be approved in a mixed use zone where it would prejudice the character or amenity of the locality by reason of the nature of the resultant activities, the building design or the impact of traffic or car parking.*

*In short, having considered all of the above provisions, Council has the power, if satisfied that the relevant Scheme provisions have been met, to relax the Parking Standards applicable in this case.”*

The CEO also addresses the issue of future uses, as follows:

**“Future Use**

*All of the above comments, including comments regarding matters in respect of which Council needs to be sufficiently satisfied before it can properly relax relevant Scheme standards, apply to the current use and potential future use.*

*Council’s solicitors had previously advised in respect of this application and such planning applications generally, of the need to respect Scheme provisions with regard to protecting local amenity etc, should, for example ownership change and a different type of business, perhaps attracting different patrons, and/or involving different hours of operation and/or involving different staffing arrangements, be established (noting also this could happen even without an ownership change).*

*In this regard McLeods recently advised that, if Council saw fit, in order to satisfactorily address this aspect of Council’s obligations, whilst at the same time assisting the owner in her endeavours to obtain a valid planning approval, Council could attach conditions to the grant of approval which provided safeguards in terms of future use.”*

**CONCLUSION**

Council has no option, at present, other than to consider this application in accordance with relevant Scheme provisions.

As the CEO wrote:

*“It may be that, in time, Council develops a Local Planning Policy which deals with parking in George Street (or the George Street Precinct, or other areas of the Town).*

*It may be that the foreshadowed Strategic Urban Plan has a bearing on such applications in future.*

*Meanwhile, the Scheme provisions apply. Those provisions provide for relaxations of applicable standards if Council has satisfied itself with regard to*

*relevant matters which must be considered prior to considering granting such relaxations.”*

These comments related to the Hubble’s Yard application. However now that application has been dealt with, and given the way in which it was dealt with, the issue of *precedent* has arisen.

The CEO referred to this issue in the report on Hubble’s Yard as follows:

*“Elected members (were) advised to be mindful that any relaxation granted would give rise to the issue of potential precedent in respect of other planning applications and in particular any future relevant SAT appeals. Elected members were advised that Council’s legal advice is that it was a very relevant issue for elected members to consider.”*

In the case of Hubble’s Yard, the identified shortfall was 8 bays, yet no requirement, including cash-in-lieu, was imposed to address that shortfall.

Given the proximity of Hubble’s Yard to the location of the property at issue here, based on the above advice, the outcome in the Hubble’s Yard case has arguably established a potential precedent for an applicant to seek recourse to in an appeal situation, particularly as Hubble’s Yard, with seating for 35 patrons, arguably generates a much greater potential parking demand than would arise out of this application being approved.

In the author’s view, particularly with the Hubble’s Yard precedent in mind and the issue of inconsistency if a different position were to be adopted, it may be seen as inequitable if elected members were to adopt a different position in this case.

Nevertheless it would be open to elected members to impose a cash-in-lieu requirement in respect of all or part of the identified 3 space shortfall, if, having considered all of the applicable Scheme provisions and the specific circumstances of this case, including whether the parking situation in George Street has changed since the Hubble’s Yard approval, elected members considered this was justified.

#### **RECOMMENDATION**

That Council grant Planning Approval for a retail flower shop on the ground floor, with residential use of the 2 upper floors at Unit No 2, 65 George Street, East Fremantle in accordance with the plans and documentation date stamp received on 11 April 2007 subject to the following conditions:

1. Council exercise its discretion in granting its approval for the parking requirement as per TPS 3 Parking Standards being reduced from 5 on site car spaces to (1) on site car space.
2. dominant use of premises remaining residential.
3. (1) on site staff parking space being provided and available for this purpose during all trading hours.
4. any signage proposed for the business to be the subject of a separate application for Planning Approval and a Sign Licence.
5. Hours of operation to be limited from 8:00am to 6:00pm, Tuesday to Friday, and 8am to 1pm Saturday.
6. planning approval to remain valid for a period of 24 months from date of this approval.

#### Footnote

*Any displays, stalls etc on footpath to be subject to a separate application.*

Mr Ross & Mrs Kelsey Richardson (applicant/owners) addressed the meeting.

#### **RECOMMENDATION TO COUNCIL**

**Mayor O’Neill – Cr Harrington**

**That Council grant Planning Approval for a retail flower shop on the ground floor, with residential use of the 2 upper floors at Unit No 2, 65 George Street, East**

Fremantle in accordance with the plans and documentation date stamp received on 11 April 2007 subject to the following conditions:

1. Council exercise its discretion in granting its approval for the parking requirement as per TPS 3 Parking Standards being reduced from 5 on site car spaces to (1) on site car space.
2. dominant use of premises remaining residential.
3. (1) on site staff parking space being provided and available for this purpose during all trading hours.
4. any signage proposed for the business to be the subject of a separate application for Planning Approval and a Sign Licence.
5. Hours of operation to be limited from 8:00am to 6:00pm, Tuesday to Friday, and 8am to 1pm Saturday.
6. planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote**

*Any displays, stalls etc on footpath to be subject to a separate application.*

CARRIED

**T49.9**

**George Street No 130**

**Applicant: Medifit Pty Ltd**

**Owner: Vasilios Giannopoulos**

**(Application No. P27/2007)**

*By Chris Warrener Consultant Town Planner on 3 May 2007*

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a change of use involving interior modifications of the building at 130 George Street from a Fish & Chips shop to Consulting Rooms (Dental Surgery).

**Statutory Requirements**

Town Planning Scheme No. 3 (TPS 3) – George Street Mixed Use

Local Planning Strategy - Plympton Precinct (LPS)

Residential Design Codes (RDC)

Delegated Authority D43

**Documentation**

Plans and relevant forms date stamp received on 14 February 2007

**Date Application Received**

14 February 2007

**Additional Information Received**

21 March 2007: Feature Survey Plan illustrating car parking

**Advertising**

Adjoining land owners & sign on site

**Date Advertised**

12 April 2007

**Close of Comment Period**

27 April 2007

**No. of Days Elapsed between Lodgement & Meeting Date**

48 days

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

18 June 2002	Council grants conditional special approval for retaining walls, steps and a bin store;
1 July 2002	Building Licence issued for a retaining wall, steps and a bin enclosure;
20 December 2005	Council conditionally approves the construction of a verandah to the front;
21 March 2006	Building Licence issued for veranda to front of shop.

### **CONSULTATION**

#### **Development Control Unit**

1 March 2007

#### **Public Submissions**

At the close of the comment period no submissions were received.

#### **Site Inspection**

By Consultant Town Planner on 26 March 2007

#### **Delegated Authority**

Whilst the Chief Executive Officer has a delegated authority to consider certain applications involving the George Street Precinct, the Chief Executive Officer has chosen to not exercise the authority, in this case, due to some of the subjective issues involved (referred to later in this report), which the Chief Executive Officer considers should be more appropriately dealt with by elected members.

### **REPORT**

#### **Issues**

##### Land Use

Under TPS 3 Consulting Rooms is a "D" use, which pursuant to sub-clause 4.3.2:

*"means that the use is not permitted unless the local government has exercised its discretion by granting planning approval."*

##### Heritage

The subject property is in the "George Street Precinct" in which all individual properties are on the Heritage List under TPS 3.

TPS 3, Clause 7.4 states:

#### **"7.4. Heritage assessment**

*Despite any existing assessment on record, the local government may require a heritage assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the Heritage List."*

##### Car Parking

Schedule 11 to TPS 3 prescribes the recommended car parking standards for a variety of land uses.

The parking standard for consulting rooms is 2 spaces for every consulting room, plus 1 space for every staff member.

The application proposes 2 consulting rooms with staff comprising 2 part-time practitioners (dentists), a full time nurse and administration person.

Therefore 8 car parking spaces are required under the applicable standard.

### **Discussion**

#### Land Use

The premises at 130 George Street is a corner property that also fronts Duke Street, and was previously a Fish and Chip shop. Its hours of operation were:

Monday, Tuesday, Wednesday: Closed  
Thursday, Friday, Saturday, Sunday: 4:30pm to 8:30pm

This application is for a dental surgery with two consulting rooms with 2 part time and 2 full time staff.

The proposed hours of operation are:

Monday, Wednesday, Friday: 9am – 5pm  
Tuesday, Thursday: 9am – 7pm  
Saturday: 9am – 1pm  
Sunday: Closed

The nature of this business is considered to have a lower impact on George Street than the previous business, and suits the intent of the George Street Mixed Use zone (the hours of operation are considered not to conflict with residential use nearby), and is supported.

#### Heritage

This application does not involve any external modifications that would result in the building's appearance being altered or its heritage context being changed therefore it was considered unnecessary to require that the applicant prepare a Heritage Assessment.

(The property was the subject of a Heritage Assessment in 2005, as a prerequisite to Council approving the addition of a bull-nose verandah, however the current application does not involve any external building alterations).

The applicant intends to retain the existing illuminated box sign fixed to the southeast corner of the building, and proposes to re-letter it to promote the dental business.

#### Car Parking

The applicant was requested to provide a parking plan, and in response a survey was prepared of the subject property and the immediate locality to illustrate the location of existing car parking.

In respect of parking requirements, the CEO's comprehensive report to Council in November 2006 on the Hubble's Yard application contained detailed advice on Scheme provisions in relation to parking, with specific reference to George Street, hence the relevance of this report (and how elected members responded to the report) to this application.

The report also provided an excellent template for considering parking issues as they relate to planning applications and the following advice in italics is quoted from that report, with accompanying advice based on the approach taken in that report.

#### *“Relevant Scheme Provisions – Particularly in Relation to Parking*

*The development is within a Mixed Use Zone, one of three types of commercial zone. Under Council's Town Planning Scheme No 3, the following provision applies in the first instance:*

*5.8.5 Car Parking and Vehicular Access: Car parking in respect of development in the Commercial Zones is to be provided in accordance with the standards set out in Schedule 11 of the Scheme and the specifications in Schedule 12 of the scheme.”*

It has already been concluded that the applicable standard in this case is 8 spaces.

*“Based on a standard of (8) spaces, one would then turn to how that standard could be met.*

The Scheme provisions provide 4 means:

- (i) on-site (section 5.8.6 refers)
- (ii) immediately adjacent on-street car parking as per 5.8.7 which reads as follows:

5.8.7 *On-Street Parking: The local government may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development, provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.*
- (iii) off-site as per 5.8.6 which reads, in part:

5.8.6 *Location of Car Parking ... subject to the local government's approval, off-site in the immediate vicinity of the development site. In considering a proposal for off-site parking, applicants will need to demonstrate to the satisfaction of the local government that any off-site parking areas will continue to be available for use in conjunction with the development at such times as it might reasonably be required.*
- (iv) cash-in-lieu as per 5.8.8 which reads as follows:

5.8.8 *Cash-in-lieu of Parking: The local government may accept or require cash-in-lieu of all or a proportion of required car parking, based on the estimated cost of providing the requisite parking, including any associated access and manoeuvre facilities. Cash-in-lieu of parking shall be paid into a trust fund and used to provide public parking in the vicinity of the development site(s) in relation to which any cash-in-lieu contributions have been received.*

In respect of the above the following comments are made:

1. In relation to (i), the applicant has proposed no on-site parking.
2. In relation to (ii), immediately adjacent on-street car parking, whilst unmarked and currently designated 15 minute bays, five spaces are available.
3. In relation to (iii), whilst the applicant has made specific reference to the public car park (including marking the bays on the applicant's survey) in George Street (as have a number of other applicants in recent times) this parking cannot be applied to "meet" the shortfall. In the CEO's report this was explained as follows:

*"Elected members should note that this provision effectively refers to private off site parking arrangements eg leased bays in a private or public car park. The public car park in George Street for example would not be relevant to this provision as:*

- (i) there are no exclusive bays*
- (ii) there is no guarantee this car park will continue to be available, eg the adjacent building and land may be sold by a future Council."*

This does not mean the public car park cannot be referred to in terms of *relaxing* requirements – see below.

4. In relation to (iv), it is open to elected members to determine a cash-in-lieu payment in respect of all or part of the identified 3 bay shortfall. In terms of the amount involved the CEO advised as follows:

*"The appropriate course of action to determine such a figure is to commission advice from the Valuer General's Office and were Council to do so, a wait of several weeks would be expected. In 2005 however, the applicable calculation (for open parking) was \$17,000 per bay.*

*That figure may have now increased, however should constitute a reasonable guide.*

*McLeods confirm however that it is open to elected members to set any figure they choose, as long as this is recognised as a relaxation and as long as the exercise of that relaxation power is appropriately done.*

*(There) would also be the issue of where the cash-in-lieu could be applied. According to the Scheme it needs to involve the provision of "public parking in the vicinity of the development site". The George Street public car park would be an example, although this is largely already developed. On the other hand, Council is due to incur expenditure in relation to this car park in the near future, in respect of creating more car bays by removing the toilets, remarking the car park and installing new lighting, new signs (including illuminated signs) etc.*

*Other sites are however "coming onto the market" particularly land being released by Main Roads, which the Tradewinds is also showing an interest in."*

The CEO also addresses the issue of relaxations of parking standards, as follows:

**"Relaxations**

*Under clause 5.6 of Town Planning Scheme No 3, the applicable Parking Standard may be relaxed, unconditionally or subject to such conditions as the local government thinks fit.*

*However the power conferred in this clause can only be exercised if:*

- (i) Council is satisfied the non compliance will not have an adverse effect upon the occupiers and users of the development, the inhabitants of the locality or the likely future development of the locality.*
- (ii) Council is satisfied the relaxation would be appropriate having regard to the criteria set out in clause 10.2*

*and*

- (iii) If, in the opinion of Council, the relaxation is likely to affect any owners or occupiers in the general locality or adjoining the site, the Council is to consult the affected parties, as per the provisions of clause 9.4 and have regard to any expressed views prior to making its determination to grant the relaxation.*

*With respect to (i) above, this is self explanatory and may also be read in conjunction with (ii) below. Note the reference to "likely future development of the locality".*

*These issues will be largely a matter of subjective judgement by elected members.*

*With respect to (ii) the criteria extracted from clause 10.2 which appears relevant is as follows:*

- (a) the aims, objectives and provisions of the Scheme*
- (j) the compatibility of a use or development with its setting;*
- (k) any social issues that have an effect on the amenity of the locality;*
- (o) the preservation of the amenity of the locality;*
- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable*

*effect on traffic flow and safety;*

- (s) *whether public transport services are necessary and, if so, whether they are available and adequate for the proposal;*

Again, elected members would need to make their own judgements on these issues, most of which are quite subjective. Some are not subjective, e.g. in relation to ... (s) elected members are aware there is no public transport in George Street.

*With respect to the provisions of the Scheme, ... , the following are relevant and need to be considered by elected members before any decision on granting a relaxation on parking is considered.*

- (i) *Aims of the Scheme*  
*To ensure the safe and convenient movement of people throughout the Town, including pedestrians, cyclists, public transport users and motorists.*
- (ii) *General objective of all zones*  
*To promote the integration of transport and land use, and to encourage the use of low energy transport modes, such as walking, cycling and public transport.*
- (iii) *Objectives of mixed use zone*
- *To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which will not prejudice the amenities of the neighbourhood;*
  - *To ensure future development within each of the Mixed Use Zones is sympathetic with the desired future character of each area, and that a significant residential component is retained as part of any new development;*
  - *To promote the coordination of development within each of the Mixed Use Zones and to facilitate the safe and convenient movement of pedestrians to and within the area;*
  - *To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the streetscape.*
- (iv) *Car parking standards in mixed use zone*  
*Referred to previously.*
- (v) *Development in the Mixed Use Zone*  
*No development is to be approved in a mixed use zone where it would prejudice the character or amenity of the locality by reason of the nature of the resultant activities, the building design or the impact of traffic or car parking.*

*In short, having considered all of the above provisions, Council has the power, if satisfied that the relevant Scheme provisions have been met, to relax the Parking Standards applicable in this case."*

The CEO also addresses the issue of future uses, as follows:

**“Future Use**

*All of the above comments, including comments regarding matters in respect of which Council needs to be sufficiently satisfied before it can properly relax relevant Scheme standards, apply to the current use and potential future use.*

*Council’s solicitors had previously advised in respect of this application and such planning applications generally, of the need to respect Scheme*

*provisions with regard to protecting local amenity etc, should, for example ownership change and a different type of business, perhaps attracting different patrons, and/or involving different hours of operation and/or involving different staffing arrangements, be established (noting also this could happen even without an ownership change).*

*In this regard McLeods recently advised that, if Council saw fit, in order to satisfactorily address this aspect of Council's obligations, whilst at the same time assisting the owner in her endeavours to obtain a valid planning approval, Council could attach conditions to the grant of approval which provided safeguards in terms of future use."*

## **CONCLUSION**

Council has no option, at present, other than to consider this application in accordance with relevant Scheme provisions.

As the CEO wrote:

*"It may be that, in time, Council develops a Local Planning Policy which deals with parking in George Street (or the George Street Precinct, or other areas of the Town).*

*It may be that the foreshadowed Strategic Urban Plan has a bearing on such applications in future.*

*Meanwhile, the Scheme provisions apply. Those provisions provide for relaxations of applicable standards if Council has satisfied itself with regard to relevant matters which must be considered prior to considering granting such relaxations."*

These comments related to the Hubble's Yard application. However now that application has been dealt with, and given the way in which it was dealt with, the issue of *precedent* has arisen.

The CEO referred to this issue in his report on Hubble's Yard as follows:

*"Elected members (were) advised to be mindful that any relaxation granted would give rise to the issue of potential precedent in respect of other planning applications and in particular any future relevant SAT appeals. Elected members were advised that Council's legal advice is that it was a very relevant issue for elected members to consider."*

In the case of Hubble's Yard, the identified shortfall was 8 bays, yet no requirement, including cash-in-lieu, was imposed to address that shortfall.

Given the proximity of Hubble's Yard to the location of the property at issue here, based on the above advice, the outcome in the Hubble's Yard case has arguably established a potential precedent for an applicant to seek recourse to in an appeal situation, particularly as Hubble's Yard, with seating for 35 patrons, arguably generates a much greater potential parking demand.

In this case there would be, at best two patients receiving treatment at any particular time, with possibly an additional two waiting. Like Hubble's Yard, it is a daytime operation. The proposal also arguably involves a "quieter" section of George Street, at least during the day. It is close to Council's car park and there is also parking adjacent to the Royal George.

In the author's view, particularly with the Hubble's Yard precedent in mind and the issue of inconsistency if a different position were to be adopted, it may be seen as inequitable if elected members were to adopt a different position in this case.

Nevertheless it would be open to elected members to impose a cash-in-lieu requirement in respect of all or part of the identified 3 bay shortfall, if, having considered all of the

applicable Scheme provisions and the specific circumstances of this case, including whether the parking situation in George Street has changed since the Hubble's Yard approval, elected members considered this was justified.

### **RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to the car parking standard pursuant to Town Planning Scheme No 3 from 8 to 0 on-site parking spaces for a change of use involving interior modifications and retention of the existing illuminated box sign fixed to the southeast corner of the building at 130 George Street from a Fish & Chips shop to Consulting Rooms in accordance with the plans and information date stamp received on 14 February and 21 March 2007 subject to the following conditions:

1. the internal building works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed internal building works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed consulting rooms are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. hours of operation to be:  
Monday, Wednesday, Friday: 9am – 5pm  
Tuesday, Thursday: 9am – 7pm  
Saturday: 9am – 1pm  
Sunday: Closed
5. applicant to meet cost of marking street parking spaces being utilised under this proposal and paying for related signage.
6. if signage is required external to or attached to the building this is to be the subject of a separate Planning Application and Application for a Sign Licence
7. planning approval for the internal building modifications 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:*

- (a) this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) 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).*
- (d) compliance with applicable Health Act and other relevant health legislation is also required.*

Mr Ali Essfahani and Mr Kam Fanaian (applicants) addressed the meeting.

**RECOMMENDATION TO COUNCIL**

**Mayor O'Neill – Cr Martin**

**That Council exercise its discretion in granting approval for a variation to the car parking standard pursuant to Town Planning Scheme No 3 from 8 to 0 on-site parking spaces for a change of use involving interior modifications and retention of the existing illuminated box sign fixed to the southeast corner of the building at 130 George Street from a Fish & Chips shop to Consulting Rooms in accordance with the plans and information date stamp received on 14 February and 21 March 2007 subject to the following conditions:**

- 1. the internal building works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. the proposed internal building works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. the proposed consulting rooms are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 4. hours of operation to be:**  
**Monday, Wednesday, Friday: 9am – 5pm**  
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- 5. applicant to meet cost of marking street parking spaces being utilised under this proposal and paying for related signage.**
- 6. if signage is required external to or attached to the building this is to be the subject of a separate Planning Application and Application for a Sign Licence**
- 7. planning approval for the internal building modifications 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:*

- (a) this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) 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).*
- (d) compliance with applicable Health Act and other relevant health legislation is also required.*

CARRIED

**(Application No. P63/2007)**

*By Chris Warrener, Consultant Town Planner on 2 May 2007*

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a single storey brick with colour-bond roof house on the rear battle-axe lot at 128A Marmion Street comprising 4 bedrooms, 2 bathrooms, kitchen-meals area, activity room, home theatre, laundry, double garage and veranda.

**Statutory Requirements**

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5  
Local Planning Strategy - Woodside Precinct (LPS)  
Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy 066 – Roofing (LPP 066)  
Local Planning Policy No. 142 – Residential Development (LPP 142)

**Documentation**

Plans and relevant forms date stamp received on 27 March 2007

**Date Application Received**

27 March 2007

**No. of Days Elapsed between Lodgement & Meeting Date**

49 days

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

22 April 1997	Council decides to advise the WAPC that it does not support the survey strata subdivision of 128 Marmion Street;
19 August 1997	Council decides to advise the WAPC that it does not support battle-axe subdivision of 128 Marmion Street;
25 September 1997	WAPC conditionally approves the subdivision of 128 Marmion Street into 2 lots, 1 X 562m <sup>2</sup> , 1 X 448m <sup>2</sup> ;
16 December 1997	Council refuses to grant Planning Consent to demolish the house at 128 Marmion Street, and erect 2 residential dwelling units;
14 May 1998	Minister for Planning upholds an appeal against the Council decision to refuse demolition;
15 February 2000	Council decides to advise the WAPC that it does not support the survey strata subdivision of 128 Marmion Street;
17 April 2000	WAPC conditionally approves the “green title” battle-axe subdivision of 128 Marmion Street into 2 lots;
23 August 2000	WAPC approves a revised plan of subdivision to ‘step’ the proposed south side boundary to preserve a mature attractive tree;
19 September 2000	Council grants conditional special approval for additions to the existing house incorporating a garage with parapet wall to the east;
22 November 2000	WAPC endorses for final approval Deposited Plan 24624 for the 2-lot battle-axe subdivision of 128 Marmion Street (1 X 550m <sup>2</sup> , 1 X 460m <sup>2</sup> );
18 September 2001	Council resolves to defer making a decision on an application for a single storey house on the rear/battle-axe lot, and the applicant requested to modify the proposal including a reduction in garage width and to move the whole proposal 1.5m south in order to provide an acceptable outdoor living area to the north and a reduction in the east width of the house to achieve side setbacks as required under TPS 2;

**CONSULTATION**

**Development Control Unit**

28 March 2007

## Site Inspection

By Consultant Town Planner on 28 February 2007

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<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		550m <sup>2</sup> Existing
Open Space	50%	55.4% Acceptable
Zoning		R12.5
<b><u>Setbacks:</u></b>		
Front (south)		
<i>Verandah</i>	1.50	5.50 Acceptable
<i>Garage</i>	0.00	<i>LPP142</i> 0.00 Acceptable
Rear (north)		
<i>Bathroom</i>	1.00	2.00 Acceptable
<i>Activity</i>	1.50	4.00 Acceptable
<i>Kitchen/Meals</i>	1.50	1.50 Acceptable
Side (east)		
<i>Garage</i>	1.00	<i>LPP142</i> 0.00 <b>Discretion Required</b>
<i>Beds 1, 2 &amp; 3</i>	1.50	1.56 Acceptable
Side (west)		
<i>Kitchen</i>	1.00	2.04 Acceptable
<i>Verandah</i>	1.50	2.04 Acceptable
<b><u>Height:</u></b>		
Wall	6.00	3.00 Acceptable
Ridge	9.00	6.00 Acceptable

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## REPORT

### Issues

#### *Boundary Setback*

The application proposes a 3m long X 2.51m high section of a garage wall along the east side boundary common with 130 Marmion Street.

The garage is already proposed with a 9m long X 2.54m high wall along the south side boundary common with 128 Marmion Street.

LPP 142 allows a 9m long X 3m high wall along one side boundary only therefore the short section of wall along the east side boundary represents a variation to LPP 142 for which Council's discretion is required to be exercised.

#### *Roof Pitch*

The application proposes a colour-bond roof pitched at 25°.

LPP 066 states:

*"Dominant elements to be greater than 28°."*

## **Discussion**

### *Boundary Setback*

The owners of 130 Marmion Street, which is the property affected by the garage wall on the east side boundary have endorsed one set of the submitted plans as follows:

*"We have seen the proposed plans, including the parapet wall on eastern section and the length and height of eastern side of proposed house."*

The proposed variation is considered relatively minor, and does not negatively impact on the amenity of the potentially affected property.

### *Roof Pitch*

The proposed house will not be visible from Marmion Street.

Of the 69 properties which have visible frontage to the East Fremantle side of Marmion Street, 20 have roofs pitched lower than 28°.

The proposal does not result in any impact on local streetscape and this variation is supported.

## **RECOMMENDATION**

That Council exercise its discretion in granting approval for the following:

- (a) variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25°, and
- (b) variation to the east side boundary setback for a garage wall pursuant to Local Planning Policy 142 from 1m to 0m

for the construction of a single storey brick with colour-bond roof house on the rear battle-axe lot at 128A Marmion Street comprising 4 bedrooms, 2 bathrooms, kitchen-meals area, activity room, home theatre, laundry, double garage and veranda in accordance with the plans date stamp received on 27 March 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater 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 licence.
5. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. 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:*

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*

- (c) *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.*
- (d) *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).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*

Mr Stan Magro (applicant/owner) addressed the meeting.

#### **RECOMMENDATION TO COUNCIL**

**Cr Martin – Mayor O'Neill**

**That Council exercise its discretion in granting approval for the following:**

- (a) **variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 25°, and**
  - (b) **variation to the east side boundary setback for a garage wall pursuant to Local Planning Policy 142 from 1m to 0m**
- for the construction of a single storey brick with colour-bond roof house on the rear battle-axe lot at 128A Marmion Street comprising 4 bedrooms, 2 bathrooms, kitchen-meals area, activity room, home theatre, laundry, double garage and veranda in accordance with the plans date stamp received on 27 March 2007 subject to the following conditions:**
1. **the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
  2. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
  3. **the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
  4. **all stormwater 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 licence.**
  5. **all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
  6. **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:***

- (a) ***this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (b) ***a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.***
- (c) ***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.***

- (d) *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).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.* CARRIED

**T49.11**

**Alcester Street No. 3 (Lot 210)**

**Applicant: Zammit & Town of East Fremantle**

**Owner: Western Power**

**(Application No. P77/2006)**

*By Chris Warrener Consultant Town Planner on 30 April 2007*

## **BACKGROUND**

### **Description of Proposal**

A request for a quotation from Western Power for relocation of a street light pole in the verge in front of 3 Alcester Street.

### **Documentation**

Plans and relevant forms date stamp received on 20 April 2007

### **Date Application Received**

20 April 2007

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

20 June 2006 Council grants conditional approval for a 3-car garage with cellar, store & workshop at 3 Alcester Street.

### **Site Inspection**

By Consultant Town Planner on 27 April 2007

## **REPORT**

### **Issues**

Council has received a letter and attachments from Western Power regarding a request for relocated street lighting at 3 Alcester Street.

The owners of 3 Alcester Street seek approval, and a quotation to relocate the street light pole in the verge in front of their property.

### Street Lighting

It is proposed to relocate the street light pole that is in the verge in front of 3 Alcester Street approximately 5m east of its present location to a position which coincides with the alignment of the common property boundary between 3 and 5 Alcester Street.

At its meeting on 20 June 2006 Council conditionally approved the construction of a 3-car garage, cellar, store, and workshop next to the east side boundary of 3 Alcester Street.

That application also proposed, and was granted approval for a variation to crossover width from 3m to 6.1m.

However the wider crossover will interfere with the current street light pole position.

Condition 5 of the Planning Approval states:

5. *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. If Council refuses to approve such works, then this condition cannot be satisfied and this planning approval is not valid.*

## **Discussion**

There are presently 2 street light poles on the north and south sides of Alcester Street between Preston Point Road and Staton Road.

Moving the street light pole on the south side of the street as proposed by the owner of 3 Alcester Street is considered to be an improvement on its current position because it will be more centrally located within the street, and provide effective lighting over both driveways to 3 and 5 Alcester Street.

#### **RECOMMENDATION**

That Council grant approval for the relocation of the street light pole in the verge in front of No. 3 (Lot 210) Alcester Street, East Fremantle in accordance with the plans date stamp received on 20 April 2007, and to delegate to the Chief Executive Officer the authority to complete on Council's behalf the "Unmetered Supply Form" to return to Western Power.

#### **RECOMMENDATION TO COUNCIL**

**Mayor O'Neill – Cr Harrington**

**That Council grant approval for the relocation of the street light pole in the verge in front of No. 3 (Lot 210) Alcester Street, East Fremantle in accordance with the plans date stamp received on 20 April 2007, and to delegate to the Chief Executive Officer the authority to complete on Council's behalf the "Unmetered Supply Form" to return to Western Power.**

CARRIED

**T49.12**

***Jerrat Drive - Reserve 33997 & 7800***

***Applicant: East Fremantle Lacrosse Club***

***Owner: Crown, in Swan River Trust Management Area, vested with Town of East Fremantle***

***By Chris Warrener Consultant Town Planner on 30 April 2007***

#### **BACKGROUND**

##### **Description of Proposal**

An Application for Approval of Development pursuant to the Swan River Trust Act 1988 for a 7m long X 4m wide X 2.5m high storage shed on the east side of the cricket nets on Reserve 7800 Jerrat Drive.

##### **Statutory Requirements**

Town Planning Scheme No. 3 (TPS 3) –

Metropolitan Region Scheme Reserve – Parks and Recreation  
Local Planning Strategy – Preston Point Precinct (LPS)

##### **Documentation**

Plans and relevant forms date stamp received on 13 March 2007

##### **Date Application Received**

12 March 2007

#### **CONSULTATION**

##### **Referral to Other Authorities**

Swan River Trust

##### **Site Inspection**

By Consultant Town Planner on 12 & 27 March 2007

#### **REPORT**

##### **Issues**

*View Impacts*

The location of the proposed shed is on a grassed reserve adjacent to the Swan River which is a prominent view for properties on the south side of Preston Point Road.

##### **Discussion**

At its meeting on 20 March 2007 Council resolved:

*"That the matter be deferred pending a site inspection on Tuesday, 27 March 2007 at 5.30pm."*

Mr Peter Smirk for the Lacrosse Club provided the following email summary of what was discussed at the site meeting (the Mayor and Consultant Town Planner had left to attend a meeting of the Town Planning Advisory Panel prior to the completion of this site meeting):

*"Thanks to the Mayor and the councillors who came down to the Lacrosse ground Tuesday evening, we appreciate your attendance.*

*As a result of this on site meeting, the following points were made.*

*Location*

*Location of the Proposed Storage Shed.*

*EFLC's preference was for the shed to be located east of and adjacent to, the cricket nets.*

*Size to be reduced to 5M x3M, with a flat roof, constructed of corrugated iron or 'collarbone', sage green colour, swing doors.*

*This location is ideal for access to the equipment required (4 sets of goals, 32 seats, 2 tables, 2 shelters and 2 backing nets for the River end of the fields) and proximity to the playing fields.*

*Small shrubs could be planted to 'hide' the shed from Preston Point Road, but not interfere with residents views.*

*Other locations were discussed, primarily, adjacent to the southern side of the clubroom. This would cause some problems with access due to it being a part of the parking area. On game days this can be quite inconvenient to all concerned.*

*Alternative: Removing timber bollards and curbing presently blocking reasonable and safe access to the existing storage area UMR of the clubroom, southern side.*

*Ground Lighting*

*This was also discussed with a view to improving the quality of the lighting.*

*Our players are finding it impossible to see the ball under these lights, particularly the goalkeepers when simulating a game with 'half field' training. We are in the process of having some 'measurement' of the replaced lights as opposed to the original light on the western end of the ground. They should be matching in brightness but they are not.*

*Entrance Lighting*

*Attention was brought to this issue as it is hard to see the opening to the ground as there is no light directly at the entrance. Three reflectors are in place on the curbing either side, but this appears to be inadequate.*

*We trust these issues can be resolved to the satisfaction of all concerned.*

*Please feel free to call me on 0418 429 581."*

The Lacrosse Club's preference is for the shed is to be erected adjacent to the east side of the cricket nets, which are situated at the bottom of a grassed embankment next to Preston Point Road.

The application before the SRT for approval is for a shed 7m long X 4m wide X 2.5m high.

It is apparent based on Mr Smirk's summary report on the site meeting that Councillors would prefer a smaller less obtrusive structure in the same location as applied for.

This will have the effect of reducing its impact on roadside views, with the bulk of the structure hidden by the adjacent embankment.

The application did not specify the materials or colour of the proposed shed.

To further reduce its potential view impact it is considered appropriate for the shed to be built in green colour-bond.

### **RECOMMENDATION**

That Council advise the Swan River Trust that it supports the erection of a storage shed on the east side of the cricket nets on Reserve 7800 Jerrat Drive by the East Fremantle Lacrosse Club subject to the following conditions:

1. prior to the issue of a Building Licence the applicant is to submit amended plans for a 5m long X 3m wide flat roofed storage shed.
2. the shed is to be constructed in green colour-bond to reduce its visual impact on Reserve 7800 and views from Preston Point Road.
3. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. the proposed storage shed is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater 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 licence.

#### Footnote:

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

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

### **RECOMMENDATION TO COUNCIL**

**Mayor O'Neill – Cr Martin**

**That this matter be deferred and the Chief Executive in consultation with relevant officers prepare a report on alternative options.**

CARRIED

**T49.13**

***Canning Highway No. 163 (Lot 16)***

***Applicant: De Pledge Design***

***Owner: Dewet Nominees Pty Ltd***

***(Application No. P64/2007)***

***By Chris Warrener Consultant Town Planner on 2 May 2007***

### **BACKGROUND**

#### **Description of Proposal**

An Application for Planning Approval for 3 rendered brick storage rooms one with a mezzanine fixed to the east side of the 2-storey building at 163 Canning Highway.

The storage rooms are proposed for the use of tenants to store/archive files.

**Statutory Requirements**

Town Planning Scheme No. 3 (TPS 3) – Town Centre  
Local Planning Strategy - Woodside Precinct (LPS)  
Residential Design Codes (RDC)

**Documentation**

Plans and relevant forms date stamp received on 27 March 2007

**Date Application Received**

27 March 2007

**Advertising**

Adjoining land owners only

**Date Advertised**

12 April 2007

**Close of Comment Period**

27 April 2007

**No. of Days Elapsed between Lodgement & Meeting Date**

42 days

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

19 September 1994 Council grants conditional special approval for the conversion of a squash centre to office accommodation;  
30 January 1995 Building Licence issued for the conversion of a squash centre to office accommodation;  
19 June 1995 Council grants conditional approval for the lower section of the building at 163 Canning Highway to be used as a gymnasium;  
5 December 1995 Building Licence issued for a 6 bay carport;  
25 February 1996 Council grants special approval for relaxation of car parking for a dance studio for a 12month trial period.

**CONSULTATION****Development Control Unit**

28 March 2007

**Public Submissions**

At the close of the comment period no submissions were received.

**Site Inspection**

By Consultant Town Planner on 23 April 2007

**REPORT****Issues**Boundary Setbacks

The proposed storage rooms are set back 0m from the east side boundary common with 169 Canning Highway.

While the subject property is zoned "Town Centre", the adjoining property 169 Canning Highway is zoned Residential.

TPS 3, Sub-clause 5.8.1 states:

*"5.8.1 Building Setbacks: Except as otherwise required or permitted by the local government, buildings in the Commercial Zones are to be aligned with the front property boundary, and are to be built up to any side boundary, other than a boundary which abuts the Residential Zone. In the case of a boundary which abuts land situated in the Residential Zone, the side setback standards applicable to the adjoining Residential Zoned land are to apply, unless varied in accordance with the provisions of clause 5.6 of the Scheme.*

*Note: In the case of a site included on the Heritage List referred to in Part 7 of the Scheme, the local government may require in any particular case, additional setbacks in order to protect the heritage value of the site".*

The relevant section of this sub-clause is the reference to the side boundary setback, which in this particular case is recommended under the RDC to be 1m therefore at 0m Council's discretion is required to be exercised to approve the store rooms.

**Discussion**

The owner of the potentially affected property at 169 Canning Highway has submitted a letter stating:

*"I have no objections to the proposal"*

The area of the affected property contains a drive way, the building/house on 169 Canning Highway is sufficiently set back from the west side boundary to not be affected by the proposed storage rooms.

## **RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to the east side boundary setback pursuant to Town Planning Scheme No 3, sub-clause 5.8.1 from 1m to 0m for the construction of 3 rendered brick storage rooms one with a mezzanine fixed to the east side of the 2-storey building at No. 163 (Lot 16) Canning Highway, East Fremantle in accordance with the plans date stamp received on 27 March 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed storage rooms are not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater 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 licence.
5. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. 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:*

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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).*
- (d) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*

## **RECOMMENDATION TO COUNCIL**

**Mayor O'Neill – Cr Harrington**

**That Council exercise its discretion in granting approval for a variation to the east side boundary setback pursuant to Town Planning Scheme No 3, sub-clause 5.8.1 from 1m to 0m for the construction of 3 rendered brick storage rooms one with a mezzanine fixed to the east side of the 2-storey building at No. 163 (Lot 16) Canning Highway, East Fremantle in accordance with the plans date stamp received on 27 March 2007 subject to the following conditions:**

- 1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. the proposed storage rooms are not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 4. all stormwater 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 licence.

5. all parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. 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:*

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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).*
- (d) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*

CARRIED

T49.14

**Dalgety Street No. 13 (Lot 255)**

**Applicant: Trade Direct Patios**

**Owner: John Williams**

**(Application No. P85/2006)**

*By Consultant Town Planner Chris Warrener on 2 May 2007*

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for an 8m long X 3.5m wide X 2.4m high gable roofed patio at the rear of the single house at 13 Dalgety Street.

**Statutory Requirements**

Town Planning Scheme No 3 (TPS 3) – Residential R12.5

Local Planning Strategy – Woodside Precinct (LPS)

Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy 142 – Residential Development (LPP 142)

**Documentation**

Plans date stamp received on 30 March 2007 and relevant forms

**Date Application Received**

30 March 2007

**Advertising**

3 adjoining landowners invited to comment.

**Date Advertised**

12 April 2007

**Close of Comment Period**

27 April 2007

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

30 July 2003	Consent Order published by the Town Planning Appeals Tribunal approves subdivision of Lots 52 & 53 Canning Highway into 3 lots, creating new properties at 9, 11 and 13 Dalgety Street;
21 September 2004	Council decides to conditionally approve a flat roofed single storey house with a double garage at 13 Dalgety Street;
16 August 2005	Demolition Licence issued for the garage which stood on the application lot;
18 July 2006	Council grants conditional approval for a single storey house with a south side boundary setback variation, and variation to roof pitch.

**CONSULTATION****Public Submissions**

At the close of the comment period no submissions were received.

**Site Inspection**

By Consultant Town Planner on 23 April 2007.

**REPORT****Issues**Boundary Setbacks

The proposed patio is set back 5.6m from the west side (rear) boundary common with 213 Canning Highway.

The RDC recommend a 6m rear setback for R12.5 coded property.

**Discussion**

The setback variation comprising 0.4m is not considered significant, does not negatively impact on the amenity of the potentially affected property, and the owner of that property has not objected to this application.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to the west side boundary setback pursuant to the Residential Design Codes from 6m to 5.6m for the construction of an 8m long X 3.5m wide X 2.4m high gable roofed patio at the rear of the single house at No. 13 (Lot 255) Dalgety Street, East Fremantle in accordance with the plans date stamp received on 30 March 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater 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 licence.
5. 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:*

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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).*

#### **RECOMMENDATION TO COUNCIL**

**Cr Martin – Mayor O’Neill**

**That Council exercise its discretion in granting approval for a variation to the west side boundary setback pursuant to the Residential Design Codes from 6m to 5.6m for the construction of an 8m long X 3.5m wide X 2.4m high gable roofed patio at the rear of the single house at No. 13 (Lot 255) Dalgety Street, East Fremantle in accordance with the plans date stamp received on 30 March 2007 subject to the following conditions:**

- 1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council’s further approval.**
- 2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. the proposed patio is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 4. all stormwater 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 licence.**
- 5. 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:***

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions*

CARRIED

**T49.15 Fortescue Street No. 47 (Lot 4)**  
**Applicant: Kalmar Factory Direct**  
**Owner: Peter Gadeke**  
**(Application No. P65/2007)**  
*By Chris Warrener Consultant Town Planner on 2 May 2007*

## **BACKGROUND**

### **Description of Proposal**

An Application for Planning Approval for a 5.08m long X 4.2m wide X 2.54m high gable roofed patio at the rear of the single house at 47 Fortescue Street

### **Statutory Requirements**

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5  
Local Planning Strategy - Woodside Precinct (LPS)  
Residential Design Codes (RDC)

### **Relevant Council Policies**

Local Planning Policy No. 142 – Residential Development (LPP 142)

### **Documentation**

Plans and relevant forms date stamp received on 15 March 2007.

### **Date Application Received**

15 March 2007

### **Advertising**

1 adjoining land owner

### **Date Advertised**

12 April 2007

### **Close of Comment Period**

27 April 2007

### **No. of Days Elapsed between Lodgement & Meeting Date**

54 days

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

13 December 1982	Council decides to advise the Town Planning Board that it conditionally supports the subdivision of Lot 124 corner Fortescue/Fletcher Streets;
26 January 1983	Town Planning Board grants conditional approval to subdivide 47 Fortescue Street into 2 lots, creating 8 Fletcher Street & 47 Fortescue Street;
20 July 1990	Building Licence issued for internal alterations to 47 Fortescue Street;
20 February 2007	Council grants conditional approval for a carport forward of the main building line.

## **CONSULTATION**

### **Public Submissions**

At the close of the comment period no submissions were received.

### **Site Inspection**

By Consultant Town Planner on 4 January 2007

## **REPORT**

### **Issues**

#### Boundary Setbacks

The proposed patio is set back 1m from the east side boundary common with 8 Fletcher Street.

The RDC recommend a 1.5m setback.

### **Discussion**

The subject land is a corner lot which resulted from a subdivision approved in 1983.

It contains a single storey house with a generous (10m) frontage to Fortescue Street, and due to it having been subdivided this has left little space for a 'back' yard area therefore constraining the siting of a patio.

The patio is not considered to negatively impact on the amenity of the potentially affected adjoining property at 8 Fletcher Street, and the owner of that property has not objected to this application.

### **RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to the east side boundary setback pursuant to the Residential Design Codes from 1.5m to 1m for the construction of a 5.08m long X 4.2m wide X 2.54m high gable roofed patio at the rear of the single house at 47 Fortescue Street in accordance with the plans date stamp received on 15 March 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater 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 licence.
5. 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:*

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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).*

### **RECOMMENDATION TO COUNCIL**

#### **Mayor O'Neill – Cr Martin**

**That Council exercise its discretion in granting approval for a variation to the east side boundary setback pursuant to the Residential Design Codes from 1.5m to 1m for the construction of a 5.08m long X 4.2m wide X 2.54m high gable roofed patio at the rear of the single house at 47 Fortescue Street in accordance with the plans date stamp received on 15 March 2007 subject to the following conditions:**

- 1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than**

- where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
  3. the proposed patio is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
  4. all stormwater 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 licence.
  5. 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:*

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

CARRIED

*Cr Dobro made the following impartiality declaration in the matter of 31 Staton Road: "As a consequence of my friendship with the owners of the subject property and also the fact that they were former neighbours of mine, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly.*

**T49.16**      **Staton Road No. 31 (Lot 2)**  
**Applicant: Patio Living**  
**Owner: John & Robyn Richmond**  
**(Application No. P60/2007)**  
*By Chris Warrener Consultant Town Planner on 2 May 2007*

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for a 4.4m long X 3.6m wide X 3.4m high gable roofed patio at the rear of the single house at 31 Staton Road.

**Statutory Requirements**

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5  
Local Planning Strategy - Richmond Precinct (LPS)  
Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy No. 142 – Residential Development (LPP 142)

**Documentation**

Plans and relevant forms date stamp received on 11 April 2007

**Date Application Received**

11 April 2007

**Advertising**

Adjoining land owners only

**Date Advertised**

12 April 2007

**Close of Comment Period**

27 April 2007

**No. of Days Elapsed between Lodgement & Meeting Date**

28 days

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

20 July 1999	Council decides to advise the WAPC that it does not support the subdivision of Lot 9 Staton Road into 3 survey strata lots (grouped housing);
7 December 1999	WAPC refuses an application to subdivide Lot 9 Staton Road into 3 survey strata lots;
21 March 2000	Minister for Planning upholds an appeal against the WAPC decision to refuse the subdivision application;
13 April 2000	WAPC imposes conditions on the subdivision pursuant to the Minister's decision to uphold the appeal;
1 June 2000	Demolition Licence granted for a brick, steel framed and metal roofed outbuilding located on the northern boundary of Lot 9 and containing a carport and storage area;
20 March 2001	Council grants conditional special approval for renovations to the house at 31 Staton Road including a new front veranda, a kitchen, a double garage and a bathroom with parapet walls;
13 August 2001	Building Licence issued for additions to 31 Staton Road.

**CONSULTATION****Public Submissions**

At the close of the comment period no submissions were received.

**Site Inspection**

By Consultant Town Planner on 18 April 2007

**REPORT****Issues**Boundary Setbacks

The proposed patio is set back 1.3m from the north side boundary common with a shared Right-of-Way which provides access to 31A Staton Road.

The RDC recommend a 1.5m setback.

**Discussion**

The proposed setback variation is considered minor, and does not impact negatively on the amenity of any adjoining property.

There were no submissions received.

## **RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.3m for the construction of a 4.4m long X 3.6m wide X 3.4m high gable roofed patio at the rear of the single house at No. 31 (Lot 2) Staton Road, East Fremantle in accordance with the plans date stamp received on 11 April 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater 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 licence.
5. 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:*

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *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).*

## **RECOMMENDATION TO COUNCIL**

### **Cr Ferris – Cr Harrington**

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.3m for the construction of a 4.4m long X 3.6m wide X 3.4m high gable roofed patio at the rear of the single house at No. 31 (Lot 2) Staton Road, East Fremantle in accordance with the plans date stamp received on 11 April 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed patio is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater 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 licence.
5. 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:*

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

- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended). CARRIED

**T49.17**

**Walter Street No. 1 (Lot 2)**

**Applicant: Healy Constructions**

**Owner: Janey Hamersley**

**(Application No. P71/2007)**

*By Chris Warrener Consultant Town Planner on 2 May 2007*

## **BACKGROUND**

### **Description of Proposal**

An Application for Planning Approval for ground floor additions comprising a new kitchen and alfresco area to the rear of the single house at 1 Walter Street

### **Statutory Requirements**

Town Planning Scheme No. 3 (TPS 3) – Residential R12.5

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)

### **Relevant Council Policies**

Local Planning Policy No. 142 – Residential Development (LPP 142)

### **Documentation**

Plans and relevant forms date stamp received on 2 April 2007

### **Date Application Received**

2 April 2007

### **Advertising**

Adjoining land owners only

### **Date Advertised**

12 April 2007

### **Close of Comment Period**

27 April 2007

### **No. of Days Elapsed between Lodgement & Meeting Date**

36 days

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

November 1977 Extensions to the living room & a larger entry hall;

18 August 1986 Council refuses an application to carry out the "Home Occupation – Computer Graphics";

30 December 1998 Approval granted under delegated authority to re-roof the house from cement tile to zincalume finish custom orb;

29 June 1999 Approval granted under delegated authority to extend & formalise an existing veranda into a west facing living room;

12 July 1999 Building Licence issued for veranda extension.

## **CONSULTATION**

### **Public Submissions**

At the close of the comment period no submissions were received.

### **Site Inspection**

By Consultant Town Planner on 24 April 2007.

## **REPORT**

## **Issues**

### Boundary Setbacks

The proposed 5.8m long X 4.3m wide alfresco area is set back 1.17m from the north side boundary common with 3A Walter Street.

The RDC recommend a 1.5m setback.

## **Discussion**

The application involves removal of an existing shed and timber patio, and their replacement with a new kitchen extension to the house, and the addition of a roofed alfresco area.

The proposed setback variation is considered minor not negatively impacting on the amenity of the adjoining property at 3A Walter Street. The affected land comprises the access leg to 3A Walter Street, which is at the rear of 3 Walter Street.

The potentially affected property owner has not objected to the application.

## **RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.17m for the construction of ground floor additions comprising a new kitchen and alfresco area to the rear of the single house at No. 1 (Lot 2) Walter Street, East Fremantle in accordance with the plans date stamp received on 2 April 2007 subject to the following conditions:

1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. the proposed kitchen and alfresco are not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. all stormwater 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 licence.
5. 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:*

- (a) *this decision of Council does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*

- (c) *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).*

#### **RECOMMENDATION TO COUNCIL**

**Mayor O'Neill – Cr Ferris**

**That Council exercise its discretion in granting approval for a variation to the north side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.17m for the construction of ground floor additions comprising a new kitchen and alfresco area to the rear of the single house at No. 1 (Lot 2) Walter Street, East Fremantle in accordance with the plans date stamp received on 2 April 2007 subject to the following conditions:**

- 1. the works to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. the proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. the proposed kitchen and alfresco are not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 4. all stormwater 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 licence.**
- 5. 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:***

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

**CARRIED**

**T49.18**

**George Street No. 65 (Lot 2)**

**Applicant: Ecosmart Programs Pty Ltd**

**Owner: Anne Marie Medcalf**

**(Application No. P73/2007)**

**By Chris Warrener, Consultant Town Planner on 1 May 2007**

**Mayor O'Neill – Cr Martin**

**That this item be withdrawn from the agenda for tonight's meeting at the request of the applicant.**

**CARRIED**

**T49.19**

**Draft Residential Design Guidelines**

**By Beryl Foster, Acting Town Planner on 8 May 2007**

#### **BACKGROUND**

The objective of this report is to follow up on the submission of the revised Draft Residential Design Guidelines (Issue 2).

On 3 May 2007 Masterplan as agreed at Council's Informal Briefing held on 24 April 2007 submitted a revised copy of the draft Residential Design Guidelines.

**ATTACHMENT**

### **Discussion**

The revised draft Guidelines incorporates comments made at Council's Informal Briefing meeting.

As an overview the revision is considered closer to Council's intention for the Town however, the content of the document still requires further evaluation to ensure that the desired outcomes are achieved.

As such, it is recommended that the Steering Committee systematically evaluate the content of the draft guidelines for agreement on content.

On agreement of the content of the Draft Residential Design Guidelines the Steering Committee invite comment from the Town Planning Advisory Panel.

### **RECOMMENDATION**

That:

1. the Town Planning & Building Committee recommend a date for the next meeting of the Residential Design Guidelines Steering Committee.
2. the Residential Design Guidelines Steering Committee:
  - (a) review the content of the Residential Design Guidelines;
  - (b) refer the Draft Design Guidelines to the Town Planning Advisory Panel for comment; and
  - (c) consider the proposed Timeline submitted for Masterplan and modify if considered appropriate.

The following additional information was provided by the Chief Executive Officer:

#### ***Report on Residential Design Guidelines Proposal Timetable as submitted by Masterplan***

*By Stuart Wearne, Chief Executive Officer, on 8 May 2007*

Further to the Chief Executive Officer's memo of 4 May a "readable" copy of Masterplan's proposed timetable has been received.

At the time of writing however the Chief Executive Officer has not seen the report from the Acting Town Planner which was also referred to in the memo.

In discussion with the Acting Town Planner however, it has been decided that it is best that I simply advise elected members of current competing commitments and allow elected members to consider that advice in the context of any discussions regarding the guidelines at a Town Planning & Building Committee or Special Council level, when reviewing Masterplan's proposed timetable.

A copy of those commitments are attached.

**ATTACHMENT**

### **RECOMMENDATION TO COUNCIL**

**Cr Harrington – Cr Martin**

That:

1. **the next meeting of the Residential Design Guidelines Steering Committee be held on Tuesday 29 May at 6.00pm.**
2. **a copy of the Residential Guidelines (Issue 2 – Revised Draft) be forwarded to members of the Town Planning Advisory Panel and they be invited to submit comment on the draft document in time for the scheduled meeting.**
3. **the Residential Design Guidelines Steering Committee:**
  - (a) **review the content of the Residential Design Guidelines;**
  - (b) **refer the Draft Design Guidelines to the Town Planning Advisory Panel for comment; and**
  - (c) **consider the proposed Timeline submitted for Masterplan and modify if considered appropriate.**

CARRIED

Nil.

**T51. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

Nil.

**T52. CLOSURE OF MEETING**

There being no further business the meeting closed at 8.05pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **8 May 2007**, Minute Book reference **T41. to T52.** were confirmed at the meeting of the Committee on*

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*Presiding Member*