

14 June 2011

MINUTES

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 14 JUNE, 2011 COMMENCING AT 6.40PM.**

**T56. OPENING OF MEETING**

**T56.1 Present**

|                    |                             |
|--------------------|-----------------------------|
| Cr Alex Wilson     | Presiding Member            |
| Cr Cliff Collinson |                             |
| Cr Siân Martin     |                             |
| Cr Dean Nardi      |                             |
| Cr Maria Rico      |                             |
| Mr Jamie Douglas   | Manager – Planning Services |
| Ms Gemma Basley    | Acting Town Planner         |
| Mrs Peta Cooper    | Minute Secretary            |

**57. ACKNOWLEDGEMENT OF COUNTRY**

The Presiding Member made the following acknowledgement:

*“On behalf of the Council I would like to acknowledge the Nyoongar people as the traditional custodians of the land on which this meeting is taking place.”*

**T58. WELCOME TO GALLERY**

There were 12 members of the public in the gallery at the commencement of the meeting.

**T59. APOLOGIES**

Mayor Alan Ferris  
Cr Barry de Jong  
Cr Rob Lilleyman

**T60. CONFIRMATION OF MINUTES**

**T60.1 Town Planning & Building Committee (Private Domain) – 10 May 2011**

Cr Collinson – Cr Martin

That the Town Planning & Building Committee (Private Domain) minutes dated 10 May 2011 as adopted at the Council meeting held on 17 May 2011 be confirmed.

CARRIED

**T61. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T61.1 Riverside Road No. 35 – New Residence**

Emails received from adjoining neighbour at 36 Riverside Road, Mr David Bollands and Mr Travis Fancourt (Project Manager for Mr Bollands) seeking deferral of the item due to insufficient time to view the proposal and submit comment.

Cr Rico – Cr Nardi

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T63.7).

CARRIED

**T61.2 Riverside Road No. 35 – New Residence**

Email from Mr Michael Franchina (Drafting/Planning Manager – Ross Griffin Homes) apologising for their inability to attend this evening's meeting and asking that the matter not be deferred.

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Cr Rico – Cr Nardi

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T63.7).

CARRIED

**T61.3** *Walter Street No. 34 – Alterations/Additions to Residence*

Emails from Ms Irina DiAngelo (Approvals Officer – Dale Alcock Home Improvement) submitting justification for the carport forward of the main building line.

Cr Rico – Cr Nardi

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T63.12).

CARRIED

**T62. REPORTS OF COMMITTEES**

**T62.1** *Town Planning Advisory Panel – 24 May 2011*

Cr Wilson – Cr Rico

That the minutes of the Town Planning Advisory Panel meeting held on 24 May 2011 be received and each item considered when the relevant development application is being discussed.

CARRIED

**T63. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL**

**T63.1** *Receipt of Reports*

Cr Nardi – Cr Rico

That the Reports of Officers be received.

CARRIED

**T63.2** *Order of Business*

Cr Nardi – Cr Rico

The order of business be altered to allow members of the public to speak to relevant agenda items.

CARRIED

**T63.3** *Fraser Street No. 87 (Lot 1)  
Applicant/Owner: Jason & Rebecca O'Keefe  
Application P45/2011  
By Gemma Basley, Town Planner, 27 April 2011*

**BACKGROUND**

**Purpose of this Report**

An Application for Planning Approval for alterations and additions to the front, side and rear of the residence at No. 87 Fraser Street, East Fremantle is the subject of this report.

The report recommends that Council approve the application conditionally.

**Description of Proposal**

The application proposes the following alterations and additions to the residence at No. 87 Fraser Street:

- to remove the existing front verandah and extend the house forwards to accommodate a larger kitchen and an additional bedroom/study;
- to enclose the verandah at the rear of the residence to accommodate an indoor games room area;
- to extend the decking at the side of the residence (facing Clayton Street) to align with the extension at the front of the residence; and

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- to construct an addition to the western side of the residence to accommodate a walk in robe and ensuite.

**Description of Subject Site**

The subject site:

- 491m<sup>2</sup>
- is zoned Residential R12.5 but subject to Clause 5.3.3 of TPS No. 3 and will be assessed against the R20 provisions of the R-Codes
- is developed with a heritage residence that is included as a 'C' Management Category in the Municipal Heritage Inventory
- located in the Richmond Precinct

**Statutory Considerations**

Town Planning Scheme No. 3 (TPS3)

Local Planning Strategy – Richmond Precinct (LPS)

**Relevant Council Policies**

Local Planning Policy 066 : Roofing (LPP 066)

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

**Impact on Public Domain**

Tree in verge : No Impact

Light pole : No Impact

Crossover : No Impact

Footpath : No Impact

Streetscape : The additions will alter the way in which the residence presents to Fraser Street but the additions are such that there will not be an adverse impact on the streetscape. In addition the extensive vegetation in the front yard of 87 Fraser Street, which currently screens much of the residence is to be retained.

**Documentation**

Plans and relevant forms date stamp received on 17 May 2011

**Date Application Received**

21 April 2011

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

16 August 1993 Council exercises its discretion and approves the construction of a duplex unit at the rear of the residence at No. 87 Fraser Street.

28 September 1994 Approval granted for the removal of asbestos cement sheet cladding and its replacement with jarrah weatherboard and for the removal of the roof tiles and replacement with Colorbond roof sheeting.

**CONSULTATION**

**Advertising**

The application was advertised to adjoining land owners for two weeks between the 19 May and the 2 June 2011. During this period no objections or submissions were received.

**Town Planning Advisory Panel**

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting on 24 May 2011. The Panel made the following comments:

- Panel appreciates retention of residence and recycling of building materials.
- Additions considered appropriate.

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**STATISTICS**

File P/FRA87

Zoning R12.5 assessed at R20 as per Clause 5.3.1 of TPS No. 3

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**STATISTICS**

Lot Area 491m<sup>2</sup>  
Heritage Listing C on Municipal Heritage Inventory – Demolition approved

| <b>Site:</b>  | Required            | Proposed         | Status                     |
|---------------|---------------------|------------------|----------------------------|
| Open Space    | 50%                 | Greater than 50% | Acceptable Development     |
| Overshadowing | >25%                | Nil              | Acceptable Development     |
| Site Works    | Less than 0.5 metre | 0.58m            | <b>Discretion Required</b> |

| <b>Height:</b> | Required | Proposed | Status                 |
|----------------|----------|----------|------------------------|
| Wall           | 3.0      | 2.7      | Acceptable Development |
| Ridge          | 6.0      | 3.4      | Acceptable Development |
| Roof type      | Skillion |          |                        |

**Setbacks:**

The additions at the front of the residence are proposed to have a setback of between 9.2 metres and 10.5 metres to the Fraser Street boundary which is the primary street frontage. The R-Codes require a 6.0 metre setback to the primary street and the proposed setback is therefore Acceptable Development.

The ensuite addition is proposed to have a 1.0 metre setback to the western side boundary which meets the boundary setback requirements of the R-Codes and is Acceptable Development.

The decking proposed adjacent to the Clayton Street boundary is proposed to have a setback of 0.5 metres in lieu of the 1.5 metres required under the R-Codes. **Discretion Required**

The verandah enclosure at the rear of the residence is proposed to have a setback of 1.3 metres to the rear boundary which complies with the requirements of the R-Codes and is Acceptable Development.

**Overlooking**

No overlooking will occur into adjoining residential properties

**ASSESSMENT**

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the following elements which will be assessed separately below.

**Site Works**

The subject site has a fall of approximately 2.0 metres from north east to south west and the application proposes retaining up to 0.58 metres as part of the alterations and additions to address this. The retention of a consistent finished floor level across the frontage of the residence will ensure that the development retains the visual impression of the natural level of the site as seen from the street.

The proposed site works are supported because it responds to the natural topography of the site.

**Side Setback**

The proposed decking addition is proposed to have a setback of 0.5 metres to the Clayton Street boundary (side boundary), which is the secondary street frontage. The R-Codes require a 2.0 metre setback to the secondary street frontage for a R12.5 site. However Clause 5.3.3 of TPS No. 3 enables this to be reduced to 1.5 metres consistent with the R20 secondary street setback provisions as detailed below:

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

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

The proposed 0.5 metre setback to Clayton Street requires a variation to the R-Codes however this is overridden by Part 3 of Local Planning Policy No. 142 which allows a wall to be situated closer to the boundary than permitted by the R-Codes as detailed below:

*“A wall may be situated closer to an adjoining residential boundary than the standards prescribed in Tables 1, 2a or 2b of the Residential Design Codes where the following are observed:*

- (a) *Walls are not higher than 3m and up to 9m in length up to one side boundary;*
- (b) *Walls are behind the main dwelling;*
- (c) *Subject to the overshadow provisions of the Residential Design Codes – Element 9;*
- (d) *In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and*
- (e) *Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.”*

The proposed 0.5 metre setback between the proposed decking and the Clayton Street boundary satisfies the above criteria as follows:

- There are no walls associated with the deck;
- The proposed deck is at the side of the residence and behind the main building line of the residence;
- The decking area will not result in any overshadowing;
- The deck will not be visible from Clayton Street and will align with the existing decking and alfresco area.

The variation has also be assessed against the Performance Criteria of the R-Codes and based on the following is considered to be acceptable development:

- The reduced setback will not restrict sunlight or ventilation to the existing residence.
- The reduced setback and proposed decking will not cast a shadow on the adjoining lots.
- The position of the patio will not result in any overlooking or impacts on the neighbour’s privacy because it faces Clayton Street.

It is considered there is merit in an exercise of discretion to allow a setback of 0.5 metre between the deck and the secondary street frontage in lieu of 1.5 metres required under the R-Codes 2008.

**CONCLUSION**

The application is considered to have merit when assessed against the relevant LPP’s and Scheme provisions relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. Whilst the application does seek some minor variations to the R-Codes these are considered minor in nature and to be acceptable.

In order to meet the criteria for approval under Clause 5.3.3 of TPS No. 3, which was referred to above, the Local Government is required to be of the opinion that the proposed development will contribute more positively to the scale and character of the streetscape, the improvement of the amenity of the area and the objectives for the precinct, than the existing building.

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It is considered that the application does accord with the above criteria and is therefore considered to be suitable for determination and is recommended for approval.

**RECOMMENDATION**

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

- (a) a discretion to allow site works up to 0.58 metres in lieu of the 0.5 metres permitted by the R-Codes;
- (b) a discretion to allow a setback of 0.5 metres in lieu of 1.5 metres required under the R-Codes 2008 for the secondary street setback (between the deck and Clayton Street);

for the construction of alterations and additions to the single storey residence at No. 87 (Lot 1) Fraser Street, East Fremantle in accordance with the plans date stamp received on the 17 May 2011 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be submitted as part of a building licence.
6. This planning approval to remain valid for a period of 24 months from the date of this approval.

Footnote:

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

- (a) *this decision 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).*

Mr Jason O'Keefe (applicant / owner) addressed the meeting advising of his support for the officer's recommendation.

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Martin**

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

- (a) a discretion to allow site works up to 0.58 metres in lieu of the 0.5 metres permitted by the R-Codes;**
- (b) a discretion to allow a setback of 0.5 metres in lieu of 1.5 metres required under the R-Codes 2008 for the secondary street setback (between the deck and Clayton Street);**

**for the construction of alterations and additions to the single storey residence at No. 87 (Lot 1) Fraser Street, East Fremantle in accordance with the plans date stamp received on the 17 May 2011 subject to the following conditions:**

- 1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**

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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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be submitted as part of a building licence.
6. This planning approval to remain valid for a period of 24 months from the date of this approval.

**Footnote:**

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

- (a) *this decision 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

T63.4

**Walter Street No. 25 (Lot 1)**

**Applicant: Kerry Chong Design**

**Owner: Claire Werner**

**Application No. P63/11**

By Jamie Douglas, Manager - Planning Services on 6 June 2011

**BACKGROUND**

**Description of Proposal**

This report assesses an application for Planning Approval for demolitions, alterations and additions to a single storey heritage residence at 25 Walter Street, East Fremantle and recommends conditional approval.

**Site Description**

The subject site is the front lot of a battle axe subdivision and has an area of 441m<sup>2</sup>. It is zoned R12.5 and has a heritage rating of B- on the Municipal Inventory (rated 2 in respect to aesthetic value, precinct value, condition and integrity).

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Richmond 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)

**Impact on Public Domain**

Tree in verge : No impact;

Light pole : No impact;

Crossover : No impact;

Footpath : No impact.

Streetscape : Changes to the facade of the building and front fence will impact the streetscape

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**Documentation**

Plans and relevant forms date stamp received on 28 April 2011

**Date Application Received**

28 April 2011

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

21 December 1972 Fire Control Officer directs the owner to remove a fire hazard;  
18 October 1995 Town Planner grants approval for a garden shed;  
Building Permit 180/2344 approved for outbuilding;  
30 September 2003 CEO acting under delegated authority advises the WAPC that the battleaxe subdivision of 25 Walter Street is not supported;  
6 December 2003 WAPC approves the battleaxe subdivision of 25 Walter Street into 2 lots (1 x 440m<sup>2</sup>, 1 x 471m<sup>2</sup>);  
10 August 2004 WAPC approves Survey-Strata Plan.

**CONSULTATION**

**Advertising**

Three adjoining land owners only

**Date Advertised**

4 May 2011

**Close of Comment Period**

19 May 2011

**Neighbour Submission**

One submission was received from the owner of the house on the rear battle axe lot. This submission, the applicant's responses and an assessment of the Issue are summarized below.

| Submission from<br>25A Walter Street   | Applicants response   | Issue Assessment   |
|--|---|--|
| The main concern is the garage to be located at the rear.  | This will maintain a pleasant streetscape, a garage at the front would detract from the original character of the residence.  | This is a consequence of the battle axe and the shared driveway. The design response is reasonable.  |
| Young child- removal of fence will allow reversing into our property.  | The subject fence does not impact upon the main outdoor living space of 25A.  | The subject property has right of carriageway only to the extent of the shared driveway – no impact.   |
| There is a site fall between the properties new garage will require significant dropping of driveway at entrance to our property.                  | The level of the driveway will not be changed in anyway.  | No impact  |
| All nearby similar subdivisions have parking for the front house at the front  | It makes planning sense that both owners use the common driveway and give better site utilisation and reduced streetscape impact.   | The design accords with best practice site planning. The applicants have a legal right to utilise the common driveway.   |
| The development will have a parapet wall for the entire backyard for a bedroom. Impact on solar exposure for our backyard & may also create noise. | The proposed design responds to the overbearing nature of 25A Walter St. and is necessary to create private outdoor living areas. As shown on the overshadowing diagram, there will be no detrimental solar impact. Do not consider there will be adverse noise issues. | The design is a reasonable response to the current detrimental impact upon the subject property created by the development to the rear. There is no practical evidence that noise or overshadowing will be an issue. |

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 24 May 2011 and the following comments were made:

- Panel appreciates the quality and presentation of the application.



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- Bullnose verandah considered to be historically inappropriate addition for an interwar bungalow.
- Retention of original verandah roofline preferred.

Applicant's Response

Following are some points both discussed with our heritage architect consultant, Annabel Wills, and points that informed our design process in response to the panel's comments.

- Whilst the residence was constructed in the inter-war period, it has been heavily influenced, both internally and externally, by the Federation period
- Bullnose verandahs feature in Federation Filigree buildings, with plain or sparingly decorated timber posts characteristic of the Federation Bungalow style
- The mass and scale of this residence as it presents to the streetscape does not have the presence of a true inter-war bungalow; most notably, the existing columns are not as large as most Inter-war Bungalow columns. The lighter nature of the proposed bullnose verandah helps to re-balance the facade to the street
- The higher gutter line of the bullnose verandah is also less imposing on the verandah as a usable and enjoyable space, allowing better surveillance of the street and view of the original front windows from the street
- The proposed bullnose verandah is to replace the extent of the current verandah, whilst also reinstating the return of the verandah down the southern facade
- It is seen that the proposed bullnose verandah is to the benefit of both the occupants as well as to the streetscape

**Site Inspection**

By Manager - Town Planning Services on 6 June 2011

**STATISTICS – R Code / LPP142 Compliance**

|                  |  |
|------------------|--|
| File             | P/WAL25  |
| Zoning           | R12.5  |
| Lot Area         | 441m <sup>2</sup> (subject to Clause 5.3.3 of TPS No. 3) |
| Heritage Listing | B-   |

| Site:      | Required        | Proposed  | Status     |
|------------|-----------------|-----------|------------|
| Open Space | R12.5 (55%)     | 56%       | Acceptable |
| Site Works | Less than 500mm | No change | Acceptable |

| Other:              | Issues                          | Status     |
|---------------------|---------------------------------|------------|
| Overshadowing       | No (1% complies)                | Acceptable |
| Privacy/Overlooking | No                              | Acceptable |
| Car Parking         | Only 1 space/ 2 spaces required | Discretion |

| Height:        | Required | Proposed | Status     |
|----------------|----------|----------|------------|
| Wall (sw side) | 3.0      | 3.7      | Discretion |
| Ridge          | 6.0      | 5.37     | Acceptable |
| Roof type      | Pitched  |          |            |

**Setbacks:**

| Wall Orientation | Wall Type       | Wall height | Wall length | Major opening | Required Setback | Actual Setback | Status     |
|------------------|-----------------|-------------|-------------|---------------|------------------|----------------|------------|
| Front (east)     | Ground Verandah | 3.257       | 8.4         | Yes           | 6.0<br>(LPP142)  | 6.395          | Acceptable |
| Rear (west)      | Ground Whole    | 3.257       | 14.3        | No            | 1.5              | Nil            | Discretion |

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**STATISTICS – R Code / LPP142 Compliance**

**Setbacks:**

| Wall Orientation | Wall Type     | Wall height          | Wall length | Major opening | Required Setback | Actual Setback | Status |  |
|------------------|---------------|----------------------|-------------|---------------|------------------|----------------|--------|--|
| Side (north)     | <i>Ground</i> | <i>Bed 1 – Bath</i>  | 3.257       | 5.0           | No               | 1.5            | Nil    | Acceptable<br>(as adjoins existing wall) |
|                  |               | <i>Bed 2 – Bed 3</i> | 3.257       | 7.7           | No               | 1.0            | 2.895  | Acceptable                               |
| Side (south)     | <i>Ground</i> | <i>Whole</i>         | 3.257       | 16.1          | Yes              | 1.5            | 1.595  | Acceptable                               |

**ASSESSMENT**

The amenity of the existing dwelling has been impacted by the recent establishment of a dwelling on the battle axe lot behind which substantially overviews the subject property. The existing dwelling is of modest proportions and the desire for its redevelopment and addition is therefore understandable. Given the relatively small size of the site – 441m<sup>2</sup>, the options available are either to extend upwards or to internalise the principal outdoor living areas on the site as this design attempts to do. It also enables good exposure to natural light for the internal living areas and new bedroom and incorporates good passive solar design principles. The proposed design is considered preferable to a second storey addition (which as evidenced by some recent proposals) can tend to over scale the existing dwelling and impact upon its character, heritage significance and streetscape presence.

As the above statistical assessment shows, the proposal requires an exercise of discretion in respect to the R-Code ‘acceptable development’ requirements and LPP 142 guidelines in respect to the following:

Parking Bays

Only one car parking bay provided. The R-Code requires 2 bays per single dwelling however it is considered the proposal satisfies the performance criteria for a variation given the modest size of the dwelling and the availability of on street parking.

Parapet Wall

A 4m high parapet wall is proposed along the west and part of the north boundary. The proposed parapet abuts existing parapet walls on the neighbouring properties. It is considered to meet the performance criteria for a variation given it will not have any adverse effect on the amenity of adjacent properties in terms of overshadowing and visual intrusion and will enhance privacy between the neighbouring properties.

Wall Height

Maximum wall heights for extensions to the principal dwelling of 3.7m are proposed. The R-Code requirement is for 3m for single dwellings however the variation is required to match existing ceiling heights.

Neighbour Comments

The neighbour to the rear of the property has raised a number of concerns related to the location of the garage and the establishment of a parapet wall between the properties. However it is considered that the design is a reasonable response to the over-viewing and visual dominance of the two storey dwelling which has been built on the rear battle axe lot which is also elevated in relation to the subject site and therefore tends to dominate the existing dwelling. It is considered an exercise of discretion to allow the proposed development will not materially impact upon the amenity of the neighbour at 25A Walter Street.

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TP Advisory Panel Comments

The Town Planning Advisory Panel generally endorsed the proposed design concept but did note that the proposed *“Bullnose verandah (is) considered to be historically inappropriate addition for an interwar bungalow”*.

The applicant's designer has responded to the Panel's comments arguing for the retention of the bull nosed verandah. However it is considered that a skillion roofed verandah would still achieve the desired raised gutter line and if it were designed to be detached from and subservient to, the roofline of the existing dwelling, it would still achieve the desired balance for the facade. The alternative verandah treatment would be more sympathetic to other recent redevelopments in the street which have incorporated skillion roofs. Accordingly the matter was the subject of further discussion with the applicant's designer and it has been agreed that, although not the favoured option, the applicant would accept an amended design for the verandah. It is therefore proposed the requirement for a skillion roofed verandah should be a condition of any approval.

**RECOMMENDATION**

It is recommended that Council approve the application for partial demolition, alterations and additions to a residence at No. 25 (Lot 1) Walter Street, East Fremantle in accordance with the plans date stamped received 28 April 2011 by an exercise of discretion in respect to the following:

- (a) a single car parking bay in lieu of the 2 car bays required under the 'acceptable development' standards of the R-Codes;
- (b) a nil setback for the rear and side boundary wall in lieu of the 1.5 m required under the 'acceptable development' standards of the R-Codes;
- (c) a maximum wall height of 3.7 m. in lieu of the 3m required under the 'acceptable development' standards of the R-Codes;

and subject to the following conditions:

1. the proposed bull nosed verandah to be redesigned to incorporate a skillion roof to the satisfaction of the Chief Executive Officer.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a 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.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. all parapet walls are 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.
9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction

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- of Council, unless on application, Council approval for the crossover to remain is obtained.
10. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
  11. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision 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) 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.*

Ms Claire Werner (owner) addressed the meeting advising of her support for the officer's recommendation.

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Rico**

**It is recommended that Council approve the application for partial demolition, alterations and additions to a residence at No. 25 (Lot 1) Walter Street, East Fremantle in accordance with the plans date stamped received 28 April 2011 by an exercise of discretion in respect to the following:**

- (a) a single car parking bay in lieu of the 2 car bays required under the 'acceptable development' standards of the R-Codes;**
- (b) a nil setback for the rear and side boundary wall in lieu of the 1.5 m required under the 'acceptable development' standards of the R-Codes;**
- (c) a maximum wall height of 3.7 m. in lieu of the 3m required under the 'acceptable development' standards of the R-Codes;**

**and subject to the following conditions:**

- 1. the proposed bull nosed verandah to be redesigned to incorporate a skillion roof to the satisfaction of the Chief Executive Officer.**
- 2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 3. the proposed works are not to be commenced until Council has received an application for a 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.**
- 4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 5. the proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.**
- 7. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the**

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form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

8. all parapet walls are 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.
9. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
10. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
11. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision 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) *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

T63.5

**Marmion Street No. 136 (Lot 1141)**

**Applicant: Tangent Nominees T/as Summit Homes Group**

**Owner: Gail Mounsey**

**Application No. P73/2011**

By Gemma Basley, Town Planner on 8 June 2011

**PURPOSE OF THIS REPORT**

This Report considers an application for Planning Approval to construct a new single storey residence at No. 136 Marmion Street, East Fremantle.

The report recommends that Council approve the application conditionally.

**BACKGROUND**

**Description of Proposal**

The application proposes the construction of a single storey double brick residence which proposes that the primary street frontage be to Marmion Street and the secondary street frontage be to Fortescue Street. The application requires a reduced front setback to Marmion Street and therefore the application is referred to Council for determination.

**Description of Site**

The subject site is:

- a 499m<sup>2</sup> vacant block
- zoned Residential R12.5
- located in the Woodside Precinct
- included in Council's Municipal Inventory as a 'C Management Category'

**Statutory Considerations**

Town Planning Scheme No. 3

Local Planning Strategy - Woodside Precinct (LPS)

Residential Design Codes (RDC)

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**Relevant Council Policies**

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

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : The subject site is currently vacant and the construction of a new residence will alter the streetscape but not adversely.

**Documentation**

Plans and relevant forms date stamp received on 16 May 2011.

**Date Application Received**

16 May 2011

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

19 April 2002 Western Australian Planning Commission approves the subdivision of the site into two lots.  
3 February 2011 Building Licence 2010292 is issued for the demolition of the existing residence at No. 136 Marmion Street.

**CONSULTATION**

The application was advertised to adjoining neighbours for a two week period between the 19 May & 22 June 2011.

At the close of advertising no submissions or objections had been received.

**Town Planning Advisory Panel Comments**

The Panel viewed the proposal on 24 May 2011. The Panel's advice is set out and responded to below:

| Advisory Panel Comments   | Applicant Response   |
|---|--|
| Panel disappointed with proposal to demolish heritage building.     | Council has already granted Demolition Approval and the residence has been demolished.<br>The demolition of the heritage building does not form part of this application.  |
| Design does not respond to existing streetscape and local area.     | The immediate locality is made up of a mix of housing types ranging from inter war period, federation to contemporary housing. It is considered that the proposed residence is not inappropriate to an area that does not have a consistent architectural theme. |
| Garage appears dominant and non-compliant according to the R-Codes. | The garage width complies with the R-Codes by way of being set back 4.5 metres on the boundary and conforms to the 6 metre average as set out by the R20 zoning.   |

The Town Planner confirms that the demolition of the former heritage residence was the subject of a separate application which has already been determined. The demolition therefore does not form part of this application.

Marmion Street has a mix of different styles and eras of housing. The proposed design is no less in keeping or detrimental than many of the existing and in some cases new homes among the street.

The proposed design is simple and addresses both Marmion Street and Fortescue Street. Based on the array of housing styles and housing quality along Marmion Street and Fortescue Street, the proposed residence is considered to have similar merit in terms of its streetscape impact to the demolished cottage it is replacing.

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**STATISTICS**

|                  |   |
|------------------|---|
| File             | P/MAR136  |
| Zoning           | R12.5 but subject to Clause 5.3.1 of TPS No. 3. |
| Lot Area         | 499m <sup>2</sup>                               |
| Heritage Listing | Not listed                                      |

| <b>Site:</b> | Required  | Proposed | Status     |
|--------------|-----------|----------|------------|
| Open Space   | R20 (50%) | 55.3%    | Acceptable |

| <b>Local Planning Policies:</b> | Issues | Status     |
|---------------------------------|--------|------------|
| Policy 142                      | No     | Acceptable |

| <b>Height:</b> | Required | Proposed | Status     |
|----------------|----------|----------|------------|
| Wall           | 3.0      | 2.43     | Acceptable |
| Ridge          | 6.0      | 5.4      | Acceptable |
| Roof type      | Pitched  |          |            |

| <b>Other:</b>       | Issues          | Status     |
|---------------------|-----------------|------------|
| Overshadowing       | No              | Acceptable |
| Privacy/Overlooking | No              | Acceptable |
| Site Works          | Less than 500mm | Acceptable |

| <b>Setbacks:</b> |              | Wall height | Wall length | Major opening | Required Setback | Actual Setback | Status               |
|------------------|--------------|-------------|-------------|---------------|------------------|----------------|----------------------|
| Front            |              |             |             |               |                  |                |                      |
| Ground           | Master suite | 2.43        | 3.69        | Yes           | 6.0              | 4.5            | Discretion           |
|                  | Verandah     | 2.43        | 4.8         | Yes           | 6.0              | 6.0            | Acceptable           |
|                  | Garage       | 2.43        | 6.1         | No            | 6.0              | 4.5            | Discretion           |
| Rear             |              |             |             |               |                  |                |                      |
| Ground           | Whole        | 2.43        | 11.1        | Yes           | 1.5              | 2.17           | Acceptable           |
| Side (west)      |              |             |             |               |                  |                |                      |
| Secondary Street |              |             |             |               |                  |                |                      |
| Ground           | Whole        | 2.43        | 18.1        | Yes           | 1.5              | 4.96           | Acceptable           |
| Side (east)      |              |             |             |               |                  |                |                      |
| Ground           | Bed 2-Bed 3  | 2.43        | 11.8        | Yes           | 1.5              | 3.89           | Acceptable           |
|                  | Garage       | 2.43        | 6.23        | No            | Nil              | Nil            | Acceptable (LPP 142) |

**Privacy/Overlooking:** No overlooking from subject property will occur

**ASSESSMENT**

The proposed new dwelling is compliant with most of the quantitative provisions of the R-Codes, TPS No. 3 and Council Policies with the exception of the front setback to Marmion Street.

Under the R12.5 coding, the required front setback is 7.5 metres. The original lot has however been subdivided and 136 Marmion Street is now a R20 sized lot. In accordance with Clause 5.3.3 of TPS No. 3 (Existing Non-Complying Development), the application is being assessed against the R20 code requirements and as such a 6 metre front setback is required under the R-Codes.

The house is proposed to be setback by between 4.5 metres and 6.6 metres. The proposed front setback complies with the averaging provisions for front setbacks in accordance with Figure 1a of the R-Codes 2008 and therefore is considered to be acceptable.

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In addition to the above Marmion Street is characterised by a mixture of front setbacks ranging from 2.5 metres to 6.5 metres. In accordance with Part 2 of Council's LPP No. 142 which states that buildings are to be set back such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality, the reduced setback is considered acceptable.

**CONCLUSION**

The application is considered to have merit when assessed against the relevant LPP's and Scheme provisions relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. Whilst the application does seek one variation to the R-Codes it is considered minor in nature and to be acceptable.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a reduced street setback of 4.05 metres to Marmion Street for the construction of a single-storey residence and double garage at No. 136 (Lot 1141) Marmion Street, East Fremantle in accordance with the plans date stamp received on 16 May 2011 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the 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. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed residence 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.
5. all stormwater is to be disposed of on site and clear of all boundaries.
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 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 owner.*
- (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).*

Ms Gail Mounsey (owner) addressed the meeting advising of her support for the officer's recommendation.

**RECOMMENDATION TO COUNCIL**

**Cr Martin – Cr Rico**

**That Council exercise its discretion in granting approval for a reduced setback of 4.05 metres to Marmion Street for the construction of a single-storey residence and double garage at No. 136 (Lot 1141) Marmion Street, East Fremantle in accordance with the plans date stamp received on 16 May 2011 subject to the following conditions:**



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1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the 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. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed residence 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.
5. all stormwater is to be disposed of on site and clear of all boundaries.
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 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 owner.*
- (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).*

CARRIED

T63.6

**Chauncy Street No. 14 (Lot 5032)**

**Applicant: Paul Meschiati & Associates**

**Owner: Shawn & Elina D'Cruz**

**Application No. P236/2010**

By Gemma Basley Town Planner 7 June 2011

**Purpose of this Report**

An Application for Planning Approval for the construction of a new two storey residence at No 14 Chauncy Street is the subject of this report.

The report recommends that Council approve the application conditionally.

**BACKGROUND**

Council has previously considered the subject application at its meeting of 17<sup>th</sup> May 2011 and resolved to defer the application subject to the submission of revised plans that present a more site responsive design which more appropriately addresses site fall and the impact upon neighbours view corridors and which do not exceed the following height criteria:

- a maximum building height (from natural ground level to the top of roof pitch) of 6.5 metres in the front third portion of the lot;
- a maximum building height of 7.0 metres in the central third portion of the lot;
- a maximum building height of 7.5 metres in the rear third portion of the site.

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The above height criteria was established on the basis of the design using a flat/concealed roof and/or a low pitch skillion roof. The basis of this advice was that a flat/concealed or low pitch skillion roof would only increase the overall building height by a minor amount, thereby not impacting on the overall bulk and scale of the house in comparison to a pitched roof.

In response to Council's resolution of 17<sup>th</sup> May 2011, the applicants have submitted revised plans which present a more site responsive design and which address the height criteria described above. The revised plans are the subject of this report to Council.

**Description of Proposal**

The application proposes to demolish the existing single storey residence, undertake site works and to construct a two storey residence comprising the following:

- double garage and store (room for 3 cars);
- foyer, kitchen, home theatre, living room, activity room and 2 bedrooms a bathroom and a laundry on the ground floor;
- kitchen, dining room, lounge room, study, gym, scullery, Master Bedroom and ensuite on the upper floor;
- a below ground swimming pool, 2 raised alfresco areas and balconies at the front and at the rear of the residence; and
- an undercroft storage area.

**Description of Site**

The subject site is:

- a 736m<sup>2</sup> block
- zoned Residential R12.5
- developed with a single storey dwelling on-site
- adjoins a single storey residence and a double storey residence and is opposite predominantly double storey residences
- currently has restricted views to the river (restricted by the single storey level of development).

**Statutory Considerations**

Town Planning Scheme No. 3

Local Planning Strategy - Richmond Hill 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)

**Impact on Public Domain**

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : Demolition of the existing residence and construction of a new two storey residence will alter the streetscape but this is consistent with other development along the street and therefore should not impact adversely on the streetscape.

**Documentation**

Revised plans received on 27 May 2011 and are the subject of this report.

**Date Application Received**

23 December 2010

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

17 May 2011 Council resolves to defer the determination of the application for a two storey residence and undercroft area at No. 14 Chauncy

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Street, East Fremantle subject to the lodgement of revised plans that present a more site responsive design and that more appropriately address site fall and impacts upon neighbours view corridors and which do not exceed the following height criteria:

- a maximum building height (from natural ground level to the top of roof pitch) of 6.5 metres in the front third portion of the lot;
- a maximum building height of 7.0 metres in the central third portion of the lot;
- a maximum building height of 7.5 metres in the rear third portion of the site.

**CONSULTATION  
Advertising**

The revised plans were advertised to adjoining landowners for a 7 day period from the 1 to 7 June 2011. During the advertising period only one submission was received from the owners of No. 17 Habgood Street objecting to the proposal as detailed below:

Julie Amor of 17 Habgood Street, East Fremantle objected to the revised plans for the following reasons:

| Submission   | Planning Response   |
|--|---|
| <p>There are large areas of outdoor living space on both floors well above ground level which allow direct overlooking into our living room and dining through our double glass doors and windows. The end of the balcony (rear middle privacy cone) and the stairs up to the balcony fall short of the minimal setback. <u>The 7.5 zone drawn on the plans commences about 1 metre inside the balcony/alfresco. If taken from the rear end line it encroaches into my property or at least the boundary fence.</u> This outdoor living area is some 50 sq. metres @ 5.4 metres above ground level that overwhelmingly overlook of my rear decking, family room and BBQ areas. Refer state planning 3.1 privacy requirements 6.8.1 A1.</p> | <p>The horizontal Cone of Vision is defined under the R-Codes by the extent of the opening, with a viewpoint 0.5 metres from the opening. All of the privacy setbacks meet the minimum setback requirements of the R-Codes (Clause 6.8.1 A1) and the resultant cones of vision do not encroach into 17 Habgood Street.</p> <p>All ground and upper floor outdoor living areas are setback greater than the required 7.5 metres and satisfy the requirements of the R-Codes.</p>   |
| <p>Despite the Town Planner advising that my decking area is within the 7.5m privacy cone I need to state that it has been there over 16yrs, it is not enclosed and recently (May 2010) it had a 'outdoor patio roof only' 2.4meters out from the house to cover it and to protect the windows (Tassie Oak) from the weather. It is still 6.5 metres from the boundary</p>   | <p>Council granted Delegated Approval to roof the existing patio area at the rear of No. 17 Habgood Street. The delegated approval acknowledged that the setback to the rear boundary was only 6.5 metres in lieu of the 7.5 metres required but that this was acceptable because the patio was an existing paved area.</p> <p>The development at No. 17 Habgood Street does not entirely meet the setback requirements of the R-Codes and as a result the perceived impact of the development at No. 14 Chauncy Street on No. 17 is exasperated.</p> |
| <p>I don't think it fair if the council (and I have to generalise) insists on greater adherence to the height regulations at the front and abandons this regulation at the rear when it affects neighbours/myself.</p>   | <p>The skillion pitched roof at the rear of No. 14 Chauncy is within the height requirements of Local Planning Policy No. 142 and within the height criteria adopted by Council at its meeting of 17<sup>th</sup> May 2011.</p> <p>The height criteria adhered to in this application responds to the natural topography of the site.</p>   |
| <p>It is an emotive comment however I have never considered moving into newer estates simply because of the extent of overlooking. East Fremantle to date has protected resident's amenity. I can't look into my neighbour's back yards unless I deliberately go and peer over the fences. I cannot think of any property examples that have such large outdoor living areas overlooking neighbours. This planned living space is complete with outdoor kitchen.</p>   | <p>The R-Codes 2008 regulate the privacy separation and setback distances and East Fremantle abides with the requirements of the R-Codes.</p>   |

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| Submission  | Planning Response  |
|---|--|
| I also continue to have concerns about nuisance noise from a pool that has a continuous overflow. Neither the owner nor the designers are able to guarantee that this fall of water will not constitute nuisance noise.   | The EPA regulates the emission of noise under the Noise Regulations and Council applies this through the Local Laws – Nuisance. A condition of the approval will be that noise emanating from the development must comply with the requirements of the Noise regulations.  |
| <p>There has been some suggestion (but nothing on the amended plans) of an increased height of the rear boundary fence to 2 metres. Whilst I do not think it 2 metres would make much difference to overlooking it may mitigate the level of noise from an overflow pool and give a greater perceived sense of privacy, if not in reality.</p> <p>The designer suggests investigating measures to reduce overlooking into our rear yard. I would suggest a rear fence of acceptable material (to us) preferably 2.4 metres, provided by the owners. Further screening to the glazing (if not obscure glass) to the bedroom windows and balcony would give some privacy. Any landscaping measure on the part of the applicants would not present a permanent measure as trees and or shrubs can easily be removed at a later time.</p> | A condition is included in the recommendation to require the submission of a separate application for fencing which considers the neighbour's concerns.  |
| I also think the degree of overlooking will negatively impact the value of my home should I need to sell in the future.   | As detailed above the privacy setbacks comply with the R-Codes requirements any overlooking is 'perceived overlooking'. There are other ways that the owners of 14 Chauncy Street and 17 Habgood Street address the 'perceived overlooking' i.e. the planting of vegetation along the rear boundary/installation of screening etc. |
| We actively grow seasonal vegetables and fruit in the rear garden. This would not be possible, if we were to fully screen the rear with trees, due to excessive competition for nutrients and reduced sun to that section of garden.  | Refer above.   |
| All the windows upstairs are able to see into the rear doors of the family room/dining room and the windows of our stair well. If there was screening to the balconies and <u>obscure fixed glass</u> to the window that would be more acceptable   | The setback distances comply with the privacy requirements of the R-Codes and there are no grounds to request the screening of these areas.  |

The objections raised by the owner of No. 17 Habgood Street, whilst noted are not grounds to require the screening of the proposed outdoor living areas and upper floor habitable rooms.

The applicant has however indicated a willingness to raise the height of the dividing fence between No. 17 Habgood Street and No. 14 Chauncy Street in consultation with the owner of No. 17 Habgood Street. To address this matter a condition is included in the recommendation to require the submission of a separate application for the construction of a rear fence which ameliorates impacts on the privacy of both residences.

**Town Planning Advisory Panel**

The Town Planning Advisory Panel viewed the proposal on the 25 January 2011 and made negative comments on the application which will be detailed below:

- Interesting Design.
- Garage in front of building line non compliant re LPP No. 142.
- Front set-back non compliant.
- Query height compliance with LPP No. 142.

The applicants prepared revised plans (received 16 February 2011) which addressed some of the panels' comments (front setback and garage position). The Panel viewed these plans at its meeting of the 22 February wherein the Panel commented that it was generally supportive of the design proposed.

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The plans the subject of this report (received on the 27 May 2011) have been modified to reflect the height criteria endorsed by Council at its meeting of 17 May 2011. The subject plans now also include modifications which address the initial comments of the Town Planning Advisory Panel (meeting of 25 January 2011) and concerns raised by the Town Planner in relation to building height compliance.

**STATISTICS**

File P/CHA14  
Zoning R12.5  
Lot Area 736m<sup>2</sup>  
Heritage Listing Not listed

| <b>Site:</b>  | Required            | Proposed  | Status            |
|---------------|---------------------|-----------|-------------------|
| Site Works    | Less than 0.5 metre | 1.0 metre | <b>Discretion</b> |
| Open Space    | 55%                 | 65%       | Acceptable        |
| Overshadowing | 25% max             | 20.7%     | Acceptable        |

| <b>Height:</b> | Required  | Proposed   | Status            |
|----------------|---|--|-------------------|
| Wall           | 6.5   | 7.0 max  | <b>Discretion</b> |
| Ridge          | 6.5 m in front third of the lot<br>7.0 m in middle third of the lot<br>7.5 m in rear third of the lot | 6.45 m in front third of the lot<br>7.0 m in middle third of the lot<br>7.4 m in rear third of the lot | Acceptable        |
| Roof type      | Skillion and Flat roof  |  |                   |

| <b>Setbacks:</b>   |                          |                   |             |               |                       |                |            |
|--------------------|--------------------------|-------------------|-------------|---------------|-----------------------|----------------|------------|
| Wall Orientation   | Wall Type                | Wall height (max) | Wall length | Major opening | Required Setback      | Actual Setback | Status     |
| <b>(Front)</b>     |                          |                   |             |               |                       |                |            |
| <i>Ground</i>      | <i>Garage</i>            | 2.9               | 6.5         | n/a           | 7.5                   | 7.5            | Acceptable |
|                    | <i>Porch</i>             | 3.0               | 6.0         | n/a           | 6.5                   | 6.8            | Acceptable |
|                    | <i>Kitchen</i>           | 3.4               | 3.5         | Yes           | 7.5                   | 10.95          | Acceptable |
| <i>Upper</i>       | <i>Study</i>             | 6.13              | 6.45        | Yes           | 7.5                   | 7.5            | Acceptable |
|                    | <i>Balcony</i>           | 5.76              | 6.0         | Yes           | 6.5 (minor incursion) | 6.8            | Acceptable |
|                    | <i>Lounge</i>            | 6.2               | 4.9         | Yes           | 7.5                   | 10.95          | Acceptable |
| <b>(Rear)</b>      |                          |                   |             |               |                       |                |            |
| <i>Ground</i>      | <i>Bed</i>               | 4.2               | 8.0         | Yes           | 6.0                   | 6.0            | Acceptable |
|                    | <i>2/Activity</i>        |                   |             |               |                       |                |            |
|                    | <i>Alfresco</i>          | 4.8               | 3.8         | Yes           | 6.0                   | 10.8           | Acceptable |
| <i>Upper</i>       | <i>Bed</i>               | 6.8               | 7.8         | Yes           | 6.0                   | 6.0            | Acceptable |
|                    | <i>1/Ensuite</i>         |                   |             |               |                       |                |            |
|                    | <i>Balcony /Alfresco</i> | 7.3               | 9.2         | Yes           | 7.5                   | 7.5 to 14.5    | Acceptable |
| <b>Side (west)</b> |                          |                   |             |               |                       |                |            |
| <i>Ground</i>      | <i>Whole</i>             | 4.2               | 14.6        | No            | 1.6                   | 1.61           | Acceptable |
|                    | <i>Upper</i>             | <i>Whole</i>      | 7.2         | 11.2          | No                    | 1.6            | 1.61       |
| <b>Side (east)</b> |                          |                   |             |               |                       |                |            |
| <i>Ground</i>      | <i>Garage</i>            | 3.1               | 8.0         | No            | 1.5                   | 1.5            | Acceptable |
|                    | <i>Bedrooms</i>          | 3.1               | 9.8         | No            | 1.5                   | 1.5            | Acceptable |
| <i>Upper</i>       | <i>Study/Gy</i>          | 5.7               | 8.2         | No            | 1.0                   | 1.5            | Acceptable |
|                    | <i>m</i>                 |                   |             |               |                       |                |            |
|                    | <i>Scullery/ WIR</i>     | 5.8               | 9.6         | No            | 1.0                   | 1.5            | Acceptable |

**Privacy/Overlooking**

**Discretion**

Overlooking and the protection of the neighbour's privacy has been addressed through the appropriate setback of major openings to boundaries, through the utilisation of highlight windows and through the provision of privacy screening to the

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alfresco area. Overlooking will however still occur to the west from the ground and upper floor alfresco areas.

**Local Planning Policy No. 142**

|                         |   |                                 |
|-------------------------|---|---------------------------------|
| <b>Building Heights</b> | Council adopted a height criteria as detailed above and the subject plans do not exceed the height criteria.                      | Acceptable                      |
| <b>Streetscape</b>      | Buildings set back generally consistent with the buildings on adjoining lots.   | Acceptable                      |
|                         | Garages to be located at or behind the main building line of the house.   | <b>Discretion</b><br>Acceptable |
| <b>Views</b>            | Impact of proposed building on views of adjoining properties if a discretion is sought to relax the building height requirements. |                                 |

**ASSESSMENT**

The subject plans have adequately addressed the height criteria described earlier in this report and have submitted a more site responsive plan which proposes cutting into the site which reduces the finished floor levels and overall height. In addition the wall heights have been reduced and most significantly the pitch of the roof has been altered to fall towards the boundary and in line with the natural ground level.

The applicants have satisfied the height criteria endorsed by Council at its meeting of May 17 2011 and have submitted a plan with a maximum ridge height (as measured from natural ground level) of 7.4 metres and an average ridge height of 6.35 metres. This is in keeping with the heights of other two storey residences in the immediate locality.

**Discretions Sought by the Applicant**

*Site Works* The application proposes to fill the site in areas by up to 0.6 metres. The proposed fill is now offset by equal cutting in to the site being undertaken.

Whilst the proposed site works contribute to the overall height of the building, because the height criteria has been addressed and the overall building height complies it is considered that the proposed fill can be supported.

*Privacy / Overlooking* The application has addressed overlooking by providing the required privacy setbacks for all outdoor living areas and habitable rooms and by providing privacy screens to the ground and upper floor alfresco areas. Overlooking will still occur to the west from both the ground and upper floor alfresco areas. The overlooking whilst minimal is not supported. On this basis a condition is included in the recommendation to require the provision of permanently fixed privacy screens for a length of 1.5 metre along the rear facing alfresco openings on both the ground and upper floors to prevent overlooking to the west.

The recommended screening of 1.5 metres of the length of the rear upper floor alfresco opening will also assist in reducing the perceived impacts of overlooking on No. 17 Habgood Street.

Overlooking will also occur from the upper floor study to the east and from the upper floor lounge to the west. The extent of overlooking is very minimal and looks into the front setback area of the adjoining residences which is already open to the street and therefore satisfies the

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*Garage Position*

performance criteria of the R-Codes.

The application proposes to locate the front of the garage in line with the front of the ground floor porch. This does not entirely meet the requirements of Local Planning Policy No. 142, which requires that the garage be positioned at or behind the main building line of the house. There are two major issues to consider in assessing the position of the garage being the location of the carport forward of the main building line and the potential impact of this on the streetscape.

Local Planning Policy No. 142 states in Part 2 – Streetscape:

*(ii) Notwithstanding (i) above, garages and/or carports are to be located at or behind the main building line of the house on the property.*

The policy is not definitive in what constitutes the main building line however based on past assessments the policy has been interpreted to refer to the dominant wall of the front of the house. When applying this to the subject application, the main wall of the house is that which is behind the verandah.

The applicants submit that the upper floor study wall could be interpreted to be the main building line because it is the most forward protruding wall. The Town Planner agrees with this and supports the current position of the garage. The ground floor porch and upper floor balcony will protrude forward of the garage, which will assist in reducing the dominance of the garage. In addition the open nature of the study and its presentation to the street will ensure that this dominates the appearance of the residence rather than the garage. In addition, the design of the house is articulated and will present attractively to the street.

The applicants have put forward alternative options for the front elevation including extending the front of the house forward of the porch to line up with the garage or to cantilever the study forward of the garage. Both of these options whilst satisfying the requirements of Local Planning Policy No. 142 in relation to the position of the garage were seen to be counter-productive, as it would increase the size & bulk of the proposed residence, reduce the articulation of the front elevation and impact on the streetscape.

The position of the garage is supported.

**CONCLUSION**

The application deals with a site that is topographically constrained and which has a fall of 3.5 metres from front to rear. The design is considered to be appropriate for the locality and to have maximised opportunities for passive solar design with the use of a skillion roof system, raked ceilings and hi-lite glass windows, which act as light wells and bring light into the centre of the residence.

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The applicants have submitted a revised plan which has reduced the overall height considerably and which has responded to the sites topography by cutting further into the site and reducing the finished floor levels of the proposed residence. The revised plans have addressed the height criteria considered previously by Council and propose a maximum ridge height of 7.4 metres and an average ridge height of 6.35 metres, which is well within the height criteria and the requirements of Local Planning Policy No. 142.

Given that the proposal has addressed the recommended height criteria, the application is considered to have merit when assessed against the relevant LPP's and Scheme provisions relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. Whilst the application does seek some minor variations to the R-Codes and LPP's these are considered to be minor in nature and to be acceptable.

It is therefore considered that the application is suitable for determination and is recommended for approval.

**RECOMMENDATION**

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

- site works up to 0.6 metre at the rear of the site that exceed the R-Code requirements by 0.1 metre;
- the front of the garage to be in line with the upper floor study wall in lieu of the requirements of Local Planning Policy No. 142;

for the construction of a two storey residence at No. 14 (Lot 5032) Chauncy Street, East Fremantle in accordance with the plans date stamp received on 27 May 2011 subject to the following conditions:

1. the rear facing opening of the ground and upper floor areas to be screened for a length of 1.5 metres to meet the visual privacy requirements of the R-Codes to the satisfaction of the Chief Executive Officer.
2. prior to the lodgement of a Building Licence a separate application for the construction of a rear fence which ameliorates impacts on the privacy of both residences (17 Habgood and 14 Chauncy Streets) is to be submitted by the owners of No. 14 Chauncy Street.
3. prior to the lodgement of a building licence a detailed schedule of materials and finishes is to be submitted to the satisfaction of the Chief Executive Officer.
4. 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.
5. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. the proposed residence 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.
8. all stormwater is to be disposed of on site and clear of all boundaries.
9. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.



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11. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
12. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
13. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
14. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
15. this planning approval to remain valid for a period of 24 months from date of this approval.

*Footnote:*

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

- (a) *this decision 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).*

Ms Julie Amor (17 Habgood Street) addressed the meeting expressing her concerns on overlooking from the upper level outdoor entertainment area. She was of the view that the cone of vision could be manipulated.

Mr Shawn D'Cruz (owner) addressed the meeting in support of his application and advised that he would work with Ms Amor on the matter of the rear boundary fence to achieve a satisfactory outcome for both parties.

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Martin**

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

- **site works up to 0.6 metre at the rear of the site that exceed the R-Code requirements by 0.1 metre;**
- **the front of the garage to be in line with the upper floor study wall in lieu of the requirements of Local Planning Policy No. 142;**

**for the construction of a two storey residence at No. 14 (Lot 5032) Chauncy Street, East Fremantle in accordance with the plans date stamp received on 27 May 2011 subject to the following conditions:**

1. **the rear facing opening of the ground and upper floor areas to be screened for a length of 1.5 metres to meet the visual privacy requirements of the R-Codes to the satisfaction of the Chief Executive Officer.**
2. **prior to the lodgement of a Building Licence a separate application for the construction of a rear fence which ameliorates impacts on the privacy of both residences (17 Habgood and 14 Chauncy Streets) is to be submitted by the owners of No. 14 Chauncy Street and approved to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
3. **prior to the lodgement of a building licence a detailed schedule of materials and finishes is to be submitted to the satisfaction of the Chief Executive Officer.**
4. **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.**

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5. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. the proposed residence 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.
8. all stormwater is to be disposed of on site and clear of all boundaries.
9. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. in cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
12. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
13. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
14. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
15. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision 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

T63.7

**Riverside Road No. 35 (Lot 900)**

**Applicant: Ross Griffin Homes**

**Owner: M & L Tonkin**

**(Application No. P69/2011)**

By Gemma Basley Town Planner on 9 June 2011

**PURPOSE OF THIS REPORT**

This Report considers an application for Planning Approval to construct a new two storey residence with an undercroft at No. 35 Riverside Road, East Fremantle.

The report recommends that Council approve the application conditionally.

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**BACKGROUND**

**Description of Proposal**

The application proposes the following:

- a residence comprising a double garage and store at the undercroft level, a family room, dining room, kitchen, laundry and balcony on the ground level and 4 bedrooms, a living room, ensuite and bathroom and a balcony on the upper floor.
- a 3 level residence at the front of the site and reducing to 1 level at the rear of the site where the natural ground level is considerably higher;
- a residence that maximises river views and minimises impacts on the existing view corridors of surrounding residents;

The application deals with a topographically challenging site and proposes a development that minimises site works and that is site responsive.

**Statutory Requirements**

Town Planning Scheme No 3 (TPS 3) – Residential R30  
Local Planning Strategy – Riverside Precinct (LPS)  
Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy 066 – Roofing (LPP 066)  
Local Planning Policy 142 – Residential Development (LPP 142)

**Documentation**

Plans date stamp received on the 9 May 2011

**Date Application Received**

9 May 2011

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

18 July 2006 Western Australian Planning Commission grants approval to the amalgamation and re-subdivision of Lots 51 and 52 to create 34 and 35 Riverside Road.

**CONSULTATION**

**Advertising**

The application was advertised to adjoining neighbours for a two week period between the 19 May & 2 June 2011.

At the close of advertising no submissions or objections had been received.

**Town Planning Advisory Panel Comments**

The Panel viewed the proposal on 24 May 2011. The Panel's advice is set out and responded to below:

| Advisory Panel Comments                                       | Planning Response   |
|---|---|
| Materials and finishes schedule required.                     | A schedule of materials and finishes has been submitted and proposes that the residence will be constructed in brick and rendered and painted white with Colorbond stone cladding and a cream Colorbond roof.   |
| Assess impact of overshadowing on adjoining lot to the south. | The R-Codes allows up to 35% of an adjoining property to be overshadowed in areas coded R30. The subject application only results in 33.6% of the adjoining site being overshadowed and therefore is assessed to be acceptable development under the R-Codes.<br><br>The adjoining lot to the south is currently vacant and a Planning Approval for the site has expired without construction occurring. In this regard it is difficult to estimate the impact of overshadowing. The site to the south however is significantly |

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| Advisory Panel Comments  | Planning Response  |
|--|--|
|  | larger and has a 20.27 metre wide frontage and a design that avoids the shadow cast from the proposed development at No. 35 Riverside Road will be achievable. |
| Design supported and considered appropriate for the site and the locality. | The proposed design is commended on the basis of the minimal site works required.  |

**Swan River Trust**

The Swan River Trust advised that the proposal will have no immediate impact upon the river environment and that the Trust have no objections to the proposal subject to the property being connected to the reticulated sewerage system prior to the residence being occupied. The Trust also requires that stormwater drainage be contained on site or connected to the local government system.

To address the requirements of the Trust two conditions have been included in the recommendation.

**STATISTICS**

|                  |                   |
|------------------|-------------------|
| File             | P/RIV35           |
| Zoning           | R30               |
| Lot Area         | 347m <sup>2</sup> |
| Heritage Listing | Not listed        |

| Site:      | Required        | Proposed          | Status            |
|------------|-----------------|-------------------|-------------------|
| Open Space | R30 (45%)       | 48.25             | Acceptable        |
| Site Works | Less than 500mm | <b>2.0 metres</b> | <b>Discretion</b> |

| Local Planning Policies: | Issues                   | Status            |
|--------------------------|--------------------------|-------------------|
| Policy 142               | <b>Height discretion</b> | <b>Discretion</b> |
|                          | <b>Garage discretion</b> | <b>Discretion</b> |

| Other:              | Issues                           | Status            |
|---------------------|----------------------------------|-------------------|
| Overshadowing       | No – (33.6% - Acceptable at R30) | Acceptable        |
| Privacy/Overlooking | <b>To North</b>                  | <b>Discretion</b> |

| Height:   | Required             | Proposed       | Status            |
|-----------|----------------------|----------------|-------------------|
| Wall      | 5.6                  | <b>9.2 max</b> | <b>Discretion</b> |
| Ridge     | 8.1                  | <b>9.9 max</b> | <b>Discretion</b> |
| Roof type | Concealed Pitch @ 5° |                |                   |

| Setbacks:    |                                   | Wall height | Wall length | Major opening | Required Setback | Actual Setback | Status     |
|--------------|-----------------------------------|-------------|-------------|---------------|------------------|----------------|------------|
| Front (west) |                                   |             |             |               |                  |                |            |
| Undercroft   | Garage                            | 2.82        | 6.2         | No            | 4.0              | 5.5-5.8        | Acceptable |
| Ground       | Balcony                           | 5.65        | 7.54        | Yes           | 4.0              | 4.4-5.0        | Acceptable |
| Upper        | Balcony                           | 8.57        | 7.2         | Yes           | 4.0              | 5.2-6.0        | Acceptable |
| Rear (east)  |                                   |             |             |               |                  |                |            |
| Undercroft   | Garage                            | -2.74       | 6.2         | No            | 1.0              | 18.0+          | Acceptable |
| Ground       | Whole                             | -5.65       | 7.54        | No            | 1.0              | 10.0+          | Acceptable |
| Upper        | Whole                             | 1.2         | 7.2         | Yes           | 1.5              | 3.5            | Acceptable |
| Side (north) |                                   |             |             |               |                  |                |            |
| Undercroft   | Garage                            | 2.74        | 12.9        | No            | 1.0              | 1.2            | Acceptable |
| Ground       | Laundry/Kitchen<br>Stairs/Balcony | 5.65        | 7.5         | Yes           | 2.5              | 3.0            | Acceptable |
| Upper        | Bed 4-Bath<br>Upper Living        | 3.1         | 8.2         | No            | 1.0              | 1.2            | Acceptable |
|              |                                   | 3.1         | 6.78        | Yes           | 1.5              | 2.5            | Acceptable |

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**STATISTICS**

Side (south)

|                   |                       |         |      |     |     |     |                         |
|-------------------|-----------------------|---------|------|-----|-----|-----|-------------------------|
| <i>Undercroft</i> | <i>Garage</i>         | 2.82    | 12.9 | No  | Nil | Nil | Acceptable<br>(LPP 142) |
| <i>Ground</i>     | <i>Laundry/Dining</i> | 5.65    | 13.0 | Yes | 1.0 | 1.2 | Acceptable              |
| <i>Upper</i>      | <i>Bed 3 – Bed 2</i>  | 5.2     | 9.2  | No  | 1.2 | 1.5 | Acceptable              |
|                   | <i>Living</i>         | 7.4     | 4.0  | No  | 1.1 | 1.5 | Acceptable              |
|                   | <i>WC-Balcony</i>     | 8.0 ave | 9.7  | No  | 1.5 | 1.5 | Acceptable              |

**ASSESSMENT**

The design of the proposal has been supported by the Town Planning Advisory Panel and has received no objections from the public advertising period.

The subject application deals with a site which has an 8 metre fall from rear to front and with a narrow lot frontage comprising only 9.46 metres. The application proposes a residence that is site responsive and which minimises site works by stepping the residence. The residence is proposed to have a low pitch skillion roof @ 5 degrees, which will reduce the overall building height and impact on the surrounding properties.

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the following elements which will be assessed separately below.

**Discretions Sought by the Applicant**

*Site Works*

The application proposes to retain the side boundaries of the site in areas by up to 2.9 metres and requires a cut being made in to the site of up to 2 metres. The proposed cut and retaining provides for a consistent finished floor level for each level of the residence. The proposed site works do not contribute to the overall height of the building and rather reduces the overall building height, particularly at the rear of the site.

A variation to allow site works in excess of the 0.5 metres permitted under the R-Codes is supported.

*Building Height*

The application proposes significant sections of the residence at the front of the lot that exceed the maximum building height requirements of Council's LPP No. 142. The building exceeds the 6.5 metre wall height limit in a number of positions and extends as high as 8.6 metres from natural ground level in the front southern section of the building.

The natural slope of the site means the wall height is more significant as measured from the lower ground levels at the front of the site and this is where the building is over height. The topography of the site and the cut that is proposed into the rear of the site results in a reduced building height at the rear of the site where a maximum wall height of 2.7 a ridge height of 3.7 metres (above natural ground level ) is achieved.

The variation to the building height only applies to the front half of the residence. The subject walls are set back to the front and side boundaries as per the requirements of the R-Codes however the increased

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height will cause overshadowing on the property to the south. As assessed above the overshadowing is within the acceptable development provisions of the R-Codes and as such this variation is considered acceptable.

It is considered that it is appropriate to grant discretions to the building height at No. 35 Riverside Road particularly in the lower areas of the site which will not result in a building height that obscures existing view corridors. This is because the residences to the rear are significantly higher than the subject site and the top of the ridge will be lower than the finished floor levels of the residences to the rear. The adjoining residences to the north and the south have uninterrupted views westwards to the river and these will not be affected by the increased building height.

*Privacy / Overlooking*

The application has addressed overlooking by the appropriate selection of windows and by screening some balcony openings. Overlooking will still occur to the north from the upper living area and this is not supported. To overcome this overlooking a condition is included in the recommendation to require the use of obscure glazing on these windows.

Overlooking will also occur to the north from both the balconies on the ground and upper floors. The overlooking whilst minimal is not supported. On this basis a condition is included in the recommendation to require the installation of permanently fixed privacy screens along the northern openings of the balcony on both the ground and upper floors.

Overlooking will also occur from the upper floor study to the east and from the upper floor lounge to the west. The extent of overlooking is very minimal and looks into the side setback and landscaped areas of adjoining residences.

*Garage Position*

The application proposes to locate the front of the garage forward of the main building line. This does not entirely meet the requirements of Local Planning Policy No. 142, which requires that the garage be positioned at or behind the main building line of the house. There are two major issues to consider in assessing the position of the garage being the location of the carport forward of the main building line and the potential impact of this on the streetscape.

Local Planning Policy No. 142 states in Part 2 – Streetscape:

*(ii) Notwithstanding (i) above, garages and/or carports are to be located at or behind the main building line of the house on the property.*

The policy is not definitive in what constitutes the main building line however based on past assessments the policy has been interpreted to refer to the dominant wall of the front of the house. When applying this to the subject application, the main wall of the house is that

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which is behind the verandah.

The applicants submit that the narrow width of the lot restricts opportunities to site the garage to comply with the requirements of LPP No. 142. In an effort to reduce the visual impact of the garage position, the application proposes to cantilever the ground floor balcony over and forward of the garage. The Town Planner agrees with this and supports the current position of the garage. The upper floor balcony will protrude forward of the garage, which will assist in reducing the dominance of the garage. In addition the open nature of the front elevation of the residence and its presentation to the street will ensure that this dominates the appearance of the residence rather than the garage. In addition, the design of the house is articulated and will present attractively to the street.

The position of the garage is supported.

**CONCLUSION**

The application deals with a site that is topographically constrained and which has a fall of 8.0 metres from front to rear. The design is considered to be appropriate for the site and for the locality and to have maximised opportunities for passive solar design with the use of a skillion roof system, raked ceilings and hi-lite glass windows.

The variations being sought particularly in relation to the building height will not impact on the existing view corridors of surrounding properties. This is considered to be a significant achievement on a topographically limited site with a narrow frontage of 10.08 metres.

The application is considered to have had due regard to the Town's requirements relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. More so the application has been designed to reduce the building height at the rear of the property in order to enable views from adjoining lots to be retained.

The application is recommended for approval.

**RECOMMENDATION**

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

- site works up to 0.6 metre at the rear of the site that exceed the R-Code requirements by 0.1 metre;
- the front of the garage to be in line with the upper floor study wall in lieu of the requirements of Local Planning Policy No. 142;
- the maximum wall height to extend to 9.2 metres at the front of the site in lieu of the 6.5 metres permitted under LPP No. 142.
- the maximum ridge height to extend to 9.9 metres at the front of the site in lieu of the 8.1 metres permitted under LPP No. 142;

for the construction of a two storey residence with an undercroft at No. 35 (Lot 900) Riverside Road, East Fremantle in accordance with the plans date stamp received on 9 May 2011 subject to the following conditions:

1. the north facing upper floor living room windows are to be obscure glazed to satisfy the privacy requirements of the R-Codes to the satisfaction of the Chief Executive Officer.
2. the north facing opening of the balcony on the ground and upper floors are to have permanently fixed privacy screening installed to a height of 1.65 metres to satisfy the privacy requirements of the R-Codes 2008 to the satisfaction of the Chief Executive Officer.
3. the property is to be connected to reticulated sewerage prior to the residence being occupied.

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4. 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.
5. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. the proposed residence 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.
8. all stormwater is to be disposed of on site and clear of all boundaries.
9. any new crossovers which are constructed under this approval to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision 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).*

Correspondence referred from MB Ref. T61.2 & T61.3 was tabled.

Mr Travis Fancourt (Project Manager for Mr David Bollands) addressed the meeting expressing concern with the lack of time in which to view the plans for the proposed development and sought deferment of the application to enable both he and the Bollands to ascertain the impact on the development proposed for No. 36 Riverside Road.

Ms Jocelyn Bollands in addressing the meeting also expressed concern with the proposed development although she conceded that she did receive the letter from Council inviting them to view the plans but due to impending circumstances failed to act upon it.

In response the Town Planner stated that the overheight section did not impact on surrounding properties, had no impact on view corridors with overshadowing being kept to a minimum and was of the view that the proposed development presented well to the street. The Town Planner also responded to a query raised by Travis Fancourt re overlooking to the north and advised that conditions (1) & (2) of the officer's recommendation required the major openings facing north to be either obscure glazed or screened.

During discussion elected members expressed a desire for a streetscape montage to be submitted by the applicants to enable them to assess the impact upon surrounding properties in terms of height and visual amenity.



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**RECOMMENDATION TO COUNCIL**

**Cr Martin – Cr Nardi**

**That the application for the construction of a two storey residence with an undercroft at No. 35 (Lot 900) Riverside Road, East Fremantle be deferred to the July round of Committee/Council meetings pending the submission of a streetscape analysis (incorporating photo-montage or rendered 3D drawings or similar) showing the proposed development as it sits upon the site and its impact upon surrounding properties and streetscape.** CARRIED

**T63.8**

***Duke Street No. 21 (Lot 12)***

***Owner/Applicant: Geoffrey Petit***

***Application P24/2011***

By Gemma Basley, Town Planner on 9 June 2011

**Purpose of this Report**

An Application for Planning Approval for the construction of two grouped dwellings on the vacant site at No. 21 Duke Street, East Fremantle is the subject of this report.

The report recommends that Council approve the application conditionally.

**BACKGROUND**

**Description of the Proposal**

The application proposes the following:

- to construct a two storey residence (Unit 1) toward the southern boundary of the site which comprises a double garage, laundry, theatre, living room, dining room, office and bedroom on the ground floor as well as a north facing alfresco area and swimming pool and a Master Bed, ensuite and retreat on the upper floor;
- to construct a single storey residence (Unit 2) toward the northern boundary of the site which comprises a single garage, 3 bedrooms, lounge, kitchen, dining area and a north facing verandah and alfresco area;
- to construct side boundary fencing but to maintain an open streetscape without fencing; and
- to retain the two existing jacaranda trees on the site and incorporate them in the front and rear setback landscaping area of Unit 1.

**Description of subject site**

The subject site is:

- 1009m<sup>2</sup>
- is zoned Residential R20
- is vacant and undeveloped with the exception of an old brick and iron outdoor toilet, which is being retained as part of the development of Unit 2.
- located in the Plympton Precinct

**Statutory Considerations**

Town Planning Scheme No. 3 (TPS3)

Local Planning Strategy – Plympton Precinct (LPS)

R20 Residential Design Codes (RDC)

**Relevant Council Policies**

Local Planning Policy 066 : Roofing (LPP 066)

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

Local Planning Policy No. 143 : Fencing (LPP 143)

**Impact on Public Domain**

Tree in verge : No Impact

Light pole : No Impact

Crossover : No Impact

Footpath : No Impact

Streetscape : The site is currently vacant and the proposed two grouped dwellings, which will both front Duke Street and will enhance the streetscape.

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**Documentation**

Plans and relevant forms date stamp received on 7 June 2011

**Date Application Received**

1 March 2011

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

7 September 2007 Western Australian Planning Commission grants approval for the subdivision and amalgamation of the site.

15 March 2010 Demolition Approval granted for the removal of the single storey residence formerly on the site.

**CONSULTATION**

**Advertising**

The application has been advertised twice to the adjoining neighbours and by way of a sign being placed on the site. During the two advertising periods the following submissions were received and are responded to below:

| Submission  | Planning Response   |
|---|---|
| Dr Susan Joubert of 12 Duke Street objects to the modern looking houses that are proposed that will distract from the ambience and historical aspect. Bull nose verandas could be used and the applicant should consult with the State Heritage Council.  | Council has regard to the Burra Charter, which promotes the construction of contemporary residence on vacant sites within heritage precincts and does not support new residences that mimic heritage characteristics. This is against the core principles of the Burra Charter.                   |
| <p>Martin &amp; Danica Dutry of 23 Duke Street appreciate the revised plans which have reduced the potential impacts of overshadowing on their property.</p> <p>Request upper floor WC and stair windows on the south facing wall are obscure glazed to prevent overlooking.</p> <p>Request applicants to consider extending weatherboard cladding on the southern upper floor façade.</p> <p>Request the garage at Unit 1 be constructed to not block the view to the Town Hall from the kitchen window at No. 23 Duke Street.</p> | <p>Noted</p> <p>The Bathroom window will be frosted glass to prevent overlooking and the bottom part of the stair window will also be frosted to prevent overlooking in to the neighbours courtyard.</p> <p>There are no planning grounds to make this request of the applicant.</p> <p>Noted</p> |

**Town Planning Advisory Panel**

The subject application was assessed by the Town Planning Advisory Panel (TPAP) at its meeting of the 20 April 2011 wherein the following comments were made:

- Modifications have been minimal and do not really reflect the panel's previous comments.
- Schedule of materials and finishes required.
- Streetscape elevations required of both dwellings presented together.
- Consider moving Unit 2 further to the north-east of the lot to achieve private outdoor area.
- Setbacks to reflect traditional rhythm and articulation of existing local residences.
- Houses are not yet designed to engage with the streetscape.
- Wall heights and roof pitch need to reflect established residences.

In response to the Panels comments above the applicant submitted revised plans which were considered by the Panel at its meeting of 24 May 2011 wherein the following comments were made:

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- Panel appreciates the applicants re-working of the plans in response to previous comments from the panel.
- Query if the heritage toilet at the rear of the site is to be retained.
- Front elevation of single storey house doesn't read with the gabled elevation; consider the addition of an awning or an alternative window treatment.
- Request colour details for external render finish.

In response to the Panels comments the applicant has submitted revised plans date stamped received on the 7 June 2011. The revised plans are the subject of this report and include alterations to the awning and gable on the façade of Unit 2 and retain the heritage toilet in the rear yard of Unit 2. The applicant has also submitted a detailed schedule of materials and finishes which demonstrates that each residence will be stylistically different and will present attractively to Duke Street as two separate dwellings.

The applicants have taken on board all of the comments from the Town Planning Advisory Panel and from the neighbour submission and submit to Council an application for two grouped dwellings which will be setback to reflect the traditional rhythm of the precinct but which will have a contemporary design to celebrate them being new residences.

**STATISTICS**

|                  |                   |
|------------------|-------------------|
| File             | P/DUK21 – UNIT 1  |
| Zoning           | R20               |
| Lot Area         | 556m <sup>2</sup> |
| Heritage Listing | Not listed        |

| <b>Site:</b> | <b>Required</b> | <b>Proposed</b> | <b>Status</b> |
|--------------|-----------------|-----------------|---------------|
| Open Space   | R20 (50%)       | 57%             | Acceptable    |
| Site Works   | Less than 500mm | Nil             | Acceptable    |

| <b>Local Planning Policies:</b> | <b>Issues</b> | <b>Status</b> |
|---------------------------------|---------------|---------------|
| Policy 142 – Garage Position    | Complies      | Acceptable    |

| <b>Other:</b>       | <b>Issues</b>   | <b>Status</b> |
|---------------------|---|---------------|
| Overshadowing       | Less than 25% overshadowing of the adjoining lot (Unit 1) | Acceptable    |
| Privacy/Overlooking | Complies  | Acceptable    |

| <b>Height:</b> | <b>Required</b>    | <b>Proposed</b> | <b>Status</b> |
|----------------|--------------------|-----------------|---------------|
| Wall           | 6.0                | 5.8             | Acceptable    |
| Ridge          | 9.0                | 8.4             | Acceptable    |
| Roof type      | Pitch and skillion |                 |               |

| <b>Setbacks:</b> |                  | Wall height | Wall length | Major opening | Required Setback | Actual Setback | Status     |
|------------------|------------------|-------------|-------------|---------------|------------------|----------------|------------|
| Front (east)     | Wall Orientation | Wall Type   |             |               |                  |                |            |
| Ground           | Bed 2            | 3.2         | 4.2         | Yes           | 2.0              | 2.0            | Acceptable |
|                  | Garage           | 3.0         | 5.8         | No            | 2.0              | 2.0            | Acceptable |
|                  | Office           | 3.2         | 5.8         | Yes           | 2.0              | 2.0            | Acceptable |
| Upper            | Whole            | 6.5         | 8.0         | Yes           | 6.0              | 6.0+           | Acceptable |
| Rear (west)      | Wall Orientation | Wall Type   |             |               |                  |                |            |
| Ground           | Living           | 3.2         | 6.1         | Yes           | 1.5              | 4.0+           | Acceptable |
|                  | Dining           | 3.2         | 4.5         | Yes           | 1.5              | 9.0+           | Acceptable |
| Upper            | Ensuite          | 6.5         | 5.23        | No            | 1.5              | 12.0+          | Acceptable |
| Side (north)     | Wall Orientation | Wall Type   |             |               |                  |                |            |
| Ground           | Office           | 3.2         | 8.5         | Yes           | 1.5              | 1.8            | Acceptable |
|                  | Dining           | 3.2         | 5.5         | Yes           | 1.5              | 6.1            | Acceptable |
| Upper            | Whole            | 5.8         | 8.5         | Yes           | 2.8              | 2.5            | Discretion |

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**STATISTICS**

|              |                |     |      |    |         |      |            |                                 |
|--------------|----------------|-----|------|----|---------|------|------------|---------------------------------|
| Side (south) |                |     |      |    |         |      |            |                                 |
| Ground       | Garage         | 3.2 | 6.0  | No | Nil-1.0 | Nil  | Acceptable | One boundary wall permitted R20 |
|              | Laundry/Living | 3.2 | 14.2 | No | 1.0     | 1.48 | Acceptable |                                 |
| Upper        | Whole          | 6.5 | 5.23 | No | 1.2     | 4.0  | Acceptable |                                 |

**STATISTICS**

|                  |                   |
|------------------|-------------------|
| File             | P/DUK 21 – Unit 2 |
| Zoning           | R20               |
| Lot Area         | 440m <sup>2</sup> |
| Heritage Listing | Not listed        |

| <b>Site:</b> | <b>Required</b> | <b>Proposed</b> | <b>Status</b> |
|--------------|-----------------|-----------------|---------------|
| Open Space   | R20 (50%)       | 53%             | Acceptable    |
| Site Works   | Less than 500mm | To be provided  | Acceptable    |

| <b>Local Planning Policies:</b> | <b>Issues</b> | <b>Status</b> |
|---------------------------------|---------------|---------------|
| Policy 142 Garage               | Complies      | Acceptable    |

| <b>Other:</b>       | <b>Status</b>                          |
|---------------------|--|
| Overshadowing       | Less than 25% of the neighbouring site |
| Privacy/Overlooking | Complies                               |

| <b>Height:</b> | <b>Required</b>    | <b>Proposed</b> | <b>Status</b> |
|----------------|--------------------|-----------------|---------------|
| Wall           | 3.0                | 2.8             | Acceptable    |
| Ridge          | 6.0                | 5.2             | Acceptable    |
| Roof type      | Pitch and Skillion |                 |               |

| <b>Setbacks:</b> |                 | <b>Wall height</b> | <b>Wall length</b> | <b>Major opening</b> | <b>Required Setback</b> | <b>Actual Setback</b> | <b>Status</b> |
|------------------|-----------------|--------------------|--------------------|----------------------|-------------------------|-----------------------|---------------|
| Orientation      | Wall Type       |                    |                    |                      |                         |                       |               |
| Front (east)     |                 |                    |                    |                      |                         |                       |               |
|                  | Ground Garage   | 3.0                | 3.5                | No                   | 6.0                     | 6.2                   | Acceptable    |
|                  | Master Bed      | 2.8                | 5.6                | Yes                  | 2.0                     | 1.2                   | Acceptable    |
| Rear (west)      |                 |                    |                    |                      |                         |                       |               |
|                  | Ground Whole    | 2.8                | 15.94              | Yes                  | 1.5                     | 3.0                   | Acceptable    |
| Side (north)     |                 |                    |                    |                      |                         |                       |               |
|                  | Ground Alfresco | 2.8                | 6.87               | Yes                  | 1.5                     | 2.4                   | Acceptable    |
| Side (south)     |                 |                    |                    |                      |                         |                       |               |
|                  | Ground Garage   | 2.8                | 6.29               | No                   | Nil-1.0                 | Nil                   | Acceptable    |
|                  | Bed 2           | 2.8                | 3.9                | No                   | 1.0                     | 1.0                   | Acceptable    |

**ASSESSMENT**

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the following elements which will be assessed separately below.

**Streetscape - Front Setback**

Part 2 of Council's Local Planning Policy No. 142 requires the following:

- “(i) Buildings are to be set back such a distance as is generally consistent with the building set back on adjoining land and in the immediate locality.
- (ii) Notwithstanding (i) above, garages and/or carports are to be located at or behind the main building line of the house on the property.
- (iii) The following street setbacks apply also to any upper storey:

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- (a) *Primary Street – minimum setback as prescribed by the Residential Design Codes – Table 1 – General Site Requirements, Column 8; and*
- (b) *Secondary Street – minimum setback 50% of Primary Street.”*

The application proposes to set back each residence 2.0 metre from the front boundary consistent with the adjoining dwellings to the south and prevailing in the locality. The proposed set backs are therefore determined to be acceptable.

**Side Boundary Setback**

The Upper Floor wall of Unit 1 is proposed to be set back 2.5 metres from the northern boundary in lieu of the 2.8 metres required by the R-Codes. The reduced set back is supported on the following grounds:

- the reduced upper floor setback for Unit 1 is minimal and will not cause any overshadowing because of the southerly position of the residence in relation to Unit 2.
- The reduced set back will not result in any adverse impacts on Unit 2 because the wall is adjacent to the driveway and garage associated with Unit 2 and is not in proximity to any habitable rooms or outdoor living areas.

A variation to allow a setback of 2.5 metres in lieu of the 2.8 metres required by the Codes is therefore supported for the upper floor wall of Unit 1.

**Vegetation Retention**

The site has 3 mature trees comprising 2 jacaranda trees and one eucalypt tree. The application proposes to retain the two jacaranda trees and incorporate these within the front and rear yards of proposed Unit 1. A condition has been included in the recommendation to require the retention of these trees.

**CONCLUSION**

The application is considered to have merit when assessed against the relevant LPP's and Scheme provisions relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008.

The application has dealt with an irregular shaped lot with a wide frontage and has presented a design that overcomes these restrictions. Whilst the application does seek one minor variation to the R-Codes it is considered minor in nature and to be acceptable

The subject application is considered to be suitable for determination and is recommended for approval.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a setback of 2.5 metres in lieu of the 2.8 metres required under the R-Codes 2008 for the upper floor setback to the northern boundary of Unit 1 for the construction of two grouped dwellings and a swimming pool at No. 21 (Lot 12) Duke Street, East Fremantle in accordance with the plans date stamp received on the 7 June 2011 subject to the following conditions:

1. the two jacaranda trees are to be retained as part of the development.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a 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.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

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6. all stormwater is to be disposed of on site, clear of all buildings and boundaries.
7. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be submitted as part of a building licence.
8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. all parapet walls are 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.
10. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
11. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
12. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
13. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
14. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
15. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
16. pool contractor/builder is required to notify Council's Building Surveyor *immediately upon completion of all works* including fencing.
17. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision 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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Mr Martin Dutry (adjoining neighbour) advised the meeting that he supported the new proposal although he had some concern with overlooking from the bottom portion of the stairwell window.

Mr Geoff & Mrs Gina Petit addressed the meeting in support of their proposed development advising that they had little time in which to address the issue of the

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stairwell screening/glazing. Mr Petit also expressed his desire for an extra width crossover to which the Presiding Member responded by advising Mr Petit to take the matter up with Mr Ken Dyer, Operations Manager.

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Rico**

That Council exercise its discretion in granting approval for a setback of 2.5 metres in lieu of the 2.8 metres required under the R-Codes 2008 for the upper floor setback to the northern boundary of Unit 1 for the construction of two grouped dwellings and a swimming pool at No. 21 (Lot 12) Duke Street, East Fremantle in accordance with the plans date stamp received on the 7 June 2011 subject to the following conditions:

1. the two jacaranda trees are to be retained as part of the development.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a 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.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed dwellings are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater is to be disposed of on site, clear of all buildings and boundaries.
7. Any air conditioning plant is to be positioned so as to minimise impacts on the streetscape and neighbours' amenity, details of which are to be submitted as part of a building licence.
8. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. all parapet walls are 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.
10. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
11. any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
12. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.

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13. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
14. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
15. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
16. pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
17. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision 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) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

T63.9

**Walter Street No. 12 (Lot 53)**

**Applicant: Rochelle Williams**

**Owner: Rochelle & Aled Williams**

**Application No. P104/2010**

By Gemma Basley Town Planner on 30 May 2011

**PURPOSE OF THIS REPORT**

This Report considers an Application for an amendment to a Planning Approval to construct a gazebo with a nil setback to the northern boundary.

**BACKGROUND**

**Description of Proposal**

The application proposes to alter the location of the gazebo which was approved as part of the original application and to locate this on the northern boundary as opposed to setting this back 1.0 metre from the boundary.

This report recommends conditional approval.

**Description of site**

The subject site is:

- a 896m<sup>2</sup> block
- zoned Residential R12.5
- developed with a two-storey heritage dwelling on-site
- located in the Richmond Precinct
- included in the Municipal Inventory (B- Management Category)

**Statutory Considerations**

Town Planning Scheme No. 3

Local Planning Strategy - Richmond Precinct (LPS)

Residential Design Codes (RDC)



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**Relevant Council Policies**

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

**Date Application Received**

11 May 2011

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

21 September 2010 Council exercises its discretion and grants approval for alterations and additions to the residence at No. 12 Walter Street, East Fremantle.  
22 July 2008 Building Licence granted for new fencing

**CONSULTATION**

**Advertising**

The application has been advertised to the owner of the property that adjoins No. 12 Walter Street to the north. No submissions or objections were received during the advertising period.

**Town Planning Advisory Panel**

The application was not presented to the Town Planning Advisory Panel because of the minor nature of the proposal and because of the obvious improvements the application would make to the streetscape.

**ASSESSMENT**

Approval is sought for the construction of a gazebo in a location different to that previously approved by Council. The application proposes to construct the gazebo with a nil setback to the northern boundary. The boundary is fenced with a limestone masonry wall, which is entirely constructed on the property at No. 12 Walter Street and as such the setback of the gazebo is acceptable under the Building Code of Australia.

The gazebo requires a 1.0 metre setback to the northern (side) boundary under the R-Codes 2008 and therefore the proposed nil boundary setback requires that a discretion be granted. The proposal to construct the gazebo with a nil setback has been assessed against the relevant performance criteria of the R-Codes and the following observations have been made:

- The construction of the gazebo with a nil setback will increase the privacy to the gazebo area and will also reduce the impact of activities occurring in the gazebo on the adjoining neighbour.
- The proposed nil setback will not result in any adverse effect on the amenity of the adjoining property.
- The proposed nil setback will not restrict access to sunlight or ventilation for the neighbouring property because it is to the north of the subject site.

Given that the proposal meets all of the relevant acceptable development provisions of TPS3, the R-Codes and Council's Local Planning Policy No. 142 and only one discretionary decision is required by Council, the proposal is supported and recommended for approval.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a nil setback to the northern boundary in lieu of the required 1.0 metre setback for the construction of a gazebo at No. 12 (Lot 53) Walter Street, East Fremantle, in accordance with the plans dated 11 May 2011 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.

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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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. 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 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 – Cr Collinson**

**That Council exercise its discretion in granting approval for a nil setback to the northern boundary in lieu of the required 1.0 metre setback for the construction of a gazebo at No. 12 (Lot 53) Walter Street, East Fremantle, in accordance with the plans dated 11 May 2011 subject to the following conditions:**

1. **the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
2. **the 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. **With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
4. **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 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**

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- T63.10** *East Fremantle Oval - Change of Use from Storage Room to Fitness Centre*  
*Applicant: East Fremantle Football Club*  
*Owner: Town of East Fremantle*  
*Application No. P72/2011*  
By Jamie Douglas, Manager – Planning Services on 3 June 2011

**BACKGROUND**

**Purpose of this Report**

The report considers a request for Planning Approval for a change of use for a part of the floor area of the East Fremantle Football Club rooms from storage to a commercial fitness centre and recommends the proposal be approved.

**Statutory Considerations**

Town Planning Scheme No. 3 –

**Impact on Public Domain**

Tree in verge : N/a  
Light pole : N/a  
Crossover : N/a  
Footpath : N/a  
Streetscape : Na

**Documentation**

Plans and relevant forms date stamp received on 13 May 2011

**Date Application Received**

13 May 2011

**CONSULTATION**

The application has not been advertised.

**ASSESSMENT**

The proposal is for approval to use an area of the existing club rooms for a commercial fitness centre offering services to the general public. The area to be used is currently largely vacant storage area internal to the existing club room building. The current business run by East Fremantle player, Robert Young, trading as 'Young 4 Life' has operated since 2008 in the 'away team' change rooms and the club gym. It is now proposed to dedicate specific floor space to the business. The proposal has the backing of the East Fremantle Football Club and has operated successfully without any complaint from the public for over three years.

Ample parking exists in and adjacent to the grounds to accommodate the anticipated maximum 20 clients and one staff. The Football Club supports the intended hours of operation which will include match days. The proposed use is allied to the activities of the football club and is not inconsistent with the reserved designation of the land.

The proposed works for internal fit out of the rooms are minor in nature and the use raises no planning issues however the proposal is referred to Council under Clause 3.4 of TPS No3 which requires Council's approval to carry out development on a Local Reserve.

**RECOMMENDATION**

It is recommended that Council as landowner consents to the application and grants planning approval for a Fitness Centre at the East Fremantle Football Club Rooms, Moss Street in accordance with the plans and information date stamp received on 13 May 2011 subject to the following conditions:

1. The business hours of the fitness centre shall not exceed:
  - .. 6.00am to 8.00pm Monday to Friday
  - .. 8.00am to 5.00pm Saturday
  - .. 9.00am to 5.00pm Sunday

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2. The maximum number of clients and staff to be accommodated in the area at designated proposed premise for "Young for Life" on the approved plans shall not exceed 30 persons at any one time.
3. 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.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. The proposed development 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.

Footnote:

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

- (a) *this decision 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 approval certificate is to conform with the approved plans unless otherwise approved by Council.*

**RECOMMENDATION TO COUNCIL**

**Cr Collinson – Cr Martin**

**That Council as landowner consents to the application and grants planning approval for a Fitness Centre at the East Fremantle Football Club's Clubrooms, Moss Street in accordance with the plans and information date stamp received on 13 May 2011 subject to the following conditions:**

1. **The business hours of the fitness centre shall not exceed:**
  - .. 6.00am to 8.00pm Monday to Friday**
  - .. 8.00am to 5.00pm Saturday**
  - .. 9.00am to 5.00pm Sunday**
2. **The maximum number of clients and staff to be accommodated in the area at designated proposed premise for "Young for Life" on the approved plans shall not exceed 30 persons at any one time.**
3. **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.**
4. **With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
5. **The proposed development 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.**

Footnote:

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

- (a) *this decision 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 approval certificate is to conform with the approved plans unless otherwise approved by Council.*

CARRIED

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**T63.11**     **Hubble Street No. 36 (Lot 200)**  
**Owner: L Francis**  
**Applicant: Westral Outdoor Centre**  
**Application No. P60/2011**  
By Gemma Basley Town Planner on 3 June 2011

**PURPOSE OF THIS REPORT**

This Report considers an Application Planning Approval to construct a patio at the side and the rear of the residence at No. 36 Hubble Street, East Fremantle.

**BACKGROUND**

**Description of Proposal**

An Application for Planning Approval for the construction of a patio at the side and the rear of the residence at No. 36 Hubble Street is the subject of this report. More specifically, the application proposes to construct a steel framed patio with a wall height of 2.15 metres to extend from the recent extension which has been constructed at the rear of the residence.

The application proposes a reduced setback to the northern boundary and as such a discretion is requested to be granted by Council. The report recommends that Council approve the application conditionally.

**Description of subject site**

The subject site is:

- 506m<sup>2</sup> in area
- located in the Plympton Precinct
- developed with a single-storey weatherboard and corrugated iron single dwelling
- included in the town's Municipal Inventory (management Category of B-).

**Statutory Considerations**

Town Planning Scheme 3 (TPS3)  
TPS3 Local Planning Strategy  
Residential Design Codes of WA (the R-Codes)

**Relevant Council Policies**

Council Policy on Roofing (LPP066)  
Local Planning Policy – Residential Development (LPP 142)

**Impact on Public Domain**

Tree in verge : No Impact  
Light pole : No Impact  
Crossover : No Impact  
Footpath : No Impact  
Streetscape : No Impact

**Documentation**

Plans and relevant forms date stamp received on 27 April and 29 2011

**Date Application Received**

27 April 2011

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

24 September 2009 Council exercises its discretion and grants approval for alterations and additions to the rear of the residence.

**CONSULTATION**

**Advertising**

The application was not advertised on the basis that the only affected neighbour had already viewed and supported the application.

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The application was not referred to the Town Planning Advisory Panel because the patio is at the side and rear of the residence and will not impact on the streetscape or the amenity of the residence and locality.

**STATISTICS**

File P/HUB36  
Zoning R12.5  
Lot Area 523m<sup>2</sup>  
Heritage Listing C on Municipal Heritage Inventory – Demolition approved

| <b>Site:</b>  | Required            | Proposed         | Status                 |
|---------------|---------------------|------------------|------------------------|
| Open Space    | 50%                 | Greater than 50% | Acceptable Development |
| Overshadowing | >25%                | Nil              | Acceptable Development |
| Site Works    | Less than 0.5 metre | Nil              | Acceptable Development |

| <b>Height:</b> | Required             | Proposed | Status                     |
|----------------|----------------------|----------|----------------------------|
| Wall           | 3.0                  | 3.2      | <b>Discretion Required</b> |
| Ridge          | 6.0                  | 5.8      | Acceptable Development     |
| Roof type      | Pitched and skillion |          |                            |

**Setbacks:**

The patio is proposed to be constructed with a setback of 0.5 metres to the northern boundary in lieu of the 1.0 metres required under the Residential Design Codes. The reduced setback has been supported by the affected neighbor to the north (34 Hubble Street). The reduced setback has also been assessed against the Performance Criteria of the Codes and is considered to be acceptable.

**Overlooking**

The application also proposes to construct a patio at natural ground level. This patio area will be screened by the dividing fence and as such does not require any other form of screening to address overlooking.

**ASSESSMENT**

The proposal accords with the provisions of TPS3, the R-Codes and the Town's Planning Policies with the exception of the following element which will be assessed separately below.

**Boundary Setback**

The application proposes a 0.5 metre setback to the northern boundary in lieu of the 1.0 metres required under the R-Codes. The setback requirements of the R-Codes are however overridden by Part 3 of Local Planning Policy No. 142 which allows a wall to be situated closer to the boundary than permitted by the R-Codes as detailed below:

*“A wall may be situated closer to an adjoining residential boundary than the standards prescribed in Tables 1, 2a or 2b of the Residential Design Codes where the following are observed:*

- (a) Walls are not higher than 3m and up to 9m in length up to one side boundary;
- (b) Walls are behind the main dwelling;
- (c) Subject to the overshadow provisions of the Residential Design Codes – Element 9;
- (d) In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and
- (e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.”

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The proposed 0.5 metre setback satisfies the above criteria as follows:

- Whilst the wall is longer than 9 metres (10.08 metres) it only has a height of 2.15 metres;
- The proposed wall is at the rear and side of the residence;
- The increased wall length and reduced setback will not result in any overshadowing that will impact on the adjoining lot.

The variation has also be assessed against the Performance Criteria of the R-Codes and based on the following is considered to be acceptable development:

- The reduced setback will not restrict sunlight or ventilation to the existing residence.
- The reduced setback and proposed patio will not cast a shadow on the lot to the north and the proposed structure is separated too far from the residence to the south to have an impact.

The position of the patio will not result in any overlooking or impacts on the neighbour's privacy.

It is considered there is merit in an exercise of discretion to allow a setback of 0.5 metres in lieu of 1.0 metres required under the R-Codes 2008 for the northern setback.

**CONCLUSION**

The application is considered to have merit when assessed against the relevant LPP's and Scheme provisions relating to residential developments, as well as the requirements outlined within the Residential Design Codes 2008. Whilst the application does seek one minor variation to the R-Codes it is considered minor in nature and to be acceptable.

**RECOMMENDATION**

That Council exercise its discretion in granting approval for a discretion to allow a setback of 0.5 metres in lieu of 1.0 metres required under the R-Codes 2008 for the northern boundary setback for the construction of a patio at the rear and side of No. 36 (Lot 200) Hubble, East Fremantle in accordance with the plans date stamp received on the 27 & 29 April 2011 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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 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).*

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**RECOMMENDATION TO COUNCIL**

Cr Martin – Cr Nardi

That Council exercise its discretion in granting approval for a discretion to allow a setback of 0.5 metres in lieu of 1.0 metres required under the R-Codes 2008 for the northern boundary setback for the construction of a patio at the rear and side of No. 36 (Lot 200) Hubble, East Fremantle in accordance with the plans date stamp received on the 27 & 29 April 2011 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The 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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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 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

T63.12

**Walter Street No. 34 (Lot 306)**

**Applicant: Dale Alcock Homes**

**Owner: Malcolm O'Dell & Marzia Molendi**

**Application No. P28/2011**

By Gemma Basley, Town Planner on 8 June 2011

**PURPOSE OF THIS REPORT**

This Report considers an Application for Planning Approval to construct additions and to undertake alterations to the residence at No. 34 Walter Street, East Fremantle.

This report recommends conditional approval.

**BACKGROUND**

**Description of Proposal**

The application proposes the following:

- to extend and convert the existing carport into a Bedroom, Ensuite and Store area;
- to construct a new carport in front of the alterations; and
- to extend the existing verandah northwards to increase the outdoor living area.

**Description of site**

The subject site is:

- a 464m<sup>2</sup> block
- zoned Residential R12.5
- developed with a two storey residence
- located in the Richmond Precinct.



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**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R12.5  
Local Planning Strategy - Richmond 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)

**Impact on Public Domain**

Tree in verge : No impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : The additions and alterations will be visible to the street but will not have an adverse impact.

**Documentation**

Plans and relevant forms date stamp received on 20 May 2011

**Date Application Received**

3 March 2011

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

3 May 1990 Building Licence No. 58/1680 issued for new two storey residence

**CONSULTATION**

**Advertising**

The subject application was advertised for a two week period to adjoining residents. During the advertising period 1 written submission was received from the owners of No. 72 Fraser Street, which will be detailed and responded to below:

| Submission  | Planning Response   |
|---|---|
| Social issues – The proposed verandah extension on the north side with door from dining/lounge will be the only outdoor entertaining area and could result in noise and light impacts on our kitchen/dining window. | 34 Walter Street is the result of the subdivision of 72 Irwin Street into two lots. 34 Walter street is a square lot with limited opportunities for outdoor living areas.<br><br>The proposed verandah extension complies with the setback requirements of the R-Codes.<br><br>The verandah extension will be adjacent to the wall of the garage at No. 72 Fraser Street (which fronts Walter Street) and will not impact the neighbouring kitchen.<br><br>The owners of 34 Walter Street already utilise the northern side of their property for entertaining purposes so there will be no more perceived negative noise and lighting effects on 72 Fraser Street with the verandah extension than currently exists now. The verandah area will be screened by the existing parapet wall which runs along the southern boundary of No. 72 Fraser Street and which extends approximately two thirds of the length of the proposed verandah extension. |
| Amenity – The outdoor entertaining area fronts the street and we object to the impact of this on the streetscape.   | There is an existing verandah that already fronts the street and the application proposes to extend this verandah area northwards.<br><br>There are no provisions under the R-Codes or Council's TPS or LPP's which restrict outdoor entertaining areas fronting the street.  |
| Planning Policy – The carport is not located behind the main building line.   | The applicants have repositioned the carport to align with the front of the verandah. LPP No. 142 requires that the carport be located at or behind the main building line of the house and a condition is included in the recommendation to require that the carport be setback in accordance with the requirements of LPP No. 142 and will be discussed later in this report.   |

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The submission has been assessed above and it is concluded that the extension of the verandah area is acceptable and will not impact on the amenity of the adjoining residence at No. 72 Fraser Street.

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 22 March 2011 and the following comments were made:

- Carport is non-compliant with LPP142.
- Carport well forward of building line and not supported.
- Proposed carport out of balance with existing house.
- Query open space requirement.

The applicant has responded to the Panel's comments by way of submitting revised plans, which are the subject of this report. More specifically, the applicant has repositioned the carport to be in line with the front of the verandah and has confirmed that the open space requirements of the R-Codes have been complied with.

The position of the carport forward of the main building line will be discussed in the Assessment section of this report.

**Site Inspection**

By Town Planner on 22 March 2011

**ASSESSMENT**

The subject application seeks approval to construct additions and alterations to the existing two storey residence at No. 34 Walter Street, East Fremantle. The application includes constructing a new carport, which is proposed to extend forward of the main building line and to line up with the front of the verandah.

There are two major issues to address in this application being the location of the carport forward of the main building line and the potential impact of this on the streetscape.

Local Planning Policy No. 142 states in Part 2 – Streetscape:

- (ii) *Notwithstanding (i) above, garages and/or carports are to be located at or behind the main building line of the house on the property.*

The policy is not definitive in what constitutes the main building line however based on past assessments it is evident that the policy has been interpreted to refer to the wall of the front of the house. When applying this to the subject application, the main wall of the house is that which is behind the verandah. The location of the garage does not therefore accord with the requirements of Local Planning Policy No. 142 and is not supported.

The second issue is the impact of the proposed garage location on the streetscape. The Residential Design Codes promotes open streetscapes which provide a visual setting for the dwelling and a transition zone between the public street and a private dwelling to provide for mutual surveillance and personal interaction without intrusion. It is assessed that the construction of a carport forward of the main building line will obscure portions of the front of the house and the verandah which will compromise the relationship between the public and private realm.

The applicants submit the following justifications for the location of the carport forward of the main building line:

- due to the owners request for an additional sleeping room to their ground floor it is necessary to locate the carport forward of the building line to provide the owners with much needed space in their rear yard (which is limited by the square nature of the block and the reduced lot area);
- the existing residence is set well back towards the rear of the block and in order for the owners to maintain any outdoor living area behind their residence the applicants advise that the carport must sit forward of the main building line;

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- the property does not have a front boundary fence to allow private outdoor living within the street setback area;
- the carport is proposed as an open structure which will compliment the aesthetics of the residence and materials and colours are proposed to match the existing residence;
- the position of the carport forward of the main building line provides for the required maneuvering areas; and
- the position of the carport forward of the building line will not negatively impact on the streetscape because the neighbouring residence at #72 Fraser Street has a double garage which fronts Walter Street and which is only setback some 3.5 metres from the road which will ensure the carport at 34 Walter Street will not appear to add bulk onto the streetscape.

Whilst the applicant's justifications are noted they are not considered sufficient to warrant a variation to the requirements of LPP No. 142. The reasons for this are summarised below:

- An additional bedroom can be provided on the ground floor without impacting on the area of rear yard by reducing the length of proposed Bed 4 and the Store and lining up this wall with the adjoining Activity wall. This will enable the construction of the carport to commence in line with the wall of the activity room and the carport to be located entirely behind the main line of the house (as required under LPP No. 142).
- The position of the carport forward of the building line will impact on the streetscape. Whilst the neighbouring residence at #72 Fraser Street has a double garage which fronts Walter Street and is setback only 3.5 metres from the road, this has been approved on the basis of No. 72 Fraser Street being a corner lot and being allowed a reduced setback to the secondary road frontage. The residence at No. 32 Walter Street and most other residences along Walter Street have been developed in accordance with the requirements of LPP No. 142 and with the carports and garages located at or behind the main building line. As such the positioning of the carport at No. 34 Walter forward of the building line will interrupt the existing pattern of development along Walter Street.

### CONCLUSION

The subject application for alterations and additions to the existing residence at No. 34 Walter Street meets all of the relevant acceptable development provisions of the R-Codes and applicable provisions of TPS No. 3. The application however, seeks a discretion to the requirements of Local Planning Policy No. 142 to allow the positioning of the carport forward of the main building line. The discretion is not supported because of the potential impact the carport forward of the building line may have on the streetscape and is reflected in Condition No. 1 of the recommendation.

### RECOMMENDATION

That Council grant approval for the construction of alterations and additions at No. 34 Walter Street in accordance with the plans date stamp received on 20 May 2011 subject to the following conditions:

1. prior to the issue of a Building Licence revised plans are to be submitted to the satisfaction of the CEO in consultation with relevant officers, which identify the front of the carport being located behind the front wall of the residence as shown on the approved plans.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.

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5. the proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater is to be disposed of on site and clear of all boundaries.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision 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).*

Correspondence referred from MB Ref. T61.3 was tabled.

**RECOMMENDATION TO COUNCIL**

**Cr Collinson – Cr Nardi**

**That Council grant approval for the construction of alterations and additions at No. 34 (Lot 306) Walter Street, East Fremantle in accordance with the plans date stamp received on 20 May 2011 subject to the following conditions:**

1. **prior to the issue of a Building Licence revised plans are to be submitted to the satisfaction of the Chief Executive Officer in consultation with relevant officers, which identify the front of the carport being located behind the front wall of the residence as shown on the approved plans.**
2. **the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
3. **the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
4. **with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
5. **the proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
6. **all stormwater is to be disposed of on site and clear of all boundaries.**
7. **this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

- (a) *this decision 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

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- T63.13**     **George Street No. 88 (Lot 534)**  
**Applicant: Peter Broad - In House Building Design**  
**Application No. P83/2008**  
By Jamie Douglas, Manager Planning Services on 6 June 2011

**Purpose of the Report**

The purpose of this report is to provide Councillors with an update on the progress of the application for a mixed use development at 88 George Street, East Fremantle

**Background**

Councillors will recall that the major issue of debate in respect to this proposal is whether the front facade and portions of the side walls should be demolished and reconstructed or whether the existing building fabric and alignment can be preserved.

An onsite meeting was held on 28 January 2011 with the developers and attended by the Mayor, relevant council officers, engineering consultant Ian Maitland and heritage architect Philip Griffiths. Attachment (1) to this report provides a description of the building fabric condition and preferred remedial construction works.

On 31 January 2011 the CEO issued a planning approval under delegated authority with conditions consistent with the above preferred remedial construction works – i.e. that the building fabric of the front facade and return walls be retained and stabilised.

**Current Situation**

The Applicant lodged a Building Licence Application on 26 May 2011 and updated plans on 1 June 2011. A preliminary assessment by the Principal Building Surveyor indicates that the submitted plans do not comply with the conditions of Planning Approval. The plans have been referred to Council's engineering consultant Ian Maitland for comment.

It is envisaged that further consultation with the applicant will occur subsequent to the receipt of engineering advice.

**RECOMMENDATION**

That the report be received.

**RECOMMENDATION TO COUNCIL**

**Cr Martin – Cr Nardi**

**That the report be received.**

CARRIED

- T63.14**     **George Street No. 76B (Lot 602)**  
**Applicant: Tim Petherbridge**  
**Owner: Christopher Tolcan**  
**Application No. P 213/2010**  
By Gemma Basley Town Planner on 8 June 2011

**Purpose of this Report**

This report considers an application to demolish an existing detached residential building (former shed) and to change the use of the rear portion of No. 76B George Street, East Fremantle from 'Residential Building' to 'Car Parking'.

This report recommends conditional approval.

**Background**

At its meeting of 15 February 2011 Council approved an application to change the use of the building at the front of No. 76B George Street from 'shop' to 'shop' and 'industry-service'. The basis of this earlier approval was to convert and extend the building at No. 76B for a new business 'Ethos Eco-Market' which will sell organic provisions, fruit and vegetables, hand-made organic bakery products, juices and organic coffee. The earlier approval also included reconfiguring the existing car park at the rear of the building.

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**Description of Proposal**

The subject application seeks to change the use of the rear area of 76B George Street from 'Residential Building' to 'Car Parking'. The change of use is proposed in order to facilitate the demolition of the existing shed (which has been converted into a residential building) and to drain and pave this area to accommodate a more accessible and larger car parking area.

The subject application also proposes a small extension to the rear of the commercial building and proposes to accommodate an additional depth of 1 metre within the shop building. The additional floor area will be used to increase the size of the cool room and the food preparation area. The minor increase in the building area does not require the provision of additional car parking.

**Description of the site**

The subject site is:

- 706m<sup>2</sup> in area comprising 3 separate land uses and respective tenants
- Zoned 'Mixed Use' and developed with a shop, residential building, consulting rooms and a residence at the rear of the site and fronting Sewell Street
- Included on Council's TPS3 Heritage List by virtue of being located in the George Street Precinct
- Included on the Municipal Heritage Inventory with a B<sup>A</sup> rating.

**Statutory Considerations**

Town Planning Scheme No. 3 – George Street Mixed Use zone  
Local Planning Strategy - Plympton Precinct (LPS)

**CONSULTATION**

No consultation has occurred because of the minor nature of the proposal.

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

|                   |   |
|-------------------|---|
| 20 February 1984  | Council decides to advise Owner that it does not wish to see a continuance of the residential use of the detached building, and to ensure that it will not be reoccupied for residential use when the current occupiers vacate the premises.  |
| 15 September 1986 | Council grants approval for a change of use from "Capri Caterers" and "Marie's Fashions" to a Real Estate Office (R. Gauci).  |
| 20 October 1986   | Council agrees to change the non-conforming use of 76A George Street from Meat Brokers to Architect's Office", subject to 2 sealed parking bays, signage, painting & landscaping.   |
| 19 October 1992   | Council grants approval for the change of use from real estate agent to retail shop for the sale of herbal and associated products from the premises at the corner of Sewell Street & George Street.  |
| 14 December 1992  | Council grants approval for the change to 76B George Street from Architect's Office to Retail Shop (gourmet seafood).   |
| 10 May 1994       | Council notifies Owner that the corner shop formerly used as a real estate office is now being utilised as a Doctor's Surgery" and its approval is required for the change of use.  |
| 18 July 1994      | Council grants special approval for a Bakery at 76B George Street, and to defer consideration of the Doctor's Surgery.  |
| 5 September 1994  | Applicant for Bakery appeals against conditions of approval.  |
| 21 December 1994  | Council advises an applicant for a Hairdressing Salon at 76B George Street that the proposal would exacerbate the parking shortfall, but would reassess the proposal when the issues regarding the unapproved Doctor's Surgery, existing Lodging House, and existing Residence are resolved, as well as the provision of a Drainage Plan. |
| 22 February 1995  | Council grants special approval for a Professional Office at 76B George Street.   |
| 23 August 1996    | Council grants special approval for a Shiatsu Centre from 76B George Street.  |

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- 23 July 2007 Delegated Approval granted for a Change of Use from 'Shiatsu Centre' to 'Shop'.
- 15 February 2011 Council approved a change of use from 'shop' to 'shop' and 'industry-service'.

**ASSESSMENT**

**Change of Use**

The application proposes to change the use of the rear portion of the site from 'Residential Building' to 'Car Parking'. In terms of permissibility 'Car Parking' is not a use that is listed in the Zoning Table under TPS 3, nor is it considered to be a use that could reasonably be determined as falling within any use class in the Table.

TPS 3 states:

- "4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within any use class in the Table, the local government may:*
- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
  - (b) determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.5 in considering an application for planning approval; or*
  - (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted."*

Council resolved at its meeting held on 20 February 1984 to advise the owners of 76 George Street that Council did not wish to see a continuance of the residential use of the detached building (converted sheds) at the rear of the site and that the owners be requested to ensure that the detached building will not be reoccupied for residential purposes when the current occupiers vacate the premises. A review of the property file indicates that the resolution of Council has not been enacted.

The proposal to demolish the detached residential building (former shed) at the rear of the site and convert this part of the site to car parking is consistent with Council resolution of 1984 and the proposed change of use is therefore supported.

**Mixed Use Zone**

The objectives of the 'Mixed Use' zone are listed below:

- 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.

The proposal to demolish the sheds at the rear of the site and increase the car parking area is consistent with the objectives of the 'Mixed Use' zone as demonstrated below:

- the additional car parking will not prejudice the amenity of this mixed use area;
- the desired future character of the George Street 'Mixed Use' zone is to provide a vibrant area which provides a range of land use activities which compliment the surrounding residential area and the proposed use will contribute to this; and
- the development has on-site car parking which is being upgraded and expanded as part of the application

**Extension to Shop Floor Area**

As detailed above, the application also proposes to move the rear wall 1 metre northwards to increase the floor area of the shop. The additional floor area will be used

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to increase the size of the cool room and the food preparation area. The minor increase in the building area does not require the provision of additional car parking.

**Car Parking**

The subject application proposes to reconfigure the car parking at the rear of the site to provide one additional parking bay (five in total). This proposal can only be commended.

**Conclusion**

The subject application has been assessed against the Scheme requirements and it is determined that the proposal to demolish the shed/residential building at the rear of the site to accommodate additional car parking is acceptable.

The proposed change of use does not require the provision of any additional parking bays and rather proposes additional parking at the rear of the site which is in excess of the Scheme requirements.

Given that the proposal meets all of the relevant acceptable development provisions of TPS3 it is recommended that approval to the change of use be granted.

**RECOMMENDATION**

That Council grant approval for demolition and a change of use at 76B George Street from 'residential building' to 'car parking' and an extension to the shop area, in accordance with the plans date stamp received on 1 June 2011, 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. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

**RECOMMENDATION TO COUNCIL**

**Cr Collinson – Cr Nardi**

**That Council grant approval for demolition and a change of use at No. 76B (Lot 602) George Street, East Fremantle from 'residential building' to 'car parking' and an extension to the shop area, in accordance with the plans date stamp received on 1 June 2011, 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. this planning approval to remain valid for a period of 24 months from date of this approval.



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**Footnote:**

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

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

**T64. ADJOURNMENT**

**Cr Martin – Cr Wilson**

**That the meeting be adjourned at 8.40pm.**

CARRIED

*Town Planner, Ms Gemma Basley, left the meeting at 8.45pm.*

**T65. RESUMPTION**

**Cr Martin – Cr Wilson**

**That the meeting be resumed at 8.45pm with all those present at the adjournment in attendance with the exception of the Town Planner who left the meeting during the adjournment.** CARRIED

**T66. REPORTS OF OFFICERS – STRATEGIC PLANNING**

**T66.1 *Proposed Local Planning Policy - Design Guideline Signage***

By Jamie Douglas, Manager Planning Services on 3 June 2011

**PURPOSE OF THIS REPORT**

This report recommends that Council resolve to adopt the draft 'Local Planning Policy – Design Guideline Signage'.

**BACKGROUND**

The draft Local Planning Policy 'Design Guideline – Signage' is required because the proliferation of commercial advertising has a significant impact on visual amenity and streetscape character. There is also a need to protect existing advertising from being obscured and to ensure multi-use developments are not covered in a proliferation of competing advertising or that advertising obstructs vehicular or pedestrian sight lines. The implementation of the draft policy at this time will provide necessary guidance for major commercial developments which will be considered by Council in coming months.

The draft Policy was endorsed by Council for the purposes of public advertising at its meeting on 15 March 2011 and forms Attachment 1 to this report.

**STATUTORY PROCESS FOR THE ADOPTION OF A LOCAL PLANNING POLICY**

Local Planning Policies are adopted under Part 2 of TPS No. 3. Clause 2.4 of the Scheme requires that a proposed Policy is advertised for 2 consecutive weeks in a local newspaper and that submissions may be made during a period of not less than 21 days. Subsequent to the closure of the submission period, Council is then required to review the proposed Policy in the light of any submissions made and resolve whether or not to adopt the Policy with or without modification. If the Policy is adopted, a notice of the Policy must be advertised once in a local paper and it comes into force on the date of this advertisement. The Policy should also be forwarded to the Western Australian Planning Commission if Council decides it affects the interests of the Commission.

**DISCUSSION**

The draft Policy was advertised in 'The Herald' newspaper on the 2, 23 and 30 April 2011.

No submissions were received during the advertising period which concluded on 23 May. It is therefore recommended the Policy be adopted without modification.

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**RECOMMENDATION**

It is recommended that, pursuant to clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3, the Council resolves to adopt the draft 'Local Planning Policy - Design Guideline – Signage' which is Attachment 1 to this report and that a notice of the adopted Policy be publicly advertised.

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Rico**

**That pursuant to clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3, the Council resolves to adopt the draft 'Local Planning Policy - Design Guideline – Signage' which is Attachment 1 to this report and that a notice of the adopted Policy be publicly advertised.** CARRIED

**T66.2**

***Town of East Fremantle Town Planning Scheme No. 3  
Proposed Scheme Amendment No. 9 – Demolitions and Exemptions***

By Jamie Douglas, Manager Planning Services on 3 June 2011

**PURPOSE OF THIS REPORT**

This report proposes draft scheme amendment 9 to TPS No 3 be submitted for the Final Approval of the Minister for Planning.

**BACKGROUND**

Draft Scheme Amendment 9 will make textural changes to the Scheme to require an application for planning approval for all demolitions and also to increase the extent of minor non-consequential works which are exempt from the need for planning approval. At its meeting on 15 February 2011 Council endorsed the draft Scheme amendment for the purposes of public notification and agency referral. A copy of the Amendment Report which details the proposed changes forms attachment 1 to this report.

**STATUTORY PROCESS TO AMEND THE PLANNING SCHEME**

The process for Scheme Amendments under the Planning and Development Act 2005 is as follows:

- A Local Government may at its sole discretion decide whether or not to initiate an amendment (s75). There are no appeal provisions associated with this decision.
- The Minister may direct a Local Government to make an amendment or adopt a new scheme (s76).
- A Local Government must have due regard to any State Planning Policy in preparing an amendment (s77).
- Proposed scheme amendment to be referred to the Heritage Council (s79).
- Proposed scheme amendment to be referred to the EPA (s81).
- Proposed scheme amendment to be referred to relevant public authorities such as Water Corporation, Western Power, the Western Australian Planning Commission (s83).
- Subsequent to the above, the amendment is publicly advertised (s84).
- The amendment is submitted for the Final Approval of the Minister (s87) and if approved published in the Gazette (s87 (3)).

**CONSULTATION AND REFERRAL**

The draft amendment was referred to the Environmental Protection Agency and the Western Australian Planning Commission on 18 March 2011. The EPA responded that it considered the scheme amendment was not required to be assessed under the EP Act and it therefore would not provide advice. The WAPC noted Council's intention to advertise the draft amendment.



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Following replies from the above referral agencies the draft amendment was advertised for a six week period from 16 April 2011. There were no submissions received during this period.

**CONCLUSION**

Given there have been no agency responses or submissions from the public received arising from the public advertising, it is considered the draft amendment should now be submitted to the Minister for Final Approval.

**RECOMMENDATION**

It is recommended that Council approve the submission of the draft Scheme Amendment No. 9 to the Town of East Fremantle Planning Scheme No 3 to the Minister for the approval of the Minister pursuant to s87 of the Planning and Development Act 2005.

**RECOMMENDATION TO COUNCIL**

Cr Wilson – Cr Martin

That Council approve the submission of the draft Scheme Amendment No. 9 to the Town of East Fremantle Planning Scheme No 3 to the Minister for the approval of the Minister pursuant to s87 of the Planning and Development Act 2005 following referral of the Scheme amendment to the Town Planning Advisory Panel for consideration and comment. CARRIED

**T67. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

**T67.1 George Street - Design Guidelines**

Cr Collinson – Cr Martin

That Design Guidelines covering lighting, street furniture, signage and landscaping etc be drafted for George Street. CARRIED

**T68. CLOSURE OF MEETING**

There being no further business the meeting closed at 9.20pm.

*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 **14 June 2011**, Minute Book reference **T56. to T68.** were confirmed at the meeting of the Committee on*

.....

\_\_\_\_\_  
**Presiding Member**