

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 3 JULY, 2012 COMMENCING AT 6.30PM.**T47. OPENING OF MEETING****T47.1 Present**

Cr Alex Wilson	Presiding Member
Mayor Alan Ferris	
Cr Cliff Collinson	
Cr Barry de Jong	
Cr Siân Martin	From 6.40pm
Cr D Nardi	
Cr M Rico	
Mr Jamie Douglas	Manager - Planning Services
Mrs Peta Cooper	Minute Secretary

T48. 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.”

T49. WELCOME TO GALLERY

There were 7 members of the public in the gallery at the commencement of the meeting.

T50. APOLOGIES

Nil.

T51. CONFIRMATION OF MINUTES**T51.1 Town Planning & Building Committee – 8 May 2012**

Mayor Ferris – Cr de Jong

That the Town Planning & Building Committee minutes dated 8 May 2012 as adopted at the Council meeting held on 15 May 2012 be confirmed. CARRIED

T52. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**T52.1 Angwin Street No. 26 (Lot 251)**

Correspondence from Architect in response to Town Planning Advisory Panel comments.

Mayor Ferris – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T55.8). CARRIED

T52.2 Duke Street No. 73 (Lot 390)

Email from applicant in response to Items (c) & (d) of the officer's report.

Mayor Ferris – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T55.3). CARRIED

T52.3 King Street No. 99 (Lot 344)

Correspondence from applicants in response to Town Planning Advisory Panel comments.

03 July 2012

MINUTES

Mayor Ferris – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref. T55.6).

CARRIED

T53. REPORTS OF COMMITTEES

T53.1 *Town Planning Advisory Panel – 26 June 2012*

Cr Wilson – Mayor Ferris

That the minutes of the Town Planning Advisory Panel meeting held on 26 June 2012 be received and each item considered when the relevant development application is being discussed.

CARRIED

T54. REPORTS OF OFFICERS – STRATEGIC PLANNING

Mayor Ferris – Cr Rico

That the order of business be altered to bring forward Statutory Planning/Development Control agenda items and that Strategic Planning matters be held over for discussion later in the meeting.

CARRIED

T55. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL

T55.1 *Receipt of Reports*

Mayor Ferris – Cr Rico

That the Reports of Officers be received.

CARRIED

T55.2 *Order of Business*

Mayor Ferris – Cr Rico

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

CARRIED

T55.3 *Duke Street No. 73 (Lot 390)*

Applicant: JK and KW Lyon

Owner: JK and KW Lyon

Application No. P80/12

By Christine Catchpole, Town Planner, on 25 June 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Planning Application for construction of a double garage with loft at the rear of the existing dwelling, at No. 73 Duke Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 508m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- improved with upper storey extensions
- assigned a 'B' Management Category in the Heritage Survey 2006

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

- Local Planning Policy No. 066 : Roofing (LPP066)
- Local Planning Policy No. 142 : Residential Development (LPP142)

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : Standard condition
- Footpath : Standard condition
- Streetscape : No impact

Documentation

Plans and relevant forms date stamped received on 17 May, 8 and 13 June 2012

Date Application Received

17 May 2012

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

- 15 November 2011 Approval for construction of a double garage with a loft at the rear of the existing dwelling. The design proposed in the current application is substantially different from the previous application, with the exception of a parapet wall on the northern boundary.
- 18 March 1991 Approval of upper storey addition with reduced setbacks to both side boundaries.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 5 to 20 June 2012. Two submissions were received during this period. Both from the rear adjoining owners at 82 and 84 King Street; both raised concerns about the proposal as they did with the previous application.

Neighbour Submission	Applicant/Owner response	Planning Comments
<p>82 King Street (West)</p> <p>Request that submission on original proposal be repeated as comments are still valid regarding current application. Concerns expressed in regard to two storey structure located so close to adjoining rear boundary when the principal dwelling is already two storeys. Concerns relate to privacy and location of a habitable room so near the boundary.</p> <p>The neighbours raise the question as to whether the accommodation should be located closer to the existing dwelling.</p> <p>Request rear facing window be removed. Failing that it is installed as a fixed / closed window with obscure glazing.</p>	<p>The new structure addresses the off street parking issue as:</p> <ul style="list-style-type: none"> - Parking is not within the duke street setback; - Currently there is no undercover parking which is required by the owner; - Vehicles will exit the site in a forward direction which is safer; - There is sufficient reversing space without impediment; and - No real loss of occupier's amenity. <p>The west facing window is obscure glazing.</p> <p>Overlooking of neighbours at 45° from the boundary is greater than the minimum 4.5m.</p> <p>The new structure is not a living / entertainment area and even</p>	<p>The application complies with the r-codes with the exception of the northern boundary wall (nil setback).</p> <p>Support the owner's comments regarding car parking, however, the adjoining owners comments more specifically relate to overlooking and privacy issues.</p> <p>The overlooking and privacy issues in regard to the southern facing window are not considered to be as great an issue as the window is setback 5.6m from the boundary and the setback under cl. 6.8.1 of the r-codes is 4.0m. However, the adjoining owners' perception is that their privacy is impacted and in this regard a screening device along the edge of the window is considered necessary to negate the perception of overlooking.</p>

Neighbour Submission	Applicant/Owner response	Planning Comments
	<p>though the room complies with the setbacks of the residential design codes, the accommodation is not ancillary accommodation, such as a lounge.</p> <p>Noise from vehicles is within the garage; similarly sleeping in the bedroom is a quiet activity.</p>	<p>The rear facing bedroom window is of concern and it is considered that the window should be made inoperable and installed with obscure glazing or constructed with glass blocks thus ensuring the privacy of the owners to the rear.</p> <p>The matter of the location of a garage/bedroom in this position is not considered to pose an issue as the planning approval is not allowing ancillary accommodation (as defined under the r-codes). A condition of planning approval will be imposed in order to prevent the use of the building for such a purpose.</p> <p>Conditions of planning approval will also be applied in regard to air conditioning noise and with regard to vehicle noise, the site, as with all residential properties will be subject to the <i>environmental protection (noise) regulations 1997</i>.</p>
<p>84 King Street (West)</p> <p>Considers building design has improved, however, comments in regard to previous application are still valid.</p> <p>The proposal impacts privacy and open space due to the:</p> <ul style="list-style-type: none"> - Southern window 'cone of vision' overlooking the outdoor area – an external screen would be satisfactory; - Location and height of the building would result in a sense of loss of open space; - Outlook onto the building has improved from the previous proposal; however, the west facing window is completely unacceptable as it looks directly into both neighbours' rear gardens. The window requires an external screen which prevents viewing; and - The location of the garage will result in movement of cars in this area which is not considered appropriate and will detract from the ambience of a rear garden environment. 	<p>As per above comments.</p>	<p>As per above comments and remarks regarding 'loss of sense of open space' not supported as the building will be setback as per the r-code requirements and does not exceed the height limits under LPP 142. Neither does it overshadow the adjoining property.</p>

Town Planning Advisory Panel Comments

Due to the nature of the proposal referral to the Advisory Panel was not considered warranted.

Site Inspection

By Town Planner on 14 June 2012.

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status			
Open Space	50%	50.6%	A			
Site Works	Less than 500mm	Less than 500 mm	A			
Local Planning Policies:						
Policy 142	Non-compliance with boundary setback		D			
Roof	Grey colorbond		A			
Solar Access & Shade	No benefits due to site orientation and driveway access points		A			
Drainage	To be conditioned		A			
Views	Unlikely impact on view corridors		A			
Crossover	No impact		A			
Trees	Plans indicate retention of tree		A			
Other:						
Overshadowing	Negligible impact on adjoining lot – 3%		A			
Privacy/Overlooking	Impact on adjoining neighbours to rear – objections/concerns submitted. Applicant has submitted plans showing obscure glazing (to be conditioned)		A			
Height:						
	Required	Proposed				
Wall north	5.6	5.23	A			
Wall south	5.6	5.16	A			
Wall west	5.6	5.12	A			
Wall east	5.6	N/A	A			
Ridge north	8.1	6.00	A			
Ridge south	8.1	5.93	A			
Ridge west	8.1	5.89	A			
Ridge east	8.1	N/A	A			
Roof type	Gable – predominantly 37° (small section facing existing residence 7° to accommodate staircase landing)		D			
Wall Orientation	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)	4.0*	6.25	yes	Behind existing dwelling		A
Rear (west)	4.6*	6.25	yes	2.3	2.5	A
Wall Orientation	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Side (north)	4.7*	8.2	No	2.3	nil	D
Side (south)	5.6*	8.2	yes	2.8	6.0	A

Note: *wall height for purposes of calculating boundary setbacks.

ASSESSMENT

The application proposes a double garage (~50m²) accessed from the existing driveway and a large paved area to the rear of the property to allow for the storage of a caravan and a manoeuvring area for vehicles.

The loft area indicates a bedroom with a small corner section to house and ensuite (~50m²). Windows are indicated on all elevations with the exception of the boundary wall. An internal staircase will provide access to the loft and the door to the stairway will face the existing dwelling. An additional door in the garage provides access to the rear of the property.

A number of minor variations from Council Policy and the R-Codes are outlined below.

Setbacks

The proposed development incorporates a parapet wall to the side (northern) boundary. LPP 142 provides criteria (b), (c) and (d) in this case by which to assess proposed variations to setback requirements. These are discussed below:

- | | |
|---|--|
| (b) <i>Walls are Behind the Main Dwelling</i> | The parapet wall is behind the main dwelling and is setback from the street over 30 metres. The wall will abut outbuildings on the adjoining lot and the adjoining owner has not forwarded any comment in regard to the proposal. The wall cannot be viewed from the street. |
| (c) <i>Subject to the Overshadow Provisions Of The Residential Design Codes – Element 9</i> | The application complies as overshadowing will not extend beyond the boundaries of the subject site. |
| (d) <i>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.</i> | The parapet wall is not considered to be detrimental to the amenity of the locality or the adjoining neighbour. The wall will form part of a new 1.8 metre high limestone wall along this boundary. The provision of parking will also allow cars to be parked off street while still retaining a reasonable amount of open space on the property. |

Privacy and Overlooking

Despite compliance with the R-Codes (Clause 6.8.1 – Visual Privacy) the perception of a loss of privacy and overlooking of the private open space areas of the properties to the rear must be taken into account.

In this regard it is considered necessary to impose a condition of planning approval to ensure that the rear facing bedroom window is either inoperable or glazed with obscure glass or installed with glass blocks. Likewise a screening device on the western frame of the southern facing bedroom window will also prevent any overlooking into the rear corners of the lots to the rear of the site.

Noise and Disturbance

The comments of the adjoining neighbours are noted in regard to the potential for noise disturbances closer to the rear boundary than the existing residence. Conditions of planning approval are also considered necessary to ensure that the garage/loft cannot be used for ancillary accommodation as defined under the R-Codes. Further, any air conditioners installed will be required to meet all noise regulation requirements. In regard to any other noise issues from vehicles or other sources, the site, as with all residential properties is subject to the *Environmental Protection (Noise) Regulations 1997*.

Roof Pitch

LPP 066 provides, amongst other things, that dominant roof elements are to have a minimum pitch of 28°; in this case the additions meet the requirements for the most part having a roof pitch of 37°. There is a very small section of the roof with a pitch of 7° which is supported as it is over the stairwell and does not have an impact on the overall roof profile.

Heritage

The existing dwelling is a limestone and iron late Victorian/early Federation bungalow with upper storey extensions and is assigned the 'B' Management Category in the Heritage Survey 2006. The dwelling is in very sound condition and appears to have been renovated with upper storey additions.

The proposed garage and loft is to be constructed well to the rear of the main dwelling and does not exceed the height requirements of LPP No. 142. The structure will not be visible from the street.

The garage is designed to complement the existing dwelling in that compatible building materials are indicated and the roof pitch has been designed to match the upper storey additions including a gable on the elevation facing the house.

CONCLUSION

The proposed garage and loft is situated to the rear of the lot and has no impact on the heritage dwelling or the streetscape. The parapet wall on the boundary can be supported as it will not result in overshadowing or reduced amenity for the adjoining lot.

The applicant is proposing to improve the fencing along this boundary by installing a 1.8 metre high limestone wall and a condition of the approval will require the applicant to construct the parapet wall to an acceptable standard at the applicant's expense.

It is recommended that the application be approved subject to conditions to address the neighbours' concerns relating to noise, privacy and overlooking intrusions.

RECOMMENDATION

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

- (a) to vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback to the parapet wall of the double garage and loft to the northern boundary;
- (b) to vary the requirements of Local Planning Policy 066 – Roofing to permit a pitch of 7° for a section of the garage/loft roof;
- (c) the south facing bedroom window to be installed with a screening device along the western edge of the window frame to prevent overlooking into the rear adjoining lots. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers; and
- (d) the window indicated on the western elevation and the ensuite window indicated on the southern elevation of the plans to be inoperable and glazed with obscure glass or installed with glass blocks to prevent overlooking of the properties to the rear. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers;

for the construction of a double garage with loft at the rear of No. 73 (Lot 390) Duke Street, East Fremantle, in accordance with the plans date stamped received on 17 May, 8 and 13 June 2012, subject to the following conditions:

1. A detailed schedule of external materials and finishes, including paint colours and garage door profile, to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer.
2. 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.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. 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 loft/garage 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.
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. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 9. 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.
 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. If requested by Council within the first two years following installation, any zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 12. This planning approval to remain valid for a period of 24 months from date of this approval.
 13. The garage/loft shall not be used for ancillary accommodation and shall not be leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.
 14. Prior to the installation of any externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer.

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 property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air-Conditioner Noise”.*

Correspondence referred from MB Ref. T52.2 was tabled.

Mr Jim Lyon addressed the meeting reiterating the content of his email relating to (c) & (d) of the officer's recommendation.

RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Collinson

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

- (a) to vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback to the parapet wall of the double garage and loft to the northern boundary;
- (b) to vary the requirements of Local Planning Policy 066 – Roofing to permit a pitch of 7° for a section of the garage/loft roof;
- (c) the south facing bedroom window to be installed with a screening device along the western edge of the window frame to prevent overlooking into the rear adjoining lots. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers; and
- (d) the window indicated on the western elevation and the ensuite window indicated on the southern elevation of the plans to be inoperable below 1.6m above floor level and glazed with obscure glass or screening device to prevent overlooking of the properties to the rear. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers;

for the construction of a double garage with loft at the rear of No. 73 (Lot 390) Duke Street, East Fremantle, in accordance with the plans date stamped received on 17 May, 8 and 13 June 2012, subject to the following conditions:

1. A detailed schedule of external materials and finishes, including paint colours and garage door profile, to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer.
2. 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.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. 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 loft/garage 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.
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. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 9. 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.
 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. If requested by Council within the first two years following installation, any zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 12. This planning approval to remain valid for a period of 24 months from date of this approval.
 13. The garage/loft shall not be used for ancillary accommodation and shall not be leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.
 14. Prior to the installation of any externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer.

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 property.***
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).***
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.***
- (f) matters relating to dividing fences are subject to the Dividing Fences Act 1961.***
- (g) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of***

Environmental Protection document–“An Installers Guide to Air-Conditioner Noise”.
CARRIED

Cr Martin entered the meeting at 6.40pm.

T55.4 Sewell Street No. 63 (Lot 248)
Applicant: Peter Hobbs Architect
Owner: RA Job & KL Job
Application No. P89/12

By Christine Catchpole, Town Planner, on 25 June 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Planning Application for construction of additions and alterations to the rear of a single heritage dwelling at 63 Sewell Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 508m² freehold lot.
- zoned Residential R20.
- located in the Plympton Precinct.
- currently occupied by a single heritage dwelling.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 142 : Residential Development (LPP142)

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 stamped received on 29 May 2012.
Heritage Impact Statement (Annabel Wills Architecture P/L) date stamped received on 31 May 2012

Date Application Received

29 May 2012

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

Nil.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 5 to 20 June 2012. No submissions were received during this period.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 26 June 2012. The Panel endorsed the application and made the following comments in support:

- *the Panel appreciates the distinction between the existing heritage architecture and*

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- the proposed additions; and*
- *the Panel appreciates reinstatement of the original roof material to the front facade of the heritage house.*

Site Inspection

By Town Planner on 14 June 2012

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	50%	58.6%	A				
Site Works	Less than 500mm	Less than 500 mm	A				
Local Planning Policies:							
Policy 142							
Roof	Skillion for extension and replace tile cladding with zincalume		A				
Solar Access & Shade	Major openings to living and dining facing north		A				
Drainage	To be conditioned		A				
Views	Unlikely impact on view corridors		A				
Crossover	No change		A				
Trees	Existing trees to be retained		A				
Other:							
Overshadowing	25% - mostly to rear of existing residence and remainder on driveway		A				
Privacy/Overlooking	Pool in adjoining rear garden - north- screened by 1.8m fence No major openings proposed for upper storey on northern elevation No major openings on upper level - southern elevation Kitchen window to south only 1 metre from FFL		A				
Height:							
	Required	Proposed					
Wall north	5.6	3.81	A				
Wall south	5.6	4.03	A				
Wall west	5.6	N/A - skillion	A				
Wall east	5.6	3.4	A				
Ridge north	8.1	5.71	A				
Ridge south	8.1	5.43	A				
Ridge west	8.1	6.52	A				
Height:							
	Required	Proposed					
Ridge east	8.1	5.3	A				
Roof type	Skillion 7°		A				
Privacy/Overlooking:							
cone of vision drawings							
Clause 6.8.1 FFL 0.5m above NGL major opening to active habitable spaces	Required	Proposed					
	4.5m from bedroom northern boundary	5.25	A				
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
	Ground	Existing house - no change				6.0	A
Rear (west)							
	Ground	2.7*	7.2	yes	1.5	15.2	A
	Upper	6.2*	7.2	yes	3.0	15.2	A

Side (north)							
Ground		2.5*	11.4	yes	1.5	3.4 – 4.6	A
Upper		4.6*	11.4	no	1.5	3.4 – 4.6	A
Side (south)							
Ground		2.4*	11.4	yes	1.5	1.5	A
Upper		4.6*	11.4	no	1.5	1.5	A

Note: * wall height for purposes of calculating boundary setbacks.

ASSESSMENT

The applicant is proposing an extension to an existing residence of approximately 152 square metres. A rear patio will be removed to allow for direct connection between the existing house and the extension.

The extension will comprise a skillion roofed building with the living, dining and kitchen on ground floor and a master bedroom and ensuite on the upper floor. Major openings are only positioned on the ground floor or facing to the rear of the property. A large portion of the extension is a void to the upper level.

The existing faux tile roof (originally galvanised iron) will be re clad with zincalume and the southern elevation of the building will also be clad in zincalume. A new laundry door is proposed for this elevation as well as a series of new windows for the existing bathroom.

The northern elevation will be constructed in cedar cladding with a natural finish. It is also proposed to remove an existing window on the north side of the original residence and replace this with a sliding door opening to a paved area.

A paved alfresco area is indicated along the northern side of the lot between the extension and fence line. Windows and doors will be anodised aluminium. The finish of the existing residence will remain painted white.

Building Setbacks

The proposed development is consistent with the objectives of the Residential Zone. No variations are being sought in regard to the R-Codes or to the Town's LPP 142 - Residential Development.

Roof Form

A skillion roof of 7° pitch is proposed; a portion of which may be visible from the street between dwellings and along the driveway of the subject property.

Open Space

Under the R-Codes 50% of the site is to be maintained as open space. The additional floor area of approximately 152m² reduces open space on the site to 58.6% and as such the application still complies with the R-Code requirement.

Privacy / Overlooking

The impact of this extension is negligible in regard to overlooking of adjoining sites as the boundary fences will provide screening between the properties and the major openings at the upper level face the rear boundary where there is a 15 metre setback to the building. The floor level of the extension will be at almost 500mm lower than the existing residence.

The adjoining property to the north has been extended and a parapet wall has been constructed on the boundary which will prevent overlooking of the rear garden and pool area. All proposed major openings along the northern elevation will mostly face high boundary walls. All other upper storey openings are to the void with the exception of a very small bedroom window of 0.5m² in area.

The southern elevation indicates a kitchen window positioned 0.5 metres above natural ground level and this opening will not pose an overlooking issue. All other openings on this side are to the void.

Furthermore, no objections to the proposal were received from adjacent owners.

Building Height

The development does not exceed the maximum permitted building heights as permitted under the R-Codes and Council LPP 142.

Overshadowing

The additions to the dwelling will overshadow the property to the south; however a significant portion of the overshadowing will be across the driveway and over a very large tree and outbuilding. The percentage of the site shaded does not exceed that permitted under the R-Code requirements.

Heritage

The existing dwelling is a heritage property assigned the B^A Management Category in the Town's Heritage Survey 2006.

In summary, the Inventory states that the place has considerable heritage significance at a local level and that it is generally considered worthy of a high level of protection, to be retained and appropriately conserved. Strong encouragement should be provided to owners under the Scheme to conserve the significance of the place.

63 Sewell Street is a Federation Queen Anne style single storey limestone rendered and timber cottage with a tin (faux tile) roof constructed circa 1905. The residence is considered to have aesthetic value in itself and as part of the streetscape. The use of rooms in the original house is proposed to change; however, this will be done with minimal changes to the original fabric of the house.

The applicant has submitted a Heritage Impact Statement and in conclusion the following comments were made by the Heritage Consultant:

- *The place has some cultural heritage significance;*
- *The proposed addition complies with the Burra Charter principles and is in fact and excellent example of how new development can sit in harmony with a culturally significant heritage building;*
- *The Sewell Street streetscape contains many examples of a typical house from the Federation periods. 63 Sewell Street contributes significantly to the streetscape;*
- *The proposed additions will have a negligible impact on the streetscape;*
- *Similar new development is evident in the streetscape;*
- *The historical research undertaken for this report should be provided to the Town of East Fremantle and the Local History Collection at the City of Fremantle Library.*

The Heritage Consultant believes *"the impact of the bulk of the proposed addition is minimal. The addition is set to the rear of the building and is barely visible from the street. The full extent of the early house will remain and the overall form will be clearly understood.*

The addition has been designed to be clearly identified as a contemporary building and does not mimic the Federation style of architecture."

It is stated the owners intend to retain the house and the brick outhouse. In regard to the streetscape the Consultant has stated that some houses in the street have rear one and two storey additions. Due to the small front setbacks and large rear gardens the additions will have a limited effect on the streetscape.

The Heritage Consultant's comments in regard to this site are supported.

CONCLUSION

The proposed development complies with the R-Codes and Council's Planning Policies.

The applicant has achieved a minimal impact on the streetscape by setting the addition behind the original residence. The addition is very clearly distinguishable in regard to architectural design and construction materials. The original heritage building is also being retained and improved in keeping with its heritage status.

The Advisory Panel has indicated that it supports the application and no objections have been received from neighbours. It is therefore recommended that the plans be approved subject to the following conditions.

RECOMMENDATION

That Council exercise its discretion in granting approval for two storey additions and alterations to the rear of an existing residence at No. 63 (Lot 248) Sewell Street, East Fremantle, in accordance with the plans date stamped received on 29 May 2012 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. 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.
3. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (f) below*)
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. This planning approval to remain valid for a period of 24 months from date of this approval.
9. A detailed schedule of external materials and finishes, including paint colours and roof details to be submitted for all work the subject of this planning approval, including alterations and improvements to the original residence to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

10. If requested by Council within the first two years following installation, the zincalume roofing and wall sheeting on the southern elevation and original residence to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.

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

Ryan & Kerry Job (owners) addressed the meeting in support of the officer's recommendation.

RECOMMENDATION TO COUNCIL

Cr Martin – Mayor Ferris

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- 4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.**
- 5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 6. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-**

conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (f) below)

7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
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Footnote:

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

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CARRIED

T55.5

Sewell Street No. 66 (Lot 646)

Applicant: Justin Cornish

Owner: Justin Cornish

Application No. P48/12

By Christine Catchpole, Town Planner, on 26 June 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Planning Application for construction of a new two storey single dwelling (with car bay in the front setback) and removal of a street tree at No 66 Sewell Street East Fremantle.

BACKGROUND**Description of Site**

The subject site is:

- a 253m² freehold lot
- zoned Residential R20
- located in the Plympton Precinct
- vacant land

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 142: Residential Development (LPP142)
Local Planning Policy No. 123: Footpaths and Crossovers (LPP 123)
Local Planning Policy No. 066: Roofing (LPP 066)

Impact on Public Domain

Tree in verge : Street tree to be removed – Operations Manager supports
Light pole : No impact
Crossover : To be created and condition to be imposed
Footpath : New crossover
Streetscape : 6 metre lot frontage – narrow lot

Documentation

Amended plans and relevant forms date stamped received on 25 May 2012.
R-Code - *Adjoining Property Owner Comment Form* date stamped received on 11 June 2012

Date Application Received

27 March 2012

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

15 May 2012 Council deferred determination of an application for a single dwelling subject to:

- further information and/or revised plans addressing the impact of the proposed dwelling on the streetscape and character of the locality;
- further information and/or revised plans responding to the concerns raised by the TPAP; and
- revised plans addressing compliance with the BCA fire rating standards along the side deck.

24 April 2012 The application was assessed by the TPAP and the following comments were made:

- the Panel does not support the application in its current form;
- the Panel recommends staggering development so that the house presents as a single storey to the street front (Review Design Guidelines for Plympton);
- highly intact streetscape that should be reflected in the scale of the design;
- query overshadowing impact;
- proposal appears over height; and
- ensure clearance of limestone wall to No. 68 is conserved.

17 October 2006 Conditional approval for construction of a two storey dwelling.

28 August 2005 Demolition Licence issued.

25 March 2004 Council advises the landowner that the existing dwelling requires structural works to be completed before the dwelling can be occupied.

Local Planning Policies:		Issues		
Policy 142	Discretion with regard to building height & setbacks			D
Roof	Colorbond – dark grey			A
Solar Access & Shade	Solar panels / extendable awning at rear / rainwater tanks under podium – further information required.			A
Drainage	To be conditioned			A
Views	Unlikely impact on view corridor			A
Crossover	Impact – street tree to be removed - conditioned			D
Trees	Street tree to be removed – Operations Mang. has inspected the site and has not expressed any concerns			A
Other:				
Overshadowing	Exceeds R-Code requirements – 38%. Overshadows building only of 68 Sewell – a portion of this is over Laserlite sheeting of patio – no overshadowing to front or rear open space areas.			D
Car parking	2 bays per dwelling – 1 provided in front setback			D
Height:	Required	Proposed		
Wall north – front -1	5.6	3.76		A
Wall north – front -2	5.6	6.36		D
Wall north – rear	5.6	5.17		A
Wall south - front – 1	5.6	2.73		A
Wall south - front – 2	5.6	5.93		D
Wall south – rear	5.6	5.4		A
Wall west – front – 1	5.6	3.66		A
Wall west - front – 2	5.6	4.76		A
Wall west - rear	5.6	6.46		D
Wall east	5.6	5.33		A
Ridge north – front 1	8.1	4.66		A
Ridge north – front 2	8.1	7.5		A
Ridge north – rear	8.1	6.87		A
Ridge south – front – 1	8.1	4.23		A
Ridge south – front – 2	8.1	7.13		A
Ridge south – rear	8.1	7.1		A
Ridge west - front – 1	8.1	6.46		A
Ridge west – front – 2	8.1	7.41		A
Ridge west - rear	8.1	8.21		D
Ridge east	8.1	6.98		A
Roof type	Gable – pitch 26° front section/30° rear section			D
Privacy/Overlooking:				
Clause 6.8.1 FFL 0.5m above NGL major opening to active habitable spaces	Required	Proposed		
	4.5m bedrooms (upper)	1.0 (raised ≥ 0.5m)		D
	6.0m other habitable rooms	1.0 (not raised ≥ 0.5m)		D
7.5m unenclosed active habitable spaces	Lower verandah (front)	Raised ≥ 0.5m Nil – screened by adjoining parapet wall on southern boundary. Wall on northern		D

	Balcony (front)	boundary Nil - screened with fixed timber louvres (north) and open to south overlooks parapet wall and roof space (south)					D
	Deck (rear – not raised)	Excavation – lower level than adj lots					A
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
Ground	Verandah	N/A			6.0	4.025	D
Ground	Building	Average 5.95m in vertical plane			6.0	6.4	A
Upper	Balcony				6.0	6.2	A
Upper	Building				6.0	7.4	A
Rear (east)							
Ground		2.9*	5.8*	yes	1.5	11.059	A
Upper		5.7*	5.8*	yes	2.8	7.6	A
Decking	Lower level	N/A	5.8*	yes	1.5	7.8	A
Side (north)							
Ground	Front section	3.7*	11.7*	no	1.5	nil	D
	Central section full length	3.4*	25.7*	no	1.5	1.0	D
	Rear section	3.0*	9.4*	no	1.5	nil	D
Upper	Front section	6.2*	11.7*	no	1.6	nil	D
	Central section full length	5.8*	25.7*	no	2.8	1.0	D
	Rear section	5.7*	8.2*	no	1.2	nil	D
Side (south)							
Ground	Front section	2.9*	7.7*	yes	1.5	1.265	D
	Central section full length	2.7*	23.4*	yes	1.5	2.06	A
	Rear section	2.9*	9.4*	no	1.5	nil	D
Upper	Front section	6.0*	6.4*	no	1.2	1.265	A
	Central section full length	5.8*	22.2*	no	2.4	2.06	D
	Rear section	5.6*	9.35*	no	1.5	nil	D

Note: * Wall height and length for purpose of calculating boundary setback.

ASSESSMENT

The application proposes the construction of a two storey dwelling with parapet walls on the northern and southern boundaries and a 1.0 metre wide accessway along the southern portion of the site to the central entry point to the residence.

The lower floor comprises the living, kitchen, dining, office and laundry with a small courtyard and the upper floor accommodates the three bedrooms, ensuite, bathroom and activity room.

The building setbacks in regard to the number of storeys and sections of the dwelling are 'staggered'. The front of the building presenting as a small cottage with gable roof verandah (not dissimilar to the original dwelling on the site) stepping back to the front section of the second storey which has a balcony 'tucked' in behind the verandah roof. The rear second storey section is then setback a further 7 metres and is slightly higher in regard to roof height so the building appears as a separate section from the front half of the dwelling.

The house is to be constructed on a podium comprising a metal framework and this podium will be raised approximately 1.0 metre above natural ground level at the front setback to just above the ground surface to the rear of the site.

Rainwater tanks will be accommodated under the podium framework at the front of the site and a solar hot water system and six solar panels are proposed for the northern roof plane of the building. It is noted insufficient detail has been provided in regard to this aspect of the proposal.

A decked area is proposed at the rear accessed from the living and kitchen areas and a retractable awning is indicated to provide shade.

An upper storey balcony and raised front verandah are proposed within the front setback area. It is also proposed to locate a car bay in this setback area.

The site has a number of development constraints being only 6.0 metres wide and 253m² in area with an unimproved site to the north and substantial parapet boundary walls to the south.

A single dwelling is constructed on the adjoining lot to the south with the accessway and parking for this site being on the southern side. This house also has a front verandah. The dwelling to the north is a very dilapidated fibro and weatherboard house with major openings facing south. A very narrow unconstructed driveway/rear access exists between this dwelling and the site's northern boundary.

The application proposes numerous variations to the R-Codes and Local Planning Policies in regard to Roofing (LPP 066) and Residential Development (LPP 142).

These variations are supported, subject to conditions of planning approval, and are discussed below.

Building Setbacks

Front Setback

Taking into account the difficult site circumstances the reduced front setback can be supported. A 4.0 metre setback is not out of character with the streetscape and the Precinct in general. It is not considered to have a detrimental impact on residential amenity and is in fact similar to the setback of the adjoining sites. The 'staggering' of the dwelling in regard to the setbacks of the various building sections as outlined above has in effect resulted in an average setback of almost 6 metres and the building appearing as single storey from the street. The setback to the building line is over 6.0 metres, thus satisfying the R-Code requirement.

However, as it is intended to utilise this area as a car parking space it is considered important the applicant address the treatment of this space having due regard to neighbouring properties and the appearance of the area when it is not occupied by a vehicle. In this regard a condition of planning approval should be imposed which will require the applicant to submit details of the paving and treatments to be applied prior to the issue of a Building Licence.

Side Setbacks

The development proposes two storey parapet walls along both side boundaries in two sections of approximately 9.5 metres in length and approximately 6.0 metres in height on the northern boundary and one two

storey parapet wall on the southern boundary of the same dimensions. Another large section of wall also faces the southern boundary; however, this section is setback 1.0 metre to provide access to the central part of the house and this wall abuts a large parapet wall at No. 68 Sewell Street. The central portion of the building is setback between 1.0 and 2.0 metres.

Part 3 of LPP 142 provides standards for assessing proposed boundary setback variations; however, the proposal is only consistent with criteria (d) in that the development is not considered to detrimentally impact on the amenity of the adjoining properties. The property to the north has not yet undergone renovation or redevelopment since initial construction and is in a deteriorated state. If the proposed dwelling is constructed redevelopment of this site will need to take into account these large parapet walls and therefore a condition of planning approval is considered necessary to ensure the finish of these parapet walls is to an extremely high standard and acceptable from the adjoining owners' viewpoint.

The required side boundary setbacks under the R-Codes range between 1.5 to 2.8 metres. The proposed side setbacks ranging between nil and approximately 2.0 metres to both the northern and southern boundaries are supported as the site constraints do not allow for a serviceable dwelling to be constructed without such reductions to side boundary setbacks. Even with nil setbacks the house at its widest point is only 6.0 metres.

The abutting parapet wall at No. 68 Sewell Street is visible from the living room and walkway and as a result the applicant is proposing to renovate and repair the wall. The Town Planning Advisory Panel has suggested the applicant seek the advice of a heritage consultant in regard to restoration work and this advice from the TPAP will be forwarded to the applicant in due course.

Visual Privacy

The privacy and overlooking issues relate to the living room, front verandah, the balcony and the upper level bedrooms to the rear which are all 0.5 metres above natural ground level. Clause 6.8.1 of the R-Codes requires that these areas be setback between 4.5 and 7.5 metres and in this regard the proposal does not comply. These elements have either a nil or 900mm setback.

These intrusions in regard to visual privacy on adjoining sites can be supported. In the case of the balcony and verandah on the northern side, where the major openings of No. 64 Sewell Street are positioned the applicant has indicated fixed louvre screening for the balcony and a weatherboard wall screen to the northern aspect of the verandah. On the southern boundary the parapet wall of the adjoining house will provide screening for the balcony, verandah and the living room windows.

In the case of the upper storey bedroom windows the site constraints dictate the position of the windows. The house is setback approximately 11 metres from the rear boundary and overlooking from bedroom windows is considered to be minimal as the rear gardens of the adjoining sites are well screened with mature garden trees. These windows provide the only source of light to the bedrooms.

The adjoining owners have not expressed any concern in regard to the position of the windows.

Building Height

The application does not strictly comply with Council's LPP 142 in regard to heights, however, for the most part the dwelling will comply with the wall height limit and from only one perspective (ridge height at rear) does the building exceed the height limit. An average ridge height of 6.65 metres has been achieved well below the 8.1 metre limit. The application is also well below the pitched roof height of the R-Code requirement of 9 metres.

The slight increase in building height from that permitted is supported as it is not considered to unduly impact on the neighbouring properties in regard to bulk and scale and overshadowing. A roof pitch of 26° is also considered a good compromise in regard to achieving a roof line in keeping with original housing and assisting in reducing the height of the building.

No comments have been received from adjoining owners regarding impacts on outlook from adjoining properties.

Roof Form

The Local Planning Policy 066 provides that dominant roof elements are to have a minimum pitch of 28°, and the pitch proposed is 26°. This variation to the requirement is considered acceptable as the roof line at this pitch only marginally exceeds the height limit of LPP 142 and is in keeping with roof lines of many other heritage buildings in the Plympton Precinct.

Open Space

The proposal does not meet the minimum open space requirements as specified in the R-Codes; approximately 47% is provided whereas 50% is required. This is not considered to be significant in this case given the site area of 253m². The applicant has achieved an accessible verandah and balcony addressing the street and will have some shaded private open space area to the rear.

Overshadowing

The application does not comply with the R-Code requirement regarding overshadowing of the site to the south (38% overshadowed; 25% permitted); however this reduction in solar access is supported as the overshadowing does not impact any outdoor open space areas and only shades the building on the site a further 13% due to the existing parapet wall at No. 68. A small 6m² courtyard on this northern side is already in shade due to the existing parapet wall and the house.

Car parking

The R-Codes require the provision of two bays per dwelling for a single residence. In this case only one bay can be provided and this is to be located in the front setback area. Whilst this is far from ideal the restrictions of the site do not allow any other option, aside from excavation to create an undercroft, in regard to providing at least one off-street bay.

As parking cannot be accommodated on a number of residential properties in this Precinct, and off street parking is in great demand, the proposal is supported. In regard to the streetscape and adequate treatment of the setback area from a visual perspective it is considered important that the paved area be treated in a manner that is aesthetically appealing. As such it is considered necessary to impose a condition of approval that specifies that details of the paving materials, colours and other treatments be submitted for approval prior to the issue of a Building Licence.

Site Works

Due to the fall of the land across the site from south east to north west the metal podium on which the dwelling is to be constructed is raised by as much as 1.158 metres at the

building setback line and access to the verandah is provided by steps in the front setback area giving the appearance of a traditional verandah.

The natural topography of the block is not altered however, the end result is that building on the northern boundary towards the front of the site will be approximately 700mm higher than the level of the adjoining dwelling.

As the impact of overlooking and privacy has been addressed and the increase in finished floor level is only marginally more than that permitted under the R-Codes if soil was used to level the site the finished levels proposed are considered acceptable. This increase in height will also allow greater visibility of the facade and verandah from the street when a vehicle is parked in the car bay.

Street Tree / Crossover

Construction of a crossover is required to gain access to the parking bay. A street tree (small Peppermint) will require removal for this to occur. Council's Operations Manager has assessed the situation and can support removal of the tree as the remaining trees either side are adequate to maintain symmetry of planting along Sewell Street. A condition of planning approval should be imposed to ensure the new crossover is constructed to Council's satisfaction.

It should also be noted that under LPP No. 123 no street tree can be removed for a crossover unless otherwise agreed by an absolute majority of Council.

Solar Collectors / Solar Hot Water / Water Tanks

It is noted that the plans and supporting information indicate an area of the roof plane that will contain solar panels and a solar hot water system. Insufficient detail has been provided at this stage to assess this aspect of the proposal against LPP – Solar Collectors. Council will therefore require a planning application for the installation of solar panels and the solar hot water system. This has been noted as a condition of planning approval should these components of the application proceed. A condition of planning approval has also been imposed that requires the water tanks, to be located under the podium, be screened from street view.

CONCLUSION

The proposed development incorporates several variations to the R-Codes and the Town's requirements in relation to open space, building height, building setbacks, visual privacy, roof form, site works and overshadowing.

The variations are numerous due to the site constraints and limited options for development of a modern dwelling on the site with a 6.0 metre frontage and a land area of 253m². The applicant's initial proposal was not well received by the TPAP and so after further deliberations revised plans have been submitted and have been endorsed by the TPAP at its meeting of 26 June 2012. The applicant has endeavoured to address the adjoining owners concerns and has successfully responded to the design issues raised by the TPAP.

The comments raised by the adjoining landowner have been addressed in regard to revised plans and/or can be dealt with by conditions of planning approval. It is therefore recommended that the amended plans be approved subject to the following conditions.

Council must agree by an absolute majority to the removal of the street tree.

RECOMMENDATION

That Council exercise its discretion in granting approval to vary:

- (a) the front setback requirements of the Residential Design Codes of Western Australia and allow a reduced front setback of 4.025 metres to the verandah;
- (b) the side setback requirements of the Residential Design Codes of Western Australia to permit reduced side setbacks of between 1.0 and 2.06 metres for sections of the dwelling at a ground and upper storey level as indicated on plans date stamped

- received on 25 May 2012;
- (c) the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback for the southern and northern boundary walls for the upper and lower floors as indicated on plans date stamped received on 25 May 2012;
 - (d) Part 2 – Streetscape Requirements of Local Planning Policy 142 in relation to front setbacks to permit the car bay to be forward of the main building line as indicated on the plans date stamped received on 25 May 2012;
 - (e) the Residential Design Codes of Western Australia - Site Works requirement to permit the raised podium (metal building platform) of the dwelling to be raised 1.158 metres to a finished floor level of RL 11.26 at the front setback of the dwelling as indicated on plans date stamped received on 25 May 2012;
 - (f) the Residential Design Codes of Western Australia - Clause 6.5.1 - On-site Parking Provision to allow for the provision of only one car parking bay on-site;
 - (g) the Residential Design Codes of Western Australia - Table 1 to allow for less than 50% open space on-site;
 - (h) the Residential Design Codes of Western Australia Clause 6.9.1 - Solar Access for Adjoining Sites to allow for overshadowing of the adjoining site of greater than 25%;
 - (i) the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the living room, front verandah, balcony and upper floor bedrooms to intrude over the northern and southern boundaries as indicated on plans date stamped received on 25 May 2012;
 - (j) the roof pitch requirements of Local Planning Policy 066 to allow a roof pitch of 26°;
 - (k) the building height requirements of the Local Planning Policy 142 to permit a maximum wall height of RL 18.51 for the rear portion of the dwelling and RL 18.2 for the front portion of the dwelling as per the plans date stamped received on 25 May 2012;

for the construction of a new two storey single dwelling (with car bay in the front setback) and removal of a street tree at No. 66 (Lot 646) Sewell Street, East Fremantle, in accordance with the plans date stamped received on 25 May 2012 subject to the following conditions:

1. All details in relation to materials, colours, and finishes for the new dwelling and the raised metal podium are to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. A fixed screen or louvres be installed on the northern aspect of the upper floor balcony to prevent overlooking of the property to the north.
3. The details of the paving materials and colours and finishes to be used in construction of the car bay in the front setback to be to the satisfaction of the Chief Executive Officer, in consultation with the relevant officers.
4. A separate application for Planning Approval is required for the installation of solar panels and a solar hot water system on the subject site as indicated on the plans date stamped received on 25 May 2012.
5. Screening of the water tanks, to be located under the raised metal podium, to be screened to the satisfaction of the Chief Executive Officer in consultation with the relevant officers.
6. All parapet walls are to be constructed as approved by the Chief Executive Officer in consultation with relevant officers and at the applicant's expense.
7. A detailed schedule of the materials, colours and finishes of all parapet walls are to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
8. The limestone parapet wall to be restored to the satisfaction of the CE O in consultation with relevant officers (see Footnote (h)).
9. The boundary fences extending from the rear building line to the rear lot boundary not to exceed a height of 1.8 metres above natural ground level.
10. 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.

11. 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.
12. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
13. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
14. 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.
15. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by Chief Executive Officer.
16. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
17. 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.
18. 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.
19. 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) *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.*
- (b) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

- (h) *it is recommended the applicant seek heritage advice on the correct restoration technique for the limestone parapet wall on the adjoining site at No. 68 Sewell Street.*

Mr Justin Cornish (owner) addressed the meeting in support of the officer's recommendation.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

That Council exercise its discretion in granting approval to vary:

- (a) the front setback requirements of the Residential Design Codes of Western Australia and allow a reduced front setback of 4.025 metres to the verandah;**
- (b) the side setback requirements of the Residential Design Codes of Western Australia to permit reduced side setbacks of between 1.0 and 2.06 metres for sections of the dwelling at a ground and upper storey level as indicated on plans date stamped received on 25 May 2012;**
- (c) the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback for the southern and northern boundary walls for the upper and lower floors as indicated on plans date stamped received on 25 May 2012;**
- (d) Part 2 – Streetscape Requirements of Local Planning Policy 142 in relation to front setbacks to permit the car bay to be forward of the main building line as indicated on the plans date stamped received on 25 May 2012;**
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- (f) the Residential Design Codes of Western Australia - Clause 6.5.1 - On-site Parking Provision to allow for the provision of only one car parking bay on-site;**
- (g) the Residential Design Codes of Western Australia - Table 1 to allow for less than 50% open space on-site;**
- (h) the Residential Design Codes of Western Australia Clause 6.9.1 - Solar Access for Adjoining Sites to allow for overshadowing of the adjoining site of greater than 25%;**
- (i) the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the living room, front verandah, balcony and upper floor bedrooms to intrude over the northern and southern boundaries as indicated on plans date stamped received on 25 May 2012;**
- (j) the roof pitch requirements of Local Planning Policy 066 to allow a roof pitch of 26°;**
- (k) the building height requirements of the Local Planning Policy 142 to permit a maximum wall height of RL 18.51 for the rear portion of the dwelling and RL 18.2 for the front portion of the dwelling as per the plans date stamped received on 25 May 2012;**

for the construction of a new two storey single dwelling (with car bay in the front setback) and removal of a street tree at No. 66 (Lot 646) Sewell Street, East Fremantle, in accordance with the plans date stamped received on 25 May 2012 subject to the following conditions:

- 1. All details in relation to materials, colours, and finishes for the new dwelling and the raised metal podium are to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 2. A fixed screen or louvres be installed on the northern aspect of the upper floor balcony to prevent overlooking of the property to the north.**
- 3. The details of the paving materials and colours and finishes to be used in construction of the car bay in the front setback to be to the satisfaction of the Chief Executive Officer, in consultation with the relevant officers.**
- 4. A separate application for Planning Approval is required for the installation of solar panels and a solar hot water system on the subject site as indicated on the plans date stamped received on 25 May 2012.**

5. Screening of the water tanks, to be located under the raised metal podium, to be screened to the satisfaction of the Chief Executive Officer in consultation with the relevant officers.
6. All parapet walls are to be constructed as approved by the Chief Executive Officer in consultation with relevant officers and at the applicant's expense.
7. A detailed schedule of the materials, colours and finishes of all parapet walls are to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
8. The limestone parapet wall to be restored to the satisfaction of the CE O in consultation with relevant officers (see Footnote (h)).
9. The boundary fences extending from the rear building line to the rear lot boundary not to exceed a height of 1.8 metres above natural ground level.
10. 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.
11. 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.
12. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
13. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
14. 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.
15. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by Chief Executive Officer.
16. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
17. 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.
18. 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.
19. 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) *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.*
- (b) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*
- (h) *it is recommended the applicant seek heritage advice on the correct restoration technique for the limestone parapet wall on the adjoining site at No. 68 Sewell Street.*

CARRIED

ABSOLUTE MAJORITY RESOLUTION REQUIRED

Cr Rico made the following impartiality declaration in the matter of 99 King Street: "As a consequence of the owner, Mrs Monte, being known to me, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T55.6 **King Street No. 99 (Lot 344)**
Applicant: K Ostermeyer & M Berganza
Owner: N Monte
Application No. P82/2012
 By Carly Pidco, Town Planner, on 2 July 2012

PURPOSE OF THIS REPORT

This report considers an application for a change of use to establish an artisan shop and take away coffee outlet at No. 99 King Street East Fremantle. The report recommends refusal of the take away coffee outlet and conditional approval of an artisan shop at 99 King Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 508m² freehold lot
- zoned Residential 20
- located in the Plympton Precinct
- improved with a corner shop and attached dwelling
- Management Category A-^ on Heritage Survey 2006

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20

Relevant Council Policies

N/A

Impact on Public Domain

- Tree in verge : No impact
 Light pole : No impact
 Crossover : No impact
 Footpath : No impact
 Streetscape : Likely that heritage facade will be renovated and/or signage attached but no detail provided.

Documentation

Plans, relevant forms and accompanying information date stamped received on 25 May 2012

Date Application Received

25 May 2012

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

- 30 June 1982 Council advised the owner that following an inspection by the Health Surveyor certain works to the delicatessen were required.
 19 July 1982 Council refused a request to upgrade the delicatessen.
 13 December 1982 Council agreed not to terminate non-conforming use rights for the delicatessen use while the business was closed for repairs and renovations.
 21 March 1983 Council approved a change of use to a nursery/general hardware store.
 12 December 2000 Council noted that the property had been placed in the State Government Graffiti Program in an endeavour to eliminate graffiti on the shop.
 20 March 2001 Council requested a report be prepared to encourage the owner to adopt a reasonable standard of presentation for the premises.
 21 May 2009 Council resolved to advise the owner that it is prepared to initiate a Scheme amendment to permit the use of "office".

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours from 5 June 2012 to 20 June 2012. Two submissions were received during the consultation period. Note that at the same time, a separate development application for an alternative change of use (counselling) was also advertised and is referred to in the submissions, however, this application has since been withdrawn. The submitters' comments and applicant and officer responses are detailed in the table below.

Submitter	Submission	Applicant's Response	Officer Comment
B & B Duff 30 Marmion Street	Craft shop and take away coffee would be a parking hazard. Would take up parking near and in front of our home. Our children would have nowhere to park when they visit.	Ample parking (approximately 30 bays) is readily available along both sides of Marmion Street. As ours is a retail business, parking bays will only be occupied for short periods Since no other competing businesses exist nearby, we are not impacting on other demands for parking Residents in King Street will not be	Discussed in detail in the assessment section of this report. Note that this assessment does not consider car parking requirements for or impact of the take away coffee component of the business. The take away coffee is more likely to generate frequent visitors, large visitor numbers and long visits than the shop component. The shop on its own is unlikely to create a significant parking issue.

Submitter	Submission	Applicant's Response	Officer Comment
		disadvantaged as we will advise our clientele of parking on Marmion Street	
	We are not against the premises being used for a counselling business.	N/A	Application withdrawn.
K Ferguson 89 King Street	A coffee/craft shop would return some of the original function of this shop. This use would restore in part a convenience use for locals.	We look forward to reviving this little pocket of the East Fremantle community with our designs and creations.	Supported. Discussed in detail in the assessment section of this report.
	Child care would be better suited to George Street where this is less traffic.	N/A	Application withdrawn.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 26 June 2012. The Panel made the following comments:

- Panel supports the application for the use of the building as an 'Artisan Shop'.
- Panel notes the general deterioration of the exterior of the building and would encourage the owner to undertake a restoration of the corner facade of the building.
- Panel supports any viable and ongoing commercial use of the building.

The condition of the facade is discussed in detail in the assessment section of this report. In summary, it is recommended that the applicant provide further detail of proposed external works and internal fit-out demonstrating that these works will enhance and not detract from the heritage values of the building. This information is to be provided prior to the commencement of the use.

Site Inspection

By Town Planner on 2 July 2012.

ASSESSMENT

Land Use

The subject site is zoned 'Residential' under the TPS No. 3. It is also included in Schedule 2 of the Scheme as an Additional Use site for Consulting Rooms, Home Business and/or Shop (subject to special conditions). The proposed use is described as "artisan shop with take-away coffee". These two activities fall within two separate land use categories under the Scheme and are discussed separately below.

Artisan Shop ("Shop")

The "artisan shop" is the predominant use component of the proposal and involves the display and retail of local artists' work, with artists regularly working on site so that they can be 'viewed at work'. This is considered a "shop" use under the Scheme. The Zoning Table provides that "Shop" is a prohibited use in the Residential zone, however, Lot 344 is included in Schedule 2 as an Additional Use Site, with "Shop" being a listed Additional Use. An Additional Use is a specified use that may be carried out on specified site having regard for any special conditions imposed under the Scheme. In the case of a "Shop" use on Lot 344, two special conditions are imposed, summarised in the table below.

Special Condition	Assessment
Floor area of non-residential activity not to exceed 100m ²	Shop floor area is 62.7m ²

Special Condition	Assessment
<p>Buildings to be reconstructed, restored and/or preserved to the satisfaction of the local government prior to any change of use. The extent of works required, will be based on assessment of the heritage value of the building, the extent to which the proposed additional use will affect any heritage value.</p>	<p>The existing building is rated A-^A in the Town’s Heritage Survey 2006. The building rates highly in most categories, but is afforded a low rating for condition.</p> <p>The existing building is a former shop and residence. Corner shops have become increasingly rare as consumer preference trend toward supermarkets and shopping centres. The return of this particular building to “artisan shop” is an interesting and invigorating interpretation of its original intent. While the use will not operate in exactly the same way as a typical early twentieth century corner shop (serve day-to-day needs, be lived in and operated by a single family), it will have much the same impact on the streetscape, that is, it will present an open facade and invite the local community to visit. The proposed artisan shop is accordingly considered consistent with the heritage value of the dwelling.</p> <p>At a site visit, the Town’s planning officer observed that the exterior the building appears to be sound and the original decorative elements are in fair condition. However, the paint work is generally in poor condition. Some timber elements, in particular the front door frame, appear to be rotting and may require repair or replacement. Photographs from the site inspection are attached to this report. The condition of the building interior is unknown.</p> <p>The application does not include any detail of works to the building facade or indicate whether the internal fit out will require major renovations. The nature of the use is considered to have minimal impact on the integrity of the building and it is unlikely that the fit out will compromise heritage values. However, it is necessary for the applicant to confirm this prior to the commencement of any development. To satisfy this aspect of the special condition, it is recommended that the applicant be required to provide further detail of proposed external works and fit out to confirm that these will contribute to and not undermine the building’s heritage values.</p>

Although further detail in relation to external works and internal fit out is required, the proposed use is considered to comply with the first special condition and able to comply with the second special condition.

Take Away Coffee (“Restaurant”)

In the applicant’s response to public consultation comments, they elaborate on the take-away coffee component of the business by advising that coffee and bread will be available as part of the experience of watching the artists at work. A use involving the sale and consumption of food and drink on site is generally considered to fall within the “restaurant” land use category of the Scheme:

“restaurant” means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Licensing Act 1988

There are two difficulties with this use class, however; firstly, the sale of takeaway coffee is not the *predominant* use of the site, and secondly, the submitted plans do not show any seating for patrons. In relation to seating, it is possible that the sale of what has been described as *take away* coffee would render this component of the business a “fast food outlet”. However, it is clear from the applicant’s submission that there is an intent for food

and drink to be consumed on-site, and the absence of seating can be construed as a deliberate move to shape customers’ experience of the site, or simply an oversight in the submitted plans. The absence of seating is not considered to remove the use from the “restaurant” land use category.

In relation to whether the service of coffee and bread is the *predominant* use, it is possible to argue that this business activity is more accurately described as an incidental use, defined as “a use of premises which is ancillary and subordinate to the predominant use”. However, clause 4.3.3 of the Scheme provides that a change of use to an incidental use is only considered “permitted” where it is consistent with the Zoning Table. An incidental use does not benefit from the same exceptions to the Zoning Table permitted for an Additional Use under clause 4.5, and the designation of ‘take away coffee’ as an incidental use does not alter it being prohibited under the Scheme.

It is also worth noting that the submitted plans do not demonstrate compliance with requirements for toilet facilities (including accessible toilets) for a premises where food and beverages are consumed on-site.

It is considered that the Scheme simply does not permit for the sale and/or consumption of food and drink under the present zoning, and Council is bound to refuse this component of the application. This is somewhat unfortunate, as there is potential for the use to have a positive impact on both the proposed artisan shop and surrounding area with minimal disruption to residents. The only way that approval of the use could be achieved, however, is if the provisions of the Scheme were to be changed, either through an amendment to the Zoning Table or the Schedule 2. Such changes are noted for the Town’s Scheme review (presently underway), however, with consideration to the current Scheme provisions it is recommended that the ‘take away coffee’ component of the proposed use be refused.

Car Parking

As the “restaurant” use is prohibited under the Scheme, the car parking calculation has been based only the use of the site as a “shop”.

Parking Standard	Required
1 space for every 20m ² net lettable area	62.7m ² NLA = 4 bays
Minimum 4 bays	4 bays
	<i>Total Required: 4 bays</i>

The applicant has stated that although there is no on-site car parking available, there is ample parking on Marmion Street to serve the business. Clause 5.5.3 of the Scheme provides that the Town can accept “immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality”. The proposed shop serves a niche market and does not cater to ‘every day’ needs. Visitation is likely to be in low volumes and it is unlikely that a significant number of vehicles will attend the site at any one point in time. The Marmion Street parking experiences relatively low usage, with peak times being school pick-up and drop-off. Outside of these hours parking is usually available. Demand for parking on King Street tends to peak in the evening, when residents return home from work. As the shop will not be open later than normal business hours, it is unlikely that customers will impact on the parking available for residents.

It is also worth noting that Marmion Street is serviced by a regular bus connecting Fremantle and Bull Creek with a stop located approximately 50m from the subject site. The property is also within the 5 minute walkable catchment of the George Street

precinct and 10 minute walkable catchment of the Town Centre. There is considerable opportunity for customers and employees to use non-vehicle transport to attend the site, which may decrease the need for car parking.

It is considered that the artisan shop business will have negligible impact on demand for parking in the locality. While an increased intensity of the use (increased number of employees, increased floor space) or commencement of an incidental use that increases visitation may impact on the car parking required, the proposal in its current use is considered low impact and the nearby on-street parking available ample to service the business.

Heritage

The impact of the proposed change of use on the heritage values of the building is discussed in the Land Use section of the assessment above. In summary:

- The proposed artisan shop is a unique interpretation of the building's original use as a corner shop.
- The proposed use will reinvigorate the heritage building and improve interaction between the building and the streetscape.
- The use has minimal impact on the building itself, with no major additions or alterations proposed.
- Further detail of external restoration work and internal fit-out should be sought prior to commencement of the use to confirm that these minor works are consistent with the heritage values of the building.

Signage

The applicant has not included any details of proposed signage associated with the business. The Town has requested details of signage but these have not been provided to date. Any signage associated with the business will be subject to further application.

CONCLUSION

The proposed artisan shop will reinvigorate a heritage building and provide a unique service to the local community. The car parking demand associated with the shop use is minimal and nearby street parking, coupled with the proximity of the site to public transport, other commercial precincts and dwellings, is considered ample to cater to this demand. The special conditions imposed on a 'Shop' use by the Scheme can be complied with if the applicant provides further detail of works affecting the heritage value of the building. It is recommended that the artisan shop be approved upon receipt of this information and subject to appropriate conditions.

The proposed take away coffee component of the business is not consistent with the permitted land uses for the residential zone. Accordingly, it is recommended that this component of the proposed use be refused.

RECOMMENDATION

- A. That the applicant be advised that following the submission of a detailed schedule of external finishings (including paint colours) and internal materials and finishings (including removal or retention of any existing heritage features) to the satisfaction of the CEO; that Council exercise its discretion in granting approval for the change of use to "artisan shop" at No. 99 (Lot 344 on Plan 1515) King Street, East Fremantle, as described on the plans date stamped received 25 May 2012 subject to the following conditions:
1. The works are to be constructed in conformity with the drawings and written information in relation to "artisan shop" 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. 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.
 3. The proposed use is not to be commenced until all conditions attached to this

- planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. 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.
 5. This planning approval to remain valid for a period of 24 months from date of this approval.
- B. That Council refuse the application for change of use to “take away coffee” at No. 99 (Lot 344 on Plan 1515) King Street, East Fremantle, as described on the plans date stamped received 25 May 2012 for the following reason:
1. The proposed use is not permitted in the residential zone under Part 4 of Town Planning Scheme No. 3.

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 property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air-Conditioner Noise”*
- (g) *the approval does not include approval of any advertising signage. A separate development application is required for any signage proposal.*

Correspondence referred from MB Ref T52.3 was tabled.

Ms Christine Ostermeyer & Ms Evelyn Krumholz (applicants) addressed the meeting in support of their application stating that they had invested considerable time already and that the lease had been signed. Ms Ostermeyer also stated that it would be take away only i.e. coffee, fresh baked bread (not baked on the premises) and newspapers, and that one without the other may not work. She also stated no seating would be provided to allow for food to be consumed on the premises.

In response to a question regarding the ‘Artisan’ side of the business, Ms Ostermeyer stated that she was a designer (leather) and that her handbags would be on display along with the creations of other local artisans where it would provide an ideal venue from which to showcase their wares.

Mr Ken Ferguson (King Street resident) also addressed the meeting in support of the proposal. Mr Ferguson stated that pedestrian traffic walking along King Street did not see

parking as a problem. He also went on to say that it was a 'blighted' corner and he was happy to lend his support to have this corner revitalised.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That the application for Change of Use to "Artisan Shop" at No. 99 (Lot 344 on Plan 1515) King Street, East Fremantle be deferred to allow a further report with a view to supporting the application under Clause 7.5 of TPS No. 3. CARRIED

T55.7

Woodhouse Road No. 16 (Lot 5018)

Applicant: Building & Construction Australia BCA Homes & Patios

Owner: M Leach & J Vallance

Application No. P75/12

By Christine Catchpole, Town Planner, on 25 June 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for construction of a carport/patio with garage door and front entry patio at the existing dwelling at No. 16 Woodhouse Road, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 668m² freehold lot
- zoned Residential 12.5
- located in the Richmond Hill Precinct
- single dwelling with upper storey extension

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5
Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : Existing - apply standard condition
Footpath : Existing crossover - apply standard condition
Streetscape : Carport addition to existing dwelling - visible from street
Patio addition to front entry - visible from street

Documentation

Plans and relevant forms date stamped received on 14 May 2012

Date Application Received

14 May 2012

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

3 March 2000	Planning approval by Minister for Planning (TP Appeal upheld) for alterations and additions to the existing dwelling. General conditions imposed by Council following Ministerial approval.
21 September 2001	solar hot water system installed on roof without approval. Council requested removal.
7 July 2004	Council approval for alterations and additions to balconies/decking and landscaping.

CONSULTATION**Advertising**

The proposed development was advertised to adjoining neighbours from 17 May to 4 June 2012. No submissions were received during the comment period.

Town Planning Advisory Panel Comments

The proposed development was considered by the Panel at its meeting of 26 June 2012. The Panel made the following comments in regard to the application.

Panel Comment	Officer Assessment
.. More detailed and accurately scaled plans are required for the panel to assess and comment on this application.	More detailed plans are not considered essential.
.. Site plan does not indicate which trees are to remain.	A condition of planning approval will be required stipulating all existing trees and shrubs within the front setback / garden area are to be retained and maintained.
.. Patio to the front appears to be non-compliant and is not supported.	The patio in the front setback area does not meet the r-code front setback requirement, however, the reduced setback is considered supportable with a condition stipulating that the patio is not to be used as a carport and not to be enclosed with gates and/or garage doors, but to remain open.

Site Inspection

By Town Planner on 14 June 2012.

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	79%	A
Site Works	Less than 500mm	Less than 500 mm not indicated on plans	A
Local Planning Policies:			
Patios	Within front and side setback		D
Roof	Dome		D
Solar Access & Shade	South facing entry to front door		A
Drainage	To be conditioned		A
Views	No impacts		A
Crossover	No change – to be conditioned		A
Trees	No Impacts		A
Other:			
Issues			Status
Overshadowing	No impacts on adjoining lots		A
Privacy/Overlooking	No impacts		A

Patio:	Required	Proposed	Status
Height		2.6 (3.2 to apex of dome)	A
Supports		500mm from boundary	D
Area		~68m ² (~32m ²) in front setback area	A
Location		Over driveway – to form portico to front door	D
Roof type	Dome - solid roof		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (south)</i>	<i>Patio within front setback (portico)</i>	2.6*	5.8*	no	7.5	2.0 – 3.1	D
<i>(west)</i>		2.6*	5.5*	no	1.0	13.0	A
<i>Side (east)</i>	<i>Patio / carport</i>	3.2* to apex	8.5*	no	1.0	500mm	D
<i>(south)</i>	<i>Garage door - tilting</i>	N/A	3.8*	no	7.5	5.2	D

Note: * wall height and length for purposes of calculating setbacks

ASSESSMENT

The proposed development comprises a patio and patio/carport of varying dimensions.

The first structure is a dome roof carport and patio in two sections positioned and attached to the side of the existing dwelling on the eastern boundary. It will be setback 500mm from the boundary fence. Construction materials to be used are Laserlite, Colorbond and metal supports with a tilting garage door facing Woodhouse Road. The carport/patio will extend along the full length of the house.

The second structure proposed is another patio at the front entrance to the house over the existing driveway. The 'semi-circle' driveway provides an entry and exit from Woodhouse Road. The patio is indicated as a 'portico' and is positioned over the front steps to the house and over the driveway. The dome roof form will match the design of the upper storey addition.

The proposal is not compliant with LPP 066 and the Residential Design Codes in regard to roof form and setbacks as detailed below.

Setbacks

Front - Patio

The reduced front setback is supported as the patio will add an interesting dimension to the facade of the property and its streetscape appeal. The existing building has no variation within the front facade and the upper storey elevation is a blank weatherboard wall with two highlight windows.

In this instance the patio is not considered to have a detrimental impact on residential amenity and in any case is reasonably well screened from the street by garden trees and shrubs. It will also provide a sheltered entrance to the house.

To ensure the patio does not become a carport within the front setback area, contrary to LPP 142, a condition of planning approval stipulating that it not be used for the purposes of parking vehicles or enclosed in any manner should be imposed. Similarly the condition should also specify that the driveway must remain at the existing width and not be widened to accommodate another vehicle.

Front – Carport / Patio

The R-Code requirement specifies a 7.5 metre setback from the front boundary. The carport with garage door is proposed to be setback 5.2 metres in line with the dwelling.

This is considered supportable as the carport is positioned along the eastern edge of the lot on a downward slope and will be mostly screened from the street by large verge and front garden trees. The carport with garage door will also screen parked cars; at present they are parked in the driveway in the front setback.

There have been no submissions from consulted neighbours and the structure is not likely to impact on the outlook from surrounding properties.

Eastern Boundary

The applicant proposes a 500mm side setback to the (eastern) boundary which is not compliant with the R-Code setback of 1.0 metre. This is considered a minor setback variation as the carport/patio is not enclosed and the structure will result in limited overshadowing of the adjoining site. However, it is considered necessary to stipulate, as a condition of planning approval, that the carport only accommodate a maximum of two cars and not be enclosed or gated without prior approval of the Council, so as not to cause any undue disturbance or amenity issues for neighbours.

Roof Form

The roof form whilst not compliant with LPP 066 is supported as the structures have been specifically designed to complement the upper storey extensions and will be in keeping with the dominant roof form of the house.

CONCLUSION

The application is seeking approval for variations to front and side setbacks under the R-Codes and roof form under LPP 066.

The patios and carport are considered to add more interest to the facade and streetscape appeal of the existing dwelling. In addition, the construction of a carport with garage door on-site will provide a better car parking option than currently exists; cars are now parked in the driveways of the front setback area being clearly visible on this prominent corner site.

The application is considered supportable, subject to conditions of approval, as the structures are not considered to have a detrimental impact on residential amenity or the streetscape.

No objections from adjoining landowners were received.

RECOMMENDATION

That Council exercise its discretion in granting planning approval to:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 500mm setback from the carport/patio to the eastern boundary;
- (b) vary the front setback requirements of the Residential Design Codes of Western Australia to permit a reduced front setback of 2.0 metres (patio) and 5.2 metres (carport with garage door); and
- (c) vary the Local Planning Policy 066 to allow a dome roof form for the patios and carport;

for the construction of a carport/patio with garage door and front entry patio at No. 16 (Lot 5018) Woodhouse Road, East Fremantle, in accordance with the plans and supporting information date stamped received on 14 May 2012, subject to the following conditions:

1. The patio at the front entrance to the dwelling not being used for the purposes of parking vehicles and the driveway remaining at the existing width and not widened

- to accommodate another vehicle. The patio to remain open and not be enclosed with gates and/or garage doors.
2. The carport on the eastern boundary not to be used for parking any more than two vehicles and not to be enclosed without Council approval.
 3. The existing trees and shrubs in the front setback/garden area to be retained and maintained.
 4. A detailed schedule of external materials, colours and finishes (including the garage door details) to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer and in consultation with relevant officers.
 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. The proposed works are not to be commenced unless there is a valid building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 8. The proposed patio/carport is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 9. 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.
 10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 11. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 12. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (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 property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

- (f) *In relation to Condition 2, any enclosure of the carport/patio, including installation of gates and/or garage doors, will require separate approval from Council.*

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Nardi

That Council exercise its discretion in granting planning approval to:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 500mm setback from the carport/patio to the eastern boundary;**
- (b) vary the front setback requirements of the Residential Design Codes of Western Australia to permit a reduced front setback of 2.0 metres (patio) and 5.2 metres (carport with garage door); and**
- (c) vary the Local Planning Policy 066 to allow a dome roof form for the patios and carport;**

for the construction of a carport/patio with garage door and front entry patio at No. 16 (Lot 5018) Woodhouse Road, East Fremantle, in accordance with the plans and supporting information date stamped received on 14 May 2012, subject to the following conditions:

- 1. The patio at the front entrance to the dwelling not being used for the purposes of parking vehicles and the driveway remaining at the existing width and not widened to accommodate another vehicle. The patio to remain open and not be enclosed with gates and/or garage doors.**
- 2. The carport on the eastern boundary not to be used for parking any more than two vehicles and not to be enclosed without Council approval.**
- 3. The existing trees and shrubs in the front setback/garden area to be retained and maintained.**
- 4. A detailed schedule of external materials, colours and finishes (including the garage door details) to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer and in consultation with relevant officers.**
- 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. The proposed works are not to be commenced unless there is a valid building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 8. The proposed patio/carport is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 9. 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.**
- 10. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 11. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal,**

modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.

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

Footnote:

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

- (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 property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) In relation to Condition 2, any enclosure of the carport/patio, including installation of gates and/or garage doors, will require separate approval from Council.*

CARRIED

T55.8

Angwin Street No. 26 (Lot 251)

Applicant: Tom Roberts

Owner: E Miocevich-Turner and W Turner

Application No. P67/2012

By Christine Catchpole, Town Planner, on 22 June 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Development Application for alterations and additions to a four level dwelling including installation of a lift at No. 26 Angwin Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 655m² freehold lot
- zoned Residential R12.5
- located in the Riverside Precinct

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 142 : Residential Development (LPP142)

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : No impact
- Footpath : No impact
- Streetscape : Addition of garden room will be visible from the street

Documentation

Plans and relevant forms date stamped received on 7 May 2012

Date Application Received

7 May 2012

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

The existing residence on site was conditionally approved by Council in 1988.

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours from 17 May to 4 June 2012. No adverse comments were received during this period. Two adjoining neighbours have endorsed the plans and indicated they have no objection to the 'proposed additions' and 'the north facing window and west facing balcony'.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 26 June 2012. The Panel made the following comment in regard to the application.

Panel Comment	Officer Assessment
Panel recommends screening to the northern balcony.	Permanent screening of the northern aspects of the balcony and the terrace of the garden room has been included as a proposed condition of planning approval.

Site Inspection

By Town Planner on 14 June 2012

ASSESSMENT

The application proposes alterations and additions to the existing residence. Garage entry is from Angwin Street level and it is proposed to construct a lift well (to service the lower three levels of the house) and store room at this level. A bedroom and small bathroom (~28m²) will be added to the undercroft level which currently comprises a terrace and cellar. The 'ground' floor will be altered by the construction of a garden room with balcony (~30m²) on the northern side of the property in an area of the garden. This level also comprises the dining, living, kitchen, bathroom, laundry and study. Access to Surbiton Street is possible at this level. An upper level which will not be altered comprises the remaining bedrooms and amenities.

The proposed development is consistent with the objectives for the Residential Zone. The plans incorporate one variation to the Town's LPP 142 - Residential Development and one variation to the R-Codes requirements.

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	55%	60%	A
Site Works	Less than 500mm	Less than 500 mm	A
Local Planning Policies:	Issues		
Policy 142	Building height discretion		D
Roof	Zincalume		A
Solar Access & Shade	Balcony and windows facing west for views		A
Drainage	To be conditioned		A
Views	No apparent impacts		A
Crossover	No impacts		A
Trees	No Impacts		A

Other:	Issues		
Overshadowing	No impacts on adjoining lots		A
Privacy/Overlooking – Clause 6.8.1	Cone of vision extends over northern boundary from balcony – no objection from adj owners north and south of subject property. Setback required 6.0 to 7.5 metres; 3.31 metres provided.		D
Height:	Required	Proposed	Status
Wall (west)	5.6	8.765	D
Wall (north)	5.6	3.375	A
Wall (south)	5.6	1.875	A
Wall (east)	5.6	0.075	A
Ridge (west)	8.1	9.765	D
Ridge (north)	8.1	4.075	A
Ridge (south)	8.1	2.175	A
Ridge (east)	8.1	0.225	A
Roof type	Pitched – Zincalume		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
Ground	Existing				N/A	5.0	A
Undercroft – bedroom		N/A	N/A	yes	7.5	10.7	A
Upper – balcony		N/A	N/A	yes	7.5	9.5m	A
garden room		N/A	N/A	yes	7.5	10.7	A
Rear (east)							
Ground - bedroom		N/A below NGL	N/A below NGL	no	7.5	10.7	A
Upper - rear garden room		0.525 bdlg below NGL	6.6	yes	1.5	15.3	A
Side (north)							
Undercroft - bedroom		N/A – at undercroft level		no	N/A	N/A	A
Upper - garden room		3.8*	4.2	yes	1.8	3.31	A
Side (south)							
Ground	Existing -					N/A	A
Upper	Proposed setback does not protrude past existing setback					N/A	A

Note: *wall height for the purpose of calculating boundary setbacks.

Visual Privacy

Clause 6.8.1 of the R-Codes requires that the balcony, terrace and habitable areas (garden room) be setback between 6.0 and 7.5 metres because they are raised more than 0.5 metres above natural ground level. The setback proposed is 3.31 metres to the garden room window, the balcony and the terrace.

The adjoining property to the north is well screened from the proposed balcony and garden room windows by a very thick hedge and the second storey of this property has

no major openings facing this boundary.

There does not appear to be any privacy intrusion issues for the adjoining owners and they have indicated they have no objection by endorsing the plans, however, as the proposal does not comply with the R-Code requirements in regard to Clause 6.8.1 (Visual Privacy) it is considered necessary to apply a condition of planning approval which requires permanent screening of the northern aspects of the balcony and the terrace of the garden room.

Building Height

The proposed extension exceeds the height requirements of LPP 142 as measured from the northern and western boundaries in regard to wall and ridge height; the permitted wall height is 5.6 metres and the ridge height is 8.1 metres. From the western boundary the wall height is approximately 8.8 metres and the ridge height approximately 9.8 metres and on the northern boundary the wall height is 7.5 metres and the ridge height 8.5 metres.

Despite non-compliance with the LPP No. 142 the wall and ridge heights of the proposed addition do not exceed the existing roof height at this level, and do not exceed the highest roof point of the second storey on the fourth level.

The excess building height is not considered to have an impact on the amenity of the neighbours as there is no overshadowing and it is very unlikely that the addition will impact on the outlook of abutting properties. It is therefore recommended that the proposed variation to building height limits be approved.

Open Space

Under the R-Codes 55% of the site is to be maintained as open space. The additional floor area of approximately 28m² at 'ground' level reduces open space on the site to 60%, as such the application still complies with the R-Code requirement.

CONCLUSION

The proposed development incorporates only one variation to the Residential Design Codes and one variation in relation to LPP 142 – Residential Development.

The variations being sought in regard to the visual privacy setback (R-Codes) can be supported as the reduced setback will have a negligible impact on the amenity of the affected neighbouring property and the streetscape. However a condition of planning approval is recommended requiring permanent screening of the northern aspects of the balcony and the terrace of the garden room to avoid any potential future issues.

In technical terms the wall and ridge building heights do not comply with LPP 142, however, in practical terms the addition is the equivalent in height to the existing buildings on the third level and does not exceed the height of the fourth level.

The abutting owners have not objected to the proposal and it is unlikely the minor addition will have an undue impact on outlook or views for the surrounding properties.

It is therefore recommended that the application be supported subject to conditions.

RECOMMENDATION

That Council exercise discretion in granting planning approval to:

- (a) vary Clause 6.8.1 of the Residential Design Codes of Western Australia in regard to visual privacy to permit the cone of vision from the third level garden room windows and balcony to intrude over the northern boundary and be setback a distance of 3.31 metres as indicated on the plans date stamped received on 7 May 2012; and
- (b) vary Local Planning Policy 142 – Residential Development to permit a maximum ridge height of RL 31.225 for the addition of the garden room as indicated on the plans date stamped received on 7 May 2012;

for alterations and additions, including the installation of a lift, to a four level dwelling at No. 26 (Lot 251) Angwin Street, East Fremantle, in accordance with the plans date stamped received on 7 May 2012 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. 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 received planning approval, without those changes being specifically marked for Council's attention.
3. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of any externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer.
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. This planning approval to remain valid for a period of 24 months from date of this approval.
9. The zincalume roofing if requested by Council within the first two years following installation to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
10. All materials, colours, and finishes for the additions and alterations to be to the satisfaction of the Chief Executive Officer and in consultation with relevant officers.
11. Installation of a fixed screen or louvres on the northern aspect of the balcony and the northern aspect of the terrace to the garden room to ensure privacy for the adjoining owner to the satisfaction of the Chief Executive Officer and 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 licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

- (f) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air-Conditioner Noise”.*

Correspondence referred from MB Ref. T52.1 was tabled.

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council exercise discretion in granting planning approval to:

- (a) vary Clause 6.8.1 of the Residential Design Codes of Western Australia in regard to visual privacy to permit the cone of vision from the third level garden room windows and balcony to intrude over the northern boundary and be setback a distance of 3.31 metres as indicated on the plans date stamped received on 7 May 2012; and
- (b) vary Local Planning Policy 142 – Residential Development to permit a maximum ridge height of RL 31.225 for the addition of the garden room as indicated on the plans date stamped received on 7 May 2012;

for alterations and additions, including the installation of a lift, to a four level dwelling at No. 26 (Lot 251) Angwin Street, East Fremantle, in accordance with the plans date stamped received on 7 May 2012 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. 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 received planning approval, without those changes being specifically marked for Council's attention.
3. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of any externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer.
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. This planning approval to remain valid for a period of 24 months from date of this approval.
9. The zincalume roofing if requested by Council within the first two years following installation to be treated to reduce reflectivity. The treatment to be to

the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.

10. All materials, colours, and finishes for the additions and alterations to be to the satisfaction of the Chief Executive Officer and in consultation with relevant officers.
11. Installation of a fixed screen or louvres on the northern aspect of the balcony and the northern aspect of the terrace to the garden room to ensure privacy for the adjoining owner to the satisfaction of the Chief Executive Officer and 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 licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

CARRIED

T55.9

Fraser Street No. 41 (Lot 4279)

Applicant: Inhouse Building Design

Owner: R Dorrington & N Devlyn

Application No. P145/2011

By Carly Pidco & Christine Catchpole, Town Planner, on 26 June 2012

PURPOSE OF THIS REPORT

This report recommends approval of a Development Application for construction of alterations and extensions, including a front fence and rear alfresco area, at No. 41 Fraser Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 931m² freehold lot
- zoned Residential 12.5
- located in the Richmond Precinct
- single dwelling with improvements
- rated B - Town's Heritage Survey 2006

Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)
Local Planning Policy No. 142 : Residential Development (LPP142)
Local Planning Policy No. 143 : Fencing (LPP 143)
Local Planning Policy No. 023 : Reflective Roofing Material (LPP 023)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Alterations to existing heritage dwelling

Documentation

Plans and relevant forms date stamped received on 27 September 2011
Heritage Impact Assessment date stamped received on 5 April 2012
Owner/Applicant response to Panel's comments of 27 March 2012 dated 7 May 2012
Information from applicant outlining amendments to plans dated 29 May 2012
Amended plans date stamped received on 30 May 2012
Information from applicant in regard to amended drawings received on 12 June 2012

Date Application Received

27 September 2011

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

16 June 2010 Building Licence issued for swimming pool.
2 June 2011 Development approval issued for construction of shed under delegated authority.
15 May 2012 The current development application for alterations and extensions was deferred pending further information being submitted to and approved by Council addressing the recommendations of the heritage assessment.

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours from 6 to 20 October 2011. No submissions were received during this period.

Town Planning Advisory Panel Comments

The application was referred to the TPAP at its meeting of 25 October 2011. The Panel's comments and applicant's responses are attached to this report. Significantly, a number of concerns were raised with regards to the impact of the development on the heritage value of the property, and at that time the applicant communicated a willingness to review several elements of the design. Following from the TPAP meeting, the applicant provided a Heritage Assessment to provide further insight as to the impact of the alterations and extensions. This was referred to the TPAP at its meeting of 27 March 2012, during which the Panel recorded the following comments:

- *the Panel finds it difficult to comment on alterations proposed without accompanying plans providing detail of changes; and*
- *the Panel commends the clarity of the Heritage Report submitted.*

It is understood that the Panel's comments stemmed from the inconsistency between the recommendations of the heritage consultant and the submitted plans, which is discussed in greater detail in the assessment section of this report.

Subsequent to the Council meeting of 15 May 2012 at which the owner addressed the issues raised in the Heritage Impact Assessment, and the above meetings, the amended plans submitted on 30 May 2012 have been referred to the Panel meeting of 26 June 2012 and the following comments were made.

Panel Comment	Officer Assessment
<p>The Panel appreciates the amended application.</p> <p>Paint colours of the proposed addition should be distinct from the original dwelling.</p>	<p>A proposed condition of planning approval has been included, which specifies the applicant will be required to submit a detailed schedule of colours, materials and finishes in relation to all alterations and additions to the satisfaction of the Chief Executive Officer and in consultation with relevant officers.</p>

Site Inspection

By Town Planner on 2 May 2012

ASSESSMENT

The application proposes extensions (~120m²) to the existing house by incorporating an undercroft area within the front facade to provide a garage with access to a music room and cellar. Two bedrooms will be constructed above the undercroft/garage area and these rooms will be accessed from a passageway in the existing residence. Stairs within the dwelling will provide internal access to the undercroft area.

A covered alfresco area will extend from the rear living areas to the pool and this will be approximately 32m² in area.

The existing house has a front verandah which the applicant wishes to extend around the side of the dwelling. The roof of the house will be extended over the verandah.

A new front fence and gate are also proposed and construction materials are indicated as brick piers with reused iron infill panels. The fence will be no higher than 1.8 metres.

Heritage

The proposed alterations and extensions will be visible from the street and significantly alter the facade of the heritage dwelling. It is considered that additions of this nature can be implemented in a sympathetic manner such as to not have an undue impact on the heritage values of a building. The heritage consultant has made several recommendations for amendments to the submitted plans to ensure a positive heritage outcome. The recommendations of the heritage consultant are detailed as follows:

- *Care should be taken to ensure that the detail of the garage and bedroom extension is simplified and does not mimic the original house;*
- *Consideration could be given to continuing the upper section of the extension in rendered brick rather than weatherboard (or alternatively choosing a different cladding material);*
- *Whilst the proportions of the windows could be the same as the original, the material or detail could differ; and*
- *If the garage is not intended to accommodate two cars then the garage door could be reduced in width.*

The Heritage Impact Assessment further stated that the verandah is an important design element for residential buildings from this period. It provides a communication point between the public and private realms and adds articulation to a modest weatherboard facade. The original verandah and its role in the design of the dwelling should be protected. It is recommended that the proposal be amended to provide clear delineation between old and new verandah elements and protect the primacy of the original verandah.

- *A verandah along the side of the building could be supported, however the current proposal will affect the understanding of the original house in the streetscape. It is suggested that the verandah is setback and is separate to the front verandah.*

It was also recommended that a detailed schedule of materials and finishes that demonstrates clear delineation of old and new work should be submitted to and approved by Council. Excessive detailing that may be interpreted as mimicry should be minimised except where it can be easily interpreted as new work.

While the owner had previously expressed a willingness to accommodate the majority of these changes the amended plans submitted on 30 May 2012 indicate the following.

- Amendments*
- Restoration of wrap around verandah – existing and new verandah to be connected.
 - Restoration of weatherboard cladding to proposed addition including gable detail.

- Alterations*
- Lowering of the wall plate to the bedrooms.
 - Narrowing the garage door width by 1.0 metre.
 - Simplifying of elevation detail (in relation to windows and wall vents).

- Other Alterations*
- Narrowing of rear alfresco – roof and column widths.
 - Change in front fence construction materials (brick and iron).

ASSESSMENT

The revised plans propose a number of variations to the Residential Design Codes and Local Planning Policies, and along with the recommendations of the heritage consultant, are discussed below.

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	55%	64%	A
Site Works	Less than 500mm	Greater than 500mm in side setback area	D
Local Planning Policies:			
Policy 142	Variations to setbacks, height		D
Roof	Gable, colorbond, 24 degrees		D
Solar Access & Shade	Alfresco faces north		A
Drainage	To be conditioned		A
Views	Exceeds maximum building height		D
Crossover	To be conditioned		A
Trees	Condition to retain		A
Other:			
Overshadowing	<25% (southern boundary abuts street)		A
Privacy/Overlooking	.. 0.5m from southern Bedroom window and northern bedroom window over western boundary. .. 0.9m from eastern side of verandah over eastern boundary.		D
Height:	Required	Proposed	Status
Wall	5.6	5.7 (south)	D
Ridge	8.1	6.9 (south)	A
Roof type	Gable		

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (south)							
<i>Ground</i>	Dwelling	N/A	N/A	N/A	In line with streetscape	Consistent	A
	Garage	N/A	N/A	N/A	At or behind main building line	0.7m forward of main building line	D
<i>Upper</i>	Dwelling	N/A	N/A	N/A	7.5	11.0	A
Rear (north)							
<i>Ground</i>	Alfresco	N/A	N/A	N/A	6.0	8.1	A
<i>Side (west)</i>							
<i>Ground</i>	Garage	1.9	7.3	N	1.0	Nil	D
<i>Upper</i>	Bedrooms	4.3	8.3	N	1.1	1.2	A
<i>Side (east)</i>							
<i>Ground</i>	Verandah	2.8	26.8*	Y	1.5	3.4	A
	Alfresco	2.7	26.8*	Y	1.5	4.0	A

Site Works

The proposal includes excavation into the side setback area to facilitate construction of the garage. The excavation allows the applicant to maintain the overall maximum height as that of the existing heritage dwelling whilst achieving a two storey development. Excavation will result in the garage sitting lower than the affected side property, limiting the impact of building bulk on amenity. The natural topography of the block is not unduly impacted, as the sloping front garden is maintained. It is recommended that the variation be supported.

Roof Pitch and Roofing Material

The proposed bedrooms and verandah have a roof pitch of 24°, less than the minimum specified in the LPP 66. The roof pitch is consistent with that of the existing heritage dwelling, ensuring that the new roof forms do not sit higher than or dominate the existing roof. The proposed roof pitch is sympathetic to the heritage dwelling and it is recommended that the roof pitch indicated on the approved plans be supported. A condition of planning approval regarding use of reflective roofing material should also be applied as it is proposed to use zincalume for the extensions.

Visual Privacy

The cone of vision from each of the proposed bedroom windows intrudes 0.5 metres over the western boundary. The affected dwelling has a significant side setback and few openings to the eastern wall, and it is unlikely that the variation will result in a loss of privacy for the residents.

The 2.9 metre intrusion from the verandah over the eastern boundary is more significant, however, the affected dwelling has no major openings to the western wall where there is likely to be an impact. Further, the verandah is unlikely to attract the same intensity of use as the rear alfresco and swimming pool area and the usable open space of the adjoining property appears to be located on the north eastern side of that site. The proposed privacy variations are unlikely to have an undue impact on the amenity of the affected neighbours and it is recommended that the variations be supported.

Building Height

The development incorporates a variation to building height to the garage/bedroom addition as measured from the street. The variation is minor in nature (0.1 metre) and the height of the addition is less than the height of the existing heritage dwelling. The variation will not be perceptible at street level and is not considered to have an undue impact on neighbouring properties or the streetscape.

Building Setbacks

Side Setback - Garage

The development proposes a single-storey parapet wall along the western boundary. Part 3 of LPP 142 provides standards for assessing proposed boundary setback variations. The proposal is consistent with criteria (a) and (c) (height, length and overshadowing), and the intent of criteria (d) (character and views). The proposal is not consistent with criteria (b), which requires the wall to be behind the main dwelling, however, the location of the wall is not considered to have an undue impact on the streetscape as it is dominated by the higher elements of the dwelling. The wall does not abut a similar wall as specified in criteria (e), however, the facing wall of the neighbouring property has few windows and little articulation, and the proposed parapet wall is unlikely to impact on the neighbour's amenity. It is recommended that the proposed side setback variation be supported.

Front Setback - Garage

LPP 142 requires carport and garages to be setback at or behind the main building line of the dwelling. The main building line is the wall that sits behind the existing front verandah, as this is the longest wall of the facade, and the garage sits 0.7 metres forward of this line. The variation is supported as the garage is set significantly lower than and slightly behind the section of the front facade in line with the verandah, limiting its impact on the streetscape. The garage will be read from the street as an undercroft, with the heritage dwelling remaining the dominant element of the frontage. The applicant has reduced the width of the garage door in keeping with the heritage consultant's recommendations, and the visual impact is considered minimal. It is recommended that the variation be supported.

Heritage

The revised plans are a result of the recommendations of the heritage consultant (as specified in the Heritage Impact Assessment) and further presentations by the applicant to the Council Meeting of 15 May 2012. Specifically the following matters have been addressed.

Heritage Recommendation	Applicant Response
Detail of the extension should be simplified and not mimic the original house.	<ul style="list-style-type: none"> - Revised plans indicate simplified gable. - Lowering of wall plate to the bedrooms to produce a ceiling height of 2.4m. - Imitation wall vent has been deleted. - Window detailing simplified.
Consideration to continuing the upper section of the extension in different cladding rather than weatherboard.	Revised plans indicate weatherboard cladding. This is the owner's preference.
While the proportions of the windows could be the same as the original, the material or detail could differ.	Revised plans indicate redesigned windows – similar style but differing dimensions.
The garage door could be reduced in width.	Revised plans indicate reduced garage door width by 1.0 metre.
It is suggested that the side verandah is setback and is separate to the front verandah.	It is the owner's preference to not separate the existing and proposed verandah sections - will connect at the corner. Separation would compromise the use and function of the verandah. A connection is aesthetically more appealing.

	Owner believes there are examples of similar originally constructed verandahs in the locality.
--	--

The revised plans are considered to adequately address the recommendations of the heritage consultant. The modifications will allow for the existing heritage dwelling to be the dominant element of the building and for new work to be clearly distinguishable.

The heritage assessment did recommend an alternative to weatherboard cladding material if rendered brick for the addition was not to be used. Although this recommendation has not been acted on it is considered supportable as the extensions, due to other architectural and design detail changes, will be clearly distinguishable from the original residence. However, a condition of planning approval which requires the applicant to submit details of the materials, colours and finishes to be used to the satisfaction of the Chief Executive Officer is considered necessary to ensure the heritage significance of the site is addressed.

The major deviation from the Heritage Consultant's report is the connection of the verandah elements. The Heritage Consultant suggested the verandah sections be connected; however, the comment was made that connection between the two segments could be supported. In this case the applicant feels strongly that if the two elements are not connected it will prevent effective use of the verandah and limit its capacity to provide alternative access to parts of the residence.

Given the Heritage Consultant emphasised the importance of a verandah in facilitating connection between the private and public realms it would be preferable to see the verandah used frequently and provide a number of entries to the house. Given these comments and the applicant's efforts in other respects to distinguish the extension from the original building the connecting corner section of the verandah is supported.

Front Fencing

The application includes details of proposed front fencing. The fencing complies with the requirements of the LPP 143 and is supported.

CONCLUSION

Residential Development Standards

The variations from LPPs and the R-Codes relate to building height, roof form, setbacks, visual privacy and site works. In summary these matters are minor deviations from the R-Codes and Policy requirements and will have a negligible impact on the streetscape and residential amenity and can be supported.

Heritage Considerations

The proposed alterations and extensions are not considered to unduly impact upon the appearance of the heritage dwelling and its interpretation from the street and in overall consideration do not diminish the heritage value of the property. The applicant is clearly willing to maintain the residence and is mindful of the implications and responsibilities of addressing the heritage issues of the property and on the whole has taken into account the heritage consultant's recommendations.

While the proposed alterations and additions are supported, it is recommended that the application be approved subject to conditions, a number of which will specifically relate to the matters outlined in the Heritage Impact Statement, the conclusions of the Heritage Consultant and the advice of the Town Planning Advisory Panel.

RECOMMENDATION

That Council exercise its discretion in granting approval to:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback for the western wall of the garage on the northern boundary;
- (b) vary Part 2 – Streetscape Requirements of Local Planning Policy 142 in relation to front setbacks to permit the garage to be set forward of the main building line as provided on the submitted and approved plans;

- (c) vary the Site Works requirements of the Residential Design Codes of Western Australia to permit excavation in the western side setback area to achieve a Finished Floor Level of RL 36.952 to the garage;
- (d) vary the building height requirements of the Local Planning Policy 142 to permit a maximum wall height of RL 42.10 as provided on the submitted and approved plans;
- (e) vary the roof pitch requirements of Local Planning Policy 142 to allow a roof pitch of 24°; and
- (f) vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the bedrooms to intrude 0.5 metres over the western boundary; and to permit the cone of vision from the verandah to intrude 2.9 metres over the eastern boundary,

for the construction of alterations and extensions, including a front fence and rear alfresco area, at No. 41 (Lot 4279) Fraser Street, East Fremantle, in accordance with the plans date stamped received on 30 May 2012 and information received on 29 May and 12 June 2012 subject to the following conditions:

1. 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
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. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by the Chief Executive Officer (*refer footnote (h) below*).
8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. 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.
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. This planning approval to remain valid for a period of 24 months from date of this approval.
12. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.

13. All details in relation to materials, colours, and finishes for the extensions, alterations, front fence and alfresco area to be submitted prior to making application for building permit and be 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 licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) with regard to construction of the crossover the applicant/builders is to contact Council's Works Supervisor.*
- (f) 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.*
- (g) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr Collinson

That Council exercise its discretion in granting approval to:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback for the western wall of the garage on the northern boundary;**
 - (b) vary Part 2 – Streetscape Requirements of Local Planning Policy 142 in relation to front setbacks to permit the garage to be set forward of the main building line as provided on the submitted and approved plans;**
 - (c) vary the Site Works requirements of the Residential Design Codes of Western Australia to permit excavation in the western side setback area to achieve a Finished Floor Level of RL 36.952 to the garage;**
 - (d) vary the building height requirements of the Local Planning Policy 142 to permit a maximum wall height of RL 42.10 as provided on the submitted and approved plans;**
 - (e) vary the roof pitch requirements of Local Planning Policy 142 to allow a roof pitch of 24°; and**
 - (f) vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the bedrooms to intrude 0.5 metres over the western boundary; and to permit the cone of vision from the verandah to intrude 2.9 metres over the eastern boundary,**
- for the construction of alterations and extensions, including a front fence and rear alfresco area, at No. 41 (Lot 4279) Fraser Street, East Fremantle, in accordance with the plans date stamped received on 30 May 2012 and information received on 29 May and 12 June 2012 subject to the following conditions:**
- 1. 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
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. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 4. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
 6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 7. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by the Chief Executive Officer (*refer footnote (h) below*).
 8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 9. 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.
 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. This planning approval to remain valid for a period of 24 months from date of this approval.
 12. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 13. All details in relation to materials, colours, and finishes for the extensions, alterations, front fence and al fresco area to be submitted prior to making application for building permit and be 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 licence is to conform with the approved plans unless*

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

T55.10

Duke Street No. 83 (Lot 395)
Applicant: Positiva Building Pty Ltd
Owner: SL Avenell & VA Cook
Application No. P88/12

By Christine Catchpole, Town Planner, on 25 June 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Planning Application for construction of additions and alterations, and a part boundary wall to the rear of a single residence at 83 Duke Street, East Fremantle.

BACKGROUND

Description of site

The subject site is:

- a 508m² freehold lot
- zoned Residential R20
- located in the Plympton Precinct
- currently occupied by a single heritage dwelling

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
 Residential Design Codes of Western Australia (RDC)

Relevant Council Policies

Local Planning Policy No. 066 : Roofing (LPP066)
 Local Planning Policy No. 142 : Residential Development (LPP142)
 Local Planning Policy No. 143 : Fencing (LPP 143)

Impact on Public Domain

Tree in verge : No impact
 Light pole : No impact
 Crossover : Condition to be imposed
 Footpath : No impact
 Streetscape : Minor alterations to facade

Documentation

Plans and relevant forms date stamped received on 29 May and 14 June 2012.

Date Application Received

29 May 2012

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

Nil

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 5 to 20 June 2012. No submissions were received during this period.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 26 June 2012. The Panel supported the application.

Site Inspection

By Town Planner 14 June 2012

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	50%	60.8%	A				
Site Works	Less than 500mm	Less than 500 mm	A				
Local Planning Policies:							
Policy 142							
Roof	Zincalume to match existing		A				
Solar Access & Shade	Limited opportunities – patio will face north		A				
Drainage	To be conditioned		A				
Views	No impact		A				
Crossover	No change		A				
Trees	Exiting tree to be relocated		A				
Other:							
Issues							
Overshadowing	No impacts on adjoining lot- no change – existing parapet wall to be replaced – meets R-Code requirements.		A				
Privacy/Overlooking	No impacts – very limited overlooking of active open space of adjoining property.		A				
Height:							
Required							
Wall north	5.6	2.74	A				
Wall south	5.6	3.1	A				
Wall west	5.6	3.3	A				
Height:							
Required							
Ridge north	8.1	3.84	A				
Ridge south	8.1	4.1	A				
Ridge west	8.1	4.42	A				
Roof type	Hipped – to be retained at same pitch 26°. Gables to rear.		D				
Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
Ground		No change to existing					A

Rear (west)		3.0*	8.6	yes	1.5	15.6 – 18.6	A
<i>Ground</i>							
Side (north)							
<i>Ground</i>		3.2*	4.8 (11.8)	no	1.0	2.65	A
<i>Patio</i>		2.6*					
Limestone wall on boundary	Extension of studio parapet wall	2.34*	5.7	no	1.0	nil	D
Side (south)							
Ground	Existing parapet wall to laundry to be removed and rebuilt	3.2*	6.2 (16.0)	no	1.0	nil	D

Note: * wall height for assessment of boundary setbacks.

ASSESSMENT

The applicant is proposing additions and alterations to the existing heritage residence of approximately 64 square metres. The additions will be on the ground level only extending from the rear of the dwelling and will comprise a new laundry, bathroom, family, kitchen, outdoor shower and alfresco area under a patio. An existing studio is located on the northern boundary to the rear of the property.

The roof will be zincalume in keeping with the same roof colour and type as the existing residence and the brickwork will be painted. A pitch of 26° is proposed to match the existing roof line.

The existing face brickwork on the original dwelling will be tuck pointed and the paint from the limestone front fence will be removed. The weatherboard clad screening at each end of the front verandah will be replaced with new but similar materials, and a new pinelap boundary fence will be installed up to the point where the limestone wall will be constructed. The limestone wall will then extend for a further 5.7 metres at a height of 2.67 metres until it joins the parapet wall of the existing studio. A new fence is also proposed for the southern boundary.

The proposed development is consistent with the objectives of the Residential Zone. Only two minor variations are being sought in regard to the R-Codes and these variations can be considered under LPP 142 - Residential Development. The variation in regard to roof pitch can be determined under LPP 066.

Building Setbacks

Parapet Wall (Southern Boundary)

The proposed development incorporates a parapet wall to the side (southern) boundary. LPP 142 provides, in this case, criteria (b), (c), (d) and (e) by which to assess proposed variations to setback requirements. These are discussed below:

(b) Walls Are Behind The Main Dwelling.

The parapet wall is behind the main dwelling and is setback from the street over 15 metres. The wall will form an extension of the existing parapet wall and the adjoining owner has not forwarded any comment in regard to the proposal. The wall cannot be viewed from the street and essentially there will be no change from the existing site situation.

(c) Subject to the Overshadow Provisions of the Residential Design Codes – Element 9.

The application complies as there is no change to the overshadowing that the adjoining site already experiences.

- (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.*

The parapet wall is not considered to be detrimental to the amenity of the locality or the adjoining neighbour. The wall will form part of a new 1.8 metre high boundary fence.

- (e) *Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.*

The wall will replace the existing laundry wall which was also constructed on the boundary.

Limestone Boundary Wall (Northern Boundary Fence Line)

A boundary wall (forming part of the fence) for a portion of the lot is indicated. The wall as a part of the fence line is not in compliance with LPP 143 in regard to fence height and as such Council approval is sought for the proposed height of 2.67 metres.

This is greater than the 1.8 metres from natural ground level permitted under the LPP 143. It is also noted that where the height exceeds 1.8 metres the fence must be designed by a structural engineer and approved by the Building Surveyor.

This wall will also meet all requirements for side boundary setback variations (criteria a – e) under LPP 142.

Given the adjoining owner has not expressed any concern in relation to this wall being constructed and as it will provide greater screening of the active outdoor spaces on both sites it is supported.

Roof Pitch

LPP 066 provides, amongst other things, that dominant roof elements are to have a minimum pitch of 28°; the proposed development achieves 26°. The proposed pitch, however, will marry with the existing residence to provide an extension in keeping with the property and in any case is not perceptible from the street. The proposal complies with all other provisions of LPP 066 and as such the roof pitch is supported.

Privacy

The impact of this extension is negligible in regard to overlooking of adjoining sites as the patio area proposed will be screened from the south by the laundry extension and to the north by the limestone wall. The patio is setback over 15 metres from the rear boundary.

Heritage Considerations

The existing dwelling is a heritage property assigned the B Management Category in the Town's Heritage Survey 2006. In summary, the Inventory states that the place has considerable heritage significance at a local level and that it is generally considered worthy of a high level of protection, to be retained and appropriately conserved.

The existing residence has been renovated and restored to a limited extent and with this application it appears further renovation work and improvements will be undertaken over the property as a whole. The materials and finishes proposed are generally in keeping with the existing residence as is the roof pitch. Given the significance of a B management category it is considered appropriate to impose a condition of planning approval that requires all materials, colours and finishes to be to the satisfaction of the Chief Executive Officer in consultation with the relevant Council officers.

CONCLUSION

The proposed development incorporates only two minor setback variations to the R-Codes. These are matters which can be considered by Council under LPP 142 – Residential Development. The variation being sought in regard to the nil setback to the

southern boundary is considered a technicality as this parapet wall already exists and forms the existing laundry wall. This wall will be replaced to form a new bathroom and laundry.

The limestone boundary wall on the northern side of the lot will form an extension to the existing studio parapet wall and is intended to provide privacy for the proposed patio addition. It is considered an improvement to the existing fence which is in a dilapidated state and as the adjoining owner has not objected to the proposal it is supported.

The additions will be in keeping with the existing residence and will result in improvements to the heritage place as the owners are renovating and restoring a number of other aspects of the property.

The proposed extensions are only to the rear of the main dwelling and do not exceed the height limits of LPP No. 142. The extensions will not be visible from the street.

The improvements and construction materials will complement the existing dwelling in that compatible building materials are indicated and the roof pitch has been designed to match the current roof profile.

RECOMMENDATION

That Council exercise its discretion in granting planning approval to:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback for the southern boundary wall of the rear addition;
- (b) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback for the extension of the existing studio parapet wall on the northern boundary as shown on plans date stamped received on 14 June 2012;
- (c) vary the requirements of Local Planning Policy 143 – Fencing to allow a boundary fence higher than 1.8 metres; and
- (d) varying the requirements of Local Planning Policy 066 – Roofing to permit a pitch of 26°;

for alterations and additions to the existing residence, and a part boundary wall on the northern boundary at No. 83 (Lot 395) Duke Street, East Fremantle, in accordance with the plans date stamped received on 29 May and 14 June 2012, 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. 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.
3. 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.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (g) below*)
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if

- approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. This planning approval to remain valid for a period of 24 months from date of this approval.
 9. All parapet walls (on the northern and southern boundaries) 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. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 11. The limestone boundary wall being constructed in accordance with the plans date stamped received on 14 June 2012, designed by a structural engineer and approved by a Building Surveyor.
 12. The studio is not to be occupied for residential purposes.
 13. A detailed schedule of external materials and finishes, including paint colours and roof details to be submitted for all work the subject of this planning 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 property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Nardi

That Council exercise its discretion in granting planning approval to:

- (a) **vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback for the southern boundary wall of the rear addition;**
- (b) **vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback for the extension of the existing studio parapet wall on the northern boundary as shown on plans date stamped received on 14 June 2012;**
- (c) **vary the requirements of Local Planning Policy 143 – Fencing to allow a boundary fence higher than 1.8 metres; and**
- (d) **varying the requirements of Local Planning Policy 066 – Roofing to permit a pitch of 26°;**

for alterations and additions to the existing residence, and a part boundary wall on the northern boundary at No. 83 (Lot 395) Duke Street, East Fremantle, in accordance with the plans date stamped received on 29 May and 14 June 2012, 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. 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.
3. 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.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (g) below*)
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. This planning approval to remain valid for a period of 24 months from date of this approval.
9. All parapet walls (on the northern and southern boundaries) 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. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
11. The limestone boundary wall being constructed in accordance with the plans date stamped received on 14 June 2012, designed by a structural engineer and approved by a Building Surveyor.
12. The studio is not to be occupied for residential purposes.
13. A detailed schedule of external materials and finishes, including paint colours and roof details to be submitted for all work the subject of this planning 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 property.*
 - (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
 - (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
 - (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
 - (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*
- CARRIED

T55.11 Allen Street No. 20 (Lot 47)**Applicant: Darren Turner****Owner: Sophie Ford****Application No. 187/2011**

By Jamie Douglas, Manager Planning Services on 25 June 2012

PURPOSE OF THIS REPORT

This report considers amended plans to construct a double carport in the front setback area of a residence at No. 20 Allen Street, East Fremantle.

An initial application was refused by Council at its meeting on 21 February 2012 and the applicants subsequently appealed to the State Administrative Appeals Tribunal. Following mediation, revised plans and a Streetscape Impact Statement, have been submitted and the SAT has requested that Council consider the amended proposal pursuant to section 31 of the SAT Act.

This report recommends conditional approval of the revised application.

BACKGROUND

The original proposal was considered to adversely impact upon the heritage significance of the dwelling by partly obscuring and competing with, the front elevation. It was further considered that the carport's location in front of the building with a front setback of only 4 metres would be detrimental to the streetscape and could create a precedent for similar structures.

A mediation was conducted onsite on 22 May 2012 with SAT Senior Sessional Member Ross Easton, Manager Planning Services, the owners/applicants Mrs & Mr Ford and their representative Susannah Kendall who is a Heritage Planner with 'tpg' Town Planning & Design Consultants.

The mediation focused upon the reasons for refusal and explored possible design responses that might be more favourably considered. Accordingly Member Easton issued Orders on 25 May 2012 requiring submission of amended plans and additional information and invited Council to reconsider its decision at its meeting on 17 July 2012.

TOWN PLANNING ADVISORY PANEL

The panel considered the revised application at its meeting on 26 June 2012 and commented as follows:

- *Panel offers conditional support for the amended application, however still considers that there are alternative options for parking for two cars, including single in-line parking.*
- *Panel is uncomfortable about the potential precedent of a carport forward of the building, however understands the only option is for this location.*
- *The panel does not support removal of the original front limestone fence and pillar (LPP142) or the widening of the existing cross-over due to its detrimental impact on the streetscape according to (LPP123).*

These comments were communicated to the applicant's consultant who responded as follows:

"Thank you for your advice today that the East Fremantle Design Advisory Panel have considered the application for a double carport in the front setback of 20 Allen Street and support the carport conditional upon the crossover complying with the Town's policy.

I have spoken to the applicants who advise that there are not in a position to amend the plans at this stage and wish to proceed on the basis of the plans you have before you.

They are hopeful that the Planning Committee will also support the application at their meeting on 3 July. We look forward to hearing the outcome of that meeting."

DESCRIPTION OF AMENDED DESIGN

The design has been amended as follows:

- *Lowering the pitch of the carport roof to reflect the pitch of the verandah of the dwelling.*
- *Reducing the length of the carport from 6 m. to 5.5 m., increasing the front setback from 4m. to 4.4m.*
- *Lowering the height of the carport from 2.7m. to 2.4 m. to the underside of the bargeboard.*
- *Off-setting the new carport structure from the verandah of the dwelling.*

ASSESSMENT

The applicant's heritage consultant has submitted a photo montage and plans of the proposed redesigned carport. It is considered that the proposed design changes have 'softened' the impact of the proposed structure both on the front elevation of the dwelling and the streetscape. There does not appear to be any other options to make a double carport less intrusive.

The applicants consultant has submitted that a double carport is necessary to address the particular needs of the client, an intensive care doctor who is required to attend hospitals at all hours of the day and night. However it is well established that planning law is concerned with the use of the land, in the context of orderly and proper planning, and not the personal circumstances of the current owner. Regardless, it is considered that requiring the carport to be only a single width would not materially affect its impact on the streetscape and would tend to distort the dimensions of the structure if a pitched roof was retained.

Because of the location of the dwelling on the lot, if undercover parking is to be provided, then the proposal is the only practical option. Accordingly it is relevant to consider:

- *if the degree of detriment to the streetscape and heritage values of the house is sufficient to warrant refusal and*
- *if the established statutory planning framework enables the granting of an approval.*

As stated, the proposed amendments to the design have reduced the impacts on the streetscape and the existing dwelling. However the existing Local Planning Policy 142 –

Residential Development does not provide for exceptions to the requirement to site carports at or behind the main building line of the house.

The draft Residential Design Guidelines which are proposed to replace the existing LPP 142 do provide Performance Criteria for the approval of garages and carports forward of the building line where there are no other alternative locations as follows:

Desired Development Outcomes

- i. Where garages and carports are part of a development they must be incorporated into, and be compatible with the design of the dwelling;*
- ii. Garages and carports shall not visually dominate the dwelling as viewed from the street;*
- iii. Materials should not detract visually from the streetscape; and,*
- iv. Carports associated with existing residences are not required to mimic or match the materials of the house.*

Existing Dwellings

- P3 For existing buildings where there are no alternatives, carports may be located forward of the building line, provided they:*
- i. Do not visually dominate the streetscape or the buildings to which they belong; and,*
 - ii. Do not detract from the heritage character of a contributory building.*

Council has initiated the procedure for adoption of the draft Guidelines as a Planning Policy by endorsing their release for Public Advertising at its meeting on 19 June 2012. It is appropriate that, within the context of 'orderly and proper planning' pursuant to 10.2 of the Scheme, Council should have regard to the requirements of the draft Policy in its consideration.

There is no other option for locating covered onsite car parking in this instance. It is considered that subject to incorporation of the Panel's comments (discussed below) the amended design would meet the above performance criteria.

The Town Planning Advisory Panel's comments in respect to the desirability of retaining the existing front sandstone wall and requiring the reduction in the width of the proposed crossover and driveway to a maximum width of 3 metres in conformity with LPP 123 (Crossovers Policy) are supported. The applicant has not agreed to amend the submitted plan to incorporate these changes prior to consideration by Council. However it is considered that the 4.4 m. setback of the carport will be sufficient to allow for dual entry to the carport utilising the existing entranceway and crossover and these requirements should be the subject of a condition of any approval.

Conclusion

Should Council accept that the provision of undercover car parking is a reasonable and necessary provision in this instance, then the amended proposal will produce an improved outcome to the originally refused plan in terms of its streetscape impact and impact upon the heritage dwelling. The progression of the draft Planning Policy – Residential Design Guidelines and its adoption for public advertising since Council's determination to refuse the application in February 2012 now provides a statutory basis to exercise discretion in support of an approval.

RECOMMENDATION

That Council exercise its discretion in granting approval for a variation to the front setback requirements to allow the construction of a carport with a front setback of 4.4 metres and in front of the main building line of a dwelling at 20 Allen Street in accordance with the amended plans date stamp received 29 May 2012 subject to the following conditions:

1. Revised plans shall be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence which show that the existing front sandstone wall and driveway entrance are retained and shall not be widened and that the

maximum width of the crossover shall be 3 metres in compliance with Local Planning Policy No 123 Council Policy for Footpaths & Crossovers.

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 unless there is a valid 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.

Mayor Ferris – Cr Nardi

That the officer's recommendation be adopted.

LOST

Reason for not Supporting Officer's Recommendation

The Committee were of the view that the officer's recommendation could not be supported given the comments of the Town Planning Advisory Panel.

RECOMMENDATION TO COUNCIL

Cr Martin – Cr Collinson

That Council refuse to grant approval for a variation to the front setback requirements to allow the construction of a carport with a front setback of 4.4 metres and in front of the main building line of the dwelling at No. 20 (Lot 47) Allen Street, East Fremantle as shown on amended plans date stamp received 29 May 2012 for the following reasons:

1. **alternative options for the parking of two vehicles were available, including single in-line parking.**
2. **concern that a potential precedent may be set by approving a carport forward of the main building line.**
3. **removal of the original front limestone fence and pillar or the widening of the existing cross-over would have a detrimental impact upon the streetscape.**

CARRIED

Mayor Ferris made the following impartiality declaration in the matter of 78 Duke Street: "As a consequence of the applicant and architect, Mr John Chisholm, being known to me, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

T55.12 Duke Street No. 78 (Lot 496)
Applicant: John Chisholm Design
Owner: D Murdoch & G Ruello
Application No. P91/12

By Christine Catchpole, Town Planner, on 29 June 2012

PURPOSE OF THIS REPORT

This report recommends conditional approval of a Planning Application for construction of additions and alterations to the rear of a single residence at 78 Duke Street, East Fremantle.

BACKGROUND

Description of Site

The subject site is:

- a 508m² freehold lot
- zoned Residential R20
- located in the Plympton Precinct
- currently occupied by a single improved dwelling

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20
Residential Design Codes of Western Australia (RDC)
Metropolitan Region Scheme - Abuts Primary Regional Road Reserve

Relevant Council Policies

Local Planning Policy No. 142 : Residential Development (LPP142)
Local Planning Policy No. 023 : Reflective Roofing Material (LPP 023)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : Condition to be imposed
Footpath : Condition to be imposed
Streetscape : Dwelling has undergone improvements and renovations

Documentation

Plans and relevant forms date stamped received on 31 May 2012

Date Application Received

29 May 2012

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

14 September 2004 Home Occupation approved subject to conditions - Mattress Cleaning (Home Service).
16 November 2001 Building Licence issued for a garden shed.
1 September 1993 Approval to remove roof tiles and replace with Colorbond.

Metropolitan Region Scheme – Abuts Primary Regional Road Reserve

Due to the minor nature of the application referral to Main Roads for comment was not considered necessary.

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours from 6 to 21 June 2012. No submissions were received during this period.

Town Planning Advisory Panel Comments

Due to the minor nature of the proposal the application was not referred to the Town Planning Advisory Panel.

Site Inspection

By Town Planner 29 June 2012

STATISTICS

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status
Open Space	50%	66%	A
Site Works	Less than 500mm	Greater than 500 mm – 0.7m at rear deck	D
Local Planning Policies:	Issues		
Policy 142			
Roof	Skillion roof - 5° pitch – Zinalume or off white Colorbond to match existing		A
Solar Access & Shade	Deck on northern side		A
Drainage	Apply condition		A
Views	Unlikely to have impact		A
Crossover	Apply condition		A
Trees	No impact		A

03 July 2012

MINUTES

Other:	Issues		
Overshadowing	12.2 % - New addition accounts for 7.6% of site New parapet boundary wall at No. 80 Duke Street will be overshadowed.		A
Privacy/Overlooking	See below		D
Height:	Required	Proposed	
Wall north	5.6	4.24	A
Wall south	5.6	4.07	A
Wall west	5.6	Height below level of existing roof line	A
Wall east	5.6	5.38	A
Ridge north	8.1	4.44	A
Ridge south	8.1	4.27	A
Ridge west	8.1	Height below level of existing roof line	A
Ridge east	8.1	5.58	
Roof type	Skillion - 5° pitch Zinalume or off white		A
Privacy/Overlooking:	cone of vision drawings		
Clause 6.8.1 FFL 0.5m above NGL major opening to active habitable spaces	Required	Proposed	
	Deck/balcony area to rear - 7.5m	1.2m 1600mm high privacy screen indicated for northern face	D
	Habitable room (living/dining) - 6.0	5.3	D
	Bedroom - 4.5m	3.5	D

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
<i>Ground</i>		Existing residence no change				6.0	A
Setbacks:							
Rear (east)							
<i>Ground</i>	<i>Section 1</i>	5.38	4.7	yes	2.8	19.4 min	A
	<i>Section 2</i>	5.38	5.6	yes	2.8	23.2	A
	<i>Overall</i>	5.38	10.3	yes	3.1	23.2	A
Side (south)							
<i>Ground</i>		4.07	9.5	no	1.5	1.15	D
Side (north)							
<i>Ground</i>							
	<i>Section 1</i>	4.24	4.5	no	1.1	0.75	D
	<i>Section 2</i>	4.24	3.9	yes	2.0	6.4	A
	<i>Overall length</i>	4.24	8.4	yes	2.0	0.75	D
	<i>deck</i>	0.7	7.0	yes	1.5	1.2	D

ASSESSMENT

The applicant is proposing alterations and additions to an existing residence of approximately 67 square metres. The rear portion of the house will be demolished including the existing laundry, dining and storeroom. This will allow for the construction of a new dining, laundry, living and master bedroom with ensuite. The extension will be raised to meet the floor level of the existing residence providing a raised deck area to the rear accessed from the living and dining areas.

The extension will comprise a skillion roofed building with weatherboard cladding, timber windows and a Colorbond roof in either zinalume or a colour to match the existing roof.

There are no major openings proposed for the southern elevation and the northern elevation indicates a living room highlight window and a concertina style door to the deck.

The proposed development is consistent with the objectives of the Residential Zone. Some minor variations are proposed in regard to side setbacks, visual privacy and site works.

Building Setbacks

Some minor variations are sought in regard to the side boundary setbacks and this is a result of the extension following the building line of the original house on the northern boundary, and a bedroom extension and new laundry with external access on the southern boundary.

Southern Boundary

The required setback is 1.5 metres and the setback proposed is 1.15 metres. The reduced setback has no impact on the adjoining property as recent improvements to this site have resulted in a parapet wall approximately 4 metres high and 9 metres long being constructed along almost the same section of the property boundary as the extension for the subject site.

Northern Boundary

The addition will follow the building line on the northern side of the lot and as such the wall will be setback 0.75 metres; the required setback being 1.1 metres for this section of wall with no major openings. The bedroom section of the extension is setback 6.4 metres from this boundary and therefore complies. Similarly, the additions will not impact on the adjoining property as the major openings and useable outdoor spaces of the extensions to No. 76 Duke Street are oriented to the rear of the property and the wall along this side of the lot will have only highlight windows.

LPP 142 provides, in this case, criteria (b), (c), (d) and (e) by which to assess proposed variations to setback requirements. These are discussed below in regard to both side boundaries:

(b) Walls are Behind the Main Dwelling.

The extension walls are behind the main dwelling and are setback from the street over 12 metres. One wall will form an extension of the existing wall on the northern side and on the southern side the wall, whilst slightly closer to the boundary than the original setback, is still behind the main dwelling.

(c) Subject to the Overshadow Provisions of the Residential Design Codes – Element 9.

The application complies as the additions will only marginally increase the amount of overshadowing that presently exists on the adjoining site and will not exceed that permitted under the R-Codes.

(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.

The walls are not considered to be detrimental to the amenity of the locality or the adjoining neighbours in this respect.

(e) Having regard to the above, where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.

The walls will abut walls of similar dimensions that are the result of Council approved extensions to the adjoining properties.

Privacy / Overlooking

The application does not comply with the R-Codes in respect of Clause 6.8.1 – Visual Privacy as the deck verandah, living area (habitable room) and the bedroom are raised

more than 0.5 metres above natural ground level so the setbacks required vary between 4.5 metres for the bedroom, 6.0 metres for the dining/living room and 7.5 metres for the deck.

The impact of the addition is negligible in regard to overlooking of adjoining sites. As mentioned above the parapet wall on the southern boundary and the location of the bedroom extension eastwards prevents any overlooking from the deck to the south. In addition, the bedroom window closest to the southern boundary is indicated as glazed with obscure glass, as is the laundry door.

On the northern boundary the additions approved for No. 76 Duke Street (and underway) result in the extension of the ground floor eastwards with a lower ground floor as an undercroft. The extensions on the adjoining property prevent any overlooking into the usable open space areas of that site. Also, fixed screening to the northern aspect of the deck area is indicated on the plans and this will further restrict overlooking.

No objections to the additions were received from adjacent owners.

Site Works

Due to the slope of the site away from the road construction of a timber framed flooring system (greater than 500mm in height) is required to achieve a finished floor level equivalent to that of the original house. This is not considered to pose any issues in regard to privacy or overlooking as extensions to both houses either side of the subject lot have commenced, and as discussed above the raised floor level is very unlikely to provide any opportunities for overlooking or privacy intrusion. The timber framed flooring system will be enclosed and screened with timber battens.

Roof Form

A skillion roof of 5° pitch is proposed; a portion of which may be visible from the street along the driveway of the subject property; however due to the slope of the land to the east, the extension for the most part is not visible from the street. The colour will match the existing roof (off white) or be zinalume. As such a condition of planning approval will be required to ensure that should zinalume be chosen reflectivity is not a concern for adjoining properties.

Open Space

Under the R-Codes 50% of the site is to be maintained as open space. The additional floor area of approximately 67m² reduces open space on the site to 66% and as such the application still complies with the R-Code requirement.

Building Height

The development does not exceed the maximum permitted building heights as permitted under the R-Codes and Council LPP 142.

Overshadowing

Approximately 12% of the adjoining property will be overshadowed on 21 June, however the extension will only account for 7.6% of overshadowing. The total percentage of the site shaded does not exceed that permitted under the R-Code requirements and in any case the additions will overshadow the newly constructed parapet wall on the southern boundary.

CONCLUSION

The proposed development complies with the R-Codes and Council's Planning Policies with the exception of minor variations to side boundary setbacks, site works and the visual privacy provisions.

The proposal will result in minimal impact on the streetscape as the addition is behind the original residence. The variations being sought in regard to boundary setbacks are supported as they are not considered to have an impact on the amenity of the adjoining properties or the streetscape. The extensions follow similar building lines to the original

residence and the additions are in proportion to the existing scale and height of the original house.

There is a negligible impact in regard to overlooking/privacy and the applicant has indicated the installation of a screening device on the northern aspect of the deck to ensure privacy for both lots.

The site works are not considered to impact on amenity or privacy/overlooking and the raised timber floor frame is required in order to maintain the same floor level as the existing dwelling and will be screened.

No comments in regard to the proposal were received.

The subject site abuts a Metropolitan Region Scheme Reserve - Primary Regional Road, however, due to the minor nature of the application referral to Main Roads for comment was not considered necessary.

RECOMMENDATION

That Council exercise discretion in granting planning approval to:

- (a) vary the setback requirements of the Residential Design Codes of Western Australia to permit a 0.75 metre side setback for the wall and a 1.2 metre side setback for the deck from the northern boundary as indicated on the plans date stamped received on 31 May 2012;
- (b) vary the setback requirements of the Residential Design Codes of Western Australia to permit a 1.15 metre side setback on the southern boundary as indicated on the plans date stamped received on 31 May 2012;
- (c) vary the requirements of the Residential Design Codes of Western Australia in regard to Clause 6.6.1 (A1.2) to permit site works greater than 500mm;
- (d) vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the rear bedroom windows, rear deck and dining/living room to intrude over the northern and southern boundaries as indicated on plans date stamped received on 31 May 2012;

for additions and alterations to the rear of an existing residence at No. 78 (Lot 496) Duke Street, East Fremantle, in accordance with the plans date stamped received on 31 May 2012 subject to the following conditions:

1. The installation of a fixed screening device on the northern aspect of the rear deck to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. A detailed schedule of external materials and finishes, including paint colours and roof details to be submitted for all work the subject of this planning approval to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
3. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
4. 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.
5. 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.
6. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (f) below)
 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. 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 property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the **installer** of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

RECOMMENDATION TO COUNCIL

Mayor Ferris – Cr de Jong

That Council exercise discretion in granting planning approval to:

- (a) **vary the setback requirements of the Residential Design Codes of Western Australia to permit a 0.75 metre side setback for the wall and a 1.2 metre side setback for the deck from the northern boundary as indicated on the plans date stamped received on 31 May 2012;**
- (b) **vary the setback requirements of the Residential Design Codes of Western Australia to permit a 1.15 metre side setback on the southern boundary as indicated on the plans date stamped received on 31 May 2012;**
- (c) **vary the requirements of the Residential Design Codes of Western Australia in regard to Clause 6.6.1 (A1.2) to permit site works greater than 500mm;**
- (d) **vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the rear bedroom windows, rear deck and dining/living room to intrude over the northern and southern boundaries as indicated on plans date stamped received on 31 May 2012;**

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1. The installation of a fixed screening device on the northern aspect of the rear deck to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. A detailed schedule of external materials and finishes, including paint colours and roof details to be submitted for all work the subject of this planning approval to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
3. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
4. 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.
5. 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.
6. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (f) below)*
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. 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 property.*

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

T56. REPORTS OF OFFICERS – STRATEGIC PLANNING

T56.1 *Delegation of Powers to Town Planning & Building Committee*

By Stuart Wearne, Chief Executive Officer and Jamie Douglas, Manager Planning Services on 29 June 2012

PURPOSE

Pursuant to a recent review of Council’s meeting arrangements, this report considers the matter of delegated powers to the Town Planning & Building Committee and outlines various issues for consideration by elected members.

BACKGROUND

Elected members have recently sought to vary arrangements for Council meetings. To this end, Council has restructured its proposed meeting schedule for the coming twelve months. As part of the outcome of that process it was decided the issue of granting delegated decision making powers to the Town Planning & Building Committee would be considered. Currently recommendations of the Committee are taken to the subsequent meeting of Council for determination. At both meetings elected members receive public representations and debate the merit of planning applications. Elected members have requested that consideration be given to the provision of delegated powers to the Committee partly in order to avoid the potential duplication of representations, debate and decision making which currently can occur, and partly to reduce the size of the potential agenda which arises from moving from scheduling two ordinary Council meetings per month to one ordinary Council meeting per month (notwithstanding it was often the case that only one meeting per month was held).

Another factor is that planning approvals cannot, currently, be issued until after full Council has endorsed the Committee’s decisions. Under the revised meeting schedule, there will now be a two week gap between the two meetings, consequently there will be a two week delay in the issue of planning permits. This delay would not arise in respect to the majority of applications (that are not referred to Council), if decision making powers were delegated to the Committee.

Statutory Provisions:

The following Clause 11.3 of TPS No 3 empowers the Council to grant authority to a committee or the CEO (who can in turn delegate to any employee) to issue decisions under the Scheme.

11.3 Delegation of Functions

- 11.3.1 *The local government may, in writing and either generally or as otherwise provided by the instrument of delegation, delegate to a committee or the CEO, within the meaning of those expressions under the Local Government Act 1995, the exercise of any of its powers or the discharge of any of its duties under the Scheme, other than this power of delegation.*

- 11.3.. *The CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under clause 11.3.1.*
- 11.3.3 *The exercise of the power of delegation under clause 11.3.1 requires a decision of an absolute majority as if the power had been exercised under the Local Government Act 1995.*
- 11.3.4 *Sections 5.45 and 5.46 of the Local Government Act 1995 and the regulations referred to in section 5.46 apply to a delegation made under this clause as if the delegation were a delegation under Division 4 of Part 5 of that Act.*

DISCUSSION

- **Officer Delegation**

Current planning delegations with respect to the CEO are shown at Attachment 1 to this report. In comparison with officer delegations in force in other councils (such as Town of Cambridge and City of Rockingham) it is apparent that at least some other councils delegate a broader range of powers and these delegations extend to officers other than the CEO (which is a matter for the discretion of the CEO).

It is considered that an expansion of the current delegation to include applications for 'Home Occupation' and 'incidental development' would facilitate the determination of minor applications which otherwise would be determined by the Committee. The reasons for this are explained as follows ;

'Home occupation' has a 'discretionary use' status under the TPS No. 3 within the Residential zone. This is contrary to the prevailing status of this use class in most other Local Government Planning Schemes. A 'home occupation' is usually considered a 'permitted use' since it is of a minor nature and controlled by definition so that it cannot materially impact upon amenity. The definition for a home occupation is as follows:

"home occupation" means an occupation carried out in a dwelling or on land around a dwelling by an occupier of the dwelling which —

- (a) does not employ any person not a member of the occupier's household;
- (b) will not cause injury to or adversely affect the amenity of the neighbourhood;
- (c) does not occupy an area greater than 20 square metres;
- (d) does not display a sign exceeding 0.2 square metres;
- (e) does not involve the retail sale, display or hire of goods of any nature;
- (f) in relation to vehicles and parking, does not result in the requirement for a greater number of parking facilities than normally required for a single dwelling or an increase in traffic volume in the neighbourhood, does not involve the presence, use or calling of a vehicle more than 2 tonnes tare weight, and does not include provision for the fuelling, repair or maintenance of motor vehicles; and
- (g) does not involve the use of an essential service of greater capacity than normally required in the zone;

'Incidental development' is defined in the Residential Design Codes as follows:

Development which is associated with or attached to a dwelling and incidental to its main residential functions.

Such development includes: garden sheds, garages, carports, swimming pools, sundecks, pergolas and verandahs. Often such minor works are located on or near the boundary and although it may not meet setback requirements, does not materially impact upon neighbours and if located behind the building line, does not

impact the streetscape. However these development types along with additions, alterations and maintenance to buildings currently fall outside the CEO delegation if they cannot comply with setback and height requirements which read:

- *alterations/additions, maintenance/re-instatement works and incidental development (as defined by the R-Codes) that do not require Council to exercise discretion;*

It is therefore proposed to add the following words to the delegation to allow for delegated approval of these developments which do not necessarily comply with setback and/or height requirements:

- *alterations/additions, maintenance/re-instatement works and incidental development (as defined by the R-Codes) that do not require Council to exercise discretion, **or where there is no objection to the development, or it will not impact upon the streetscape;***

- **Committee Delegation**

There is currently no delegation to the Committee and its recommendations must be endorsed by Council before they can be given effect. A review of some other local governments eg Rockingham, Fremantle, Cambridge indicates that, in some cases, it is the practice of the respective planning committees to determine the majority of development control matters under delegation.

Some other local governments however operate exactly as the Town of East Fremantle currently does, ie with all Committee decisions referred to full Council for endorsement. Examples are Claremont, Nedlands, Cottesloe and Mosman Park.

Further, some other local governments operate without Committees entirely and thus all planning matters are only considered at full Council.

Issues

Numbers

Currently the Town Planning Committee has 7 members. A quorum is 4. This means that if no benchmark is applied, under an unfettered delegated authority, a binding decision could be made, with the Presiding Member using a casting vote, by 2 elected members. In theory, that decision could be opposed by the other 7 members of Council – however, short of a revocation process, nothing could be done about it.

The same argument can extend even to a 4:3 decision. Four members still do not constitute a majority of Council members.

Whilst such a situation may be considered acceptable by elected members, it is considered, at least at this stage, that, as a minimum, a delegation should only be allowed in cases where at least 5 committee members have voted in support.

Then it could be said the majority of Council members have given support.

This figure would apply regardless of whether committee membership increased or reduced.

In the Chief Executive Officer's view it would actually be preferable, if delegation is to occur, that all elected members become members of the Town Planning & Building Committee.

This is what occurs in some other local governments eg City of Subiaco.

Town planning is considered so important, in terms of local government/elected member responsibilities, that it seems "wrong" that an elected member would, under

a full planning delegation regime, have no say in any of the Town's planning issues.

Strategic vs Statutory Planning

Elected members may have the view that the delegated authority should only apply to statutory planning matters but not strategic planning matters.

That is another matter for elected member consideration.

Discussion

It is considered that the above issues should be discussed at Committee/Council level, with a consensus view put forward, sufficient to allow a more informed officer recommendation.

In short, the identified primary issues are these:

Issue 1

Do elected members wish the Town Planning & Building Committee to be considering, under delegated authority, *only* statutory planning issues or *all* planning issues ie statutory planning *and* strategic planning issues?

Issue 2

Should the Town Planning & Building Committee have a delegated authority to determine planning issues (whether statutory or strategic – see Issue 1) unfettered by numbers – or should there be a benchmark, eg least 5 members of the Committee, to vote in favour of the committee recommendation, as discussed above?

Issue 3

(Note that it is always open to elected members at any meeting to decline to accept a delegated authority in relation to all or any items.)

Under an earlier delegation policy, involving more minor matters, even if one elected member opposed the officer's recommendation, the matter was referred to the Committee for consideration.

It is possible some elected members may prefer that a delegation only be exercised where the officer's recommendation was being supported and if not, with delegation not being exercised and the matter referred to full Council.

CONCLUSION

The conditional delegation of powers to the Town Planning & Building Committee to determine planning applications would expedite the resolution of development applications (and strategic planning matters, if applicable) and reduce the current degree of "double handling". Some expansion of delegated powers to the CEO would also facilitate the timely determination of certain minor applications.

However this would be a departure from long established practice and is not a process contemplated by the Standing Orders. Accordingly, it needs to be carefully considered. This was indicated at the last Council Meeting when the CEO stated he considered the issue should be discussed by the Town Planning & Building Committee members in the first instance, to allow a more informed officer's recommendation.

RECOMMENDATION

It is recommended this report be considered by elected members, with an indication given by the Committee of their consensus view on the key issues raised, and any other issues the Committee members consider relevant.

RECOMMENDATION TO COUNCIL

Cr de Jong – Cr Martin

That:

1. the Town Planning & Building Committee be delegated the power to determine all applications for planning approval or advice to referral agencies and other Planning Authorities not otherwise included within the delegation to the Chief Executive Officer subject to the following conditions:
 - (i) the majority of committee members (5) vote in favour of the Committee recommendation.
 - (ii) the Committee determination accords with the Reporting Officer’s recommendation or an amended recommendation that is supported by the Reporting Officer or Manager - Planning Services.
2. the powers delegated to the Chief Executive Officer be amended as outlined in the officer’s report. CARRIED

T57. CONFIDENTIAL BUSINESS
Nil.

T58. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING
Nil.

T59. CLOSURE OF MEETING
There being no further business the meeting closed at 8.43pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **3 July 2012**, Minute Book reference **T47. to T59.** were confirmed at the meeting of the Committee on*

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Presiding Member