

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 7 AUGUST, 2012 COMMENCING AT 6.30PM.****T60. OPENING OF MEETING**

In the absence of the Presiding Member, the Manager – Planning Services opened the meeting.

**T60.1 Present**

Mayor Alan Ferris	Presiding Member
Cr Cliff Collinson	
Cr Siân Martin	
Cr Maria Rico	
Mr Jamie Douglas	Manager - Planning Services
Ms Carly Pidco	Town Planner
Ms Janine May	Minute Secretary

**T61. ELECTION OF PRESIDING MEMBER**

The Manager – Planning Services, Jamie Douglas, called for nominations for the position of Presiding Member in the absence of Cr Wilson.

Cr Martin nominated Mayor Ferris who accepted the nomination. The nomination was seconded by Cr Rico.

Mayor Ferris assumed the chair.

**T62. 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.”*

**T63. WELCOME TO GALLERY**

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

**T64. APOLOGIES**

Cr de Jong  
Cr Nardi  
Cr Wilson

**T65. CONFIRMATION OF MINUTES****T65.1 Town Planning & Building Committee – 3 July 2012**

Cr Collinson – Cr Martin

That the Town Planning & Building Committee minutes dated 3 July 2012 as adopted at the Council meeting held on 17 July 2012 be confirmed. CARRIED

**T66. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)****T66.1 King Street No 99 (Lot 344)**

Correspondence from Mr Walsh (applicant) in relation to the provision of a disabled toilet.

Cr Rico – Cr Martin

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T68.3).

CARRIED

- T66.2 View Terrace No 60 (Lot 86)**  
Correspondence from Ross Griffin Homes (applicant) seeking deferral of planning application to allow suitable advice and additional information to be obtained.

**Cr Rico - Martin**

**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T68.9).**

CARRIED

## **T67. REPORTS OF COMMITTEES**

- T67.1 Town Planning Advisory Panel – 10 July 2012**

**Cr Rico – Cr Collinson**

**That the minutes of the Town Planning Advisory Panel meeting held on 10 July 2012 be received and each item considered when the relevant development application is being discussed.**

CARRIED

## **T68. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL**

- T68.1 Receipt of Reports**

**Cr Martin – Cr Collinson**

**That the Reports of Officers be received.**

CARRIED

- T68.2 Order of Business**

**Cr Martin – Cr Rico**

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

CARRIED

*Cr Rico made the following impartiality declaration in the matter of 99 King Street: "As a consequence of having a long time friendship with the owner, 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".*

- T68.3 King Street No. 99 (Lot 344)**  
**Applicant: G Walsh**  
**Owner: N Monte**  
**Application No. P102/2012**  
By Carly Pidco, Town Planner, on 1 August 2012

### **PURPOSE OF THIS REPORT**

This report considers an application for a change of use to establish a take away coffee outlet ("fast food outlet") at No. 99 King Street East Fremantle. The report recommends that, subject to the property being entered on the Town's Heritage List and the applicant submitting additional information to the Town's satisfaction, the use be approved subject to conditions.

### **BACKGROUND**

#### **Description of site**

The subject site is:

- a 508m<sup>2</sup> 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 18 June 2012

**Date Application Received**

18 June 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"
17 July 2012	Council resolved to advise the owner that it is prepared to approve an "artisan shop and take away coffee" use if the subject property is entered on the Heritage List
18 July 2012	The Town notifies the owner of 99 King Street that it proposes to place the property on the Heritage List and inviting comment

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours from 19 June 2012 to 6 July 2012. Two submissions were received during the consultation period. One submission was received during this period from the owners of 83 King Street. The submission was in support of the proposed take-away coffee shop.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 10 July 2012. The Panel made the following comment:

*Panel reiterates comments made regarding the previous change of use applications (with particular emphasis on restoration of the front facade).*

The comments referred to were made at the meeting of 26 June 2012 and are as follows:

- 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 any approval being issued.

### 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 "take-away retail coffee outlet". In a submission accompanying the application, the applicant describes the business as a "grab and go" style cafe. Coffee and baked goods will be available but not full meals. The use as described is considered to fall within the "fast food outlet" land use category under the Scheme:

*"fast food outlet" means premises used for the preparation, sale and serving of food to customers in a form ready to be eaten without further preparation, primarily off the premises, but does not include a lunch bar.*

The use of "fast food outlet" is prohibited in the residential zone.

At its meeting of 17 July 2012, the Council considered a different application for take away coffee at 99 King Street. The Council acknowledged that the use was prohibited but resolved to advise the applicant that the use would be supported if the subject property was entered onto the Heritage List. The reasoning for this is to allow the property to benefit from cl. 7.5 of the Scheme, which provides that:

Where desirable to —

- (a) facilitate the conservation of a heritage place entered in the Register of Places under the *Heritage of Western Australia Act 1990* or listed in the Heritage List under clause 7.1.1; or
- (b) enhance or preserve heritage values in a heritage area designated under clause 7.2.1, the local government may vary any site or development requirement specified in the Scheme or the Residential Design Codes by following the procedures set out in clause 5.6.2.

It is considered that varying the development requirements in relation to land use would facilitate the conservation of the building by:

- Encouraging investment into the property that would include restoration works;
- Facilitating a use that is a modern interpretation of the building's original use as a corner shop, catering to needs of local residents; and
- Facilitating a use that is likely to maintain the open front facade of the building, which is often altered when corner shops are converted to residential uses.

While it is considered that approval of a take-away coffee outlet could be consistent with the intent of cl. 7.5 (if 99 King Street was to be included on the Heritage List), it is also necessary to determine whether the proposed use demonstrates underlying compliance with the objectives of the residential zone. If the use is not consistent with the objectives of the zone, exercise of discretion under cl. 7.5 cannot reasonably be considered. The zone objectives are provided in cl. 4.2 of the Scheme and repeated in the following table, alongside the Officer's assessment.

Residential Zone Objective	Planning Officer Comment
To provide for a range and variety of housing to meet the social and economic needs of the community, while recognising the limitations on re-development necessary to protect local character.	The proposed use has not net impact on housing stock in the Local Government Area. The use is to be carried out in the corner shop area of the building and the attached dwelling is to remain occupied for residential purposes.
To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of the existing built form.	The proposed use will utilise the existing corner shop building. Restoration and reinvigoration of the corner shop will enhance the streetscape and contribute to the character of the locality.
To encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation, water sensitive design and provision of 'greenspace'.	The proposed use will utilise the existing building.
To protect residential areas from encroachment of inappropriate land uses which are likely to detract from residential amenities, but to provide for a limited range of home-based activities compatible with the locality.	<p>The proposed use of "fast food outlet" is prohibited in the residential zone as it may lead to unacceptable traffic or noise impacts on surroundings residents. The use does not include a drive-through facility or table service that might encourage excessive vehicle visitation. The matter of car parking is discussed in detail under that section of this report.</p> <p>Noise disturbance is most likely to occur if the use extends into the evening, when residents are at home and may be trying to sleep, or if large volumes of visitors are present at any one time. The proposed opening hours are 7am to 6pm. The early start is considered acceptable as breakfast meals will not be served and people are therefore unlikely to linger in the morning. The 6pm closing time is not so late that it might interfere with residential amenity in the evenings or disturb sleep. The service being offered is described as "grab and go", and with no full meals available or table service, it is unlikely that visitors will linger at the property and create noise.</p> <p>The proposed use is not considered to detract from residential amenities. While not strictly a home-based business, it is considered to be compatible with the locality. The property has part frontage to Marmion Street, which already has a number of non-residential uses (cafe, school, restaurant, football club). The proposed use will have no greater impact on amenity than these existing businesses, and is compatible with the limited non-residential uses along Marmion Street.</p>
To recognise the importance of design elements such as the 'front yard' and the 'back yard' to the character, amenity and historical development of the Town and to the community.	The proposed use will utilise the existing corner shop. While this building does not have a significant 'front yard', the corner shop would have been an important community facility in the earlier development of the Town.

It is important to note that 99 King Street is an Additional Use site under the Scheme. It might be considered that any exercise of discretion in relation to land use should be in keeping with the procedure for Additional Uses, and not under cl. 7.5 of the Scheme alone. It is noted that the special conditions attached to the specified Additional Uses can be met by the proposed use:

Special Condition	Assessment
Floor area of non-residential activity not to exceed 100m <sup>2</sup>	Shop floor area is 62.7m <sup>2</sup>
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	The existing building is rated A- <sup>A</sup> in the Town's Heritage Survey 2006. The building rates highly in most categories, but is afforded a low rating for condition.

Special Condition	Assessment
<p>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 a former shop and residence. Corner shops have become increasingly rare as consumer preference trend toward supermarkets and shopping centres. The sale of take-away coffee 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 take-away coffee 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, to Council's satisfaction, prior to the commencement of any development.</p>

**Car Parking**

The Scheme provides the following car parking standard for a fast food outlet:

*1 space for every 2.5m<sup>2</sup> queuing area with a minimum of 4 spaces, plus 1 space for every 5m<sup>2</sup> seating area*

It is difficult to distinguish between queuing area and seating area, as the seating area is primarily for the benefit of people waiting for coffee orders and is not for the provision of table-service and full meals. It is considered overly onerous, however, to apply the queuing area standard to the entire shop floor. To achieve a fair calculation of parking that might be required, the area forward of the service counter has been attributed half to queuing area and half to seating area.

Parking Standard	Required
1 space for every 2.5m <sup>2</sup> queuing area	11.6m <sup>2</sup> @ 1 bay per 2.5m <sup>2</sup> = 4.6 bays
Minimum 4 bays	4 bays
<i>Subtotal</i>	<i>4.6 bays</i>
Plus 1 space for every 5m <sup>2</sup> seating area	11.6m <sup>2</sup> @ 1 bay per 5m <sup>2</sup> = 2.3 bays
	<i>Total Required: 7 bays</i>

The applicant has indicated on the site plan that although there is no on-site car parking available, five on-street bays on Marmion Street will serve the use. 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 'grab and go' concept should encourage a quick customer turnover and the absence of full meals and table-service will discourage visitors from lingering. It is unlikely that a significant number of vehicles will attend the site at any one point in time or that individual vehicles will occupy on-street parking for considerable periods of 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 take-away coffee business will not be open in the evenings, 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 proposed take-away coffee use will not have an undue impact on availability of parking in the locality. While a change to the intensity of the use (increased number of employees, increased floor space, table-service) may impact on the car parking required, the proposal as described 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 take-away coffee use is a unique interpretation of the building's original use as a corner shop servicing local residents
- 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 provided adequate detail of the proposed signage to make a full assessment. Further information should be provided and deemed acceptable prior to the issuance of an approval.

#### **Toilet Facilities**

The proposed take-away coffee shop will utilise the existing outhouse as its toilet facilities. The Environmental Health Officer has advised that this arrangement is not acceptable with respect to number of toilets provided and wheelchair accessibility. The applicant has verbally advised the Planning Officer in a telephone conversation on 30 July 2012 that the available facility can be made serviceable for the use. It is recommended that the applicant provide further detail addressing this issue to the satisfaction of the Environmental Health Officer prior to an approval being issued.

#### **CONCLUSION**

The proposed take-away coffee shop will reinvigorate a heritage building and service the local community. The car parking demand associated with the 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 use is consistent with the objectives of the Residential Zone and is unlikely to have an undue impact on amenity in the locality.

Notwithstanding the above, the use is classified as a "fast food outlet" under the Scheme and is a prohibited use in the residential zone. If the property was included on the Heritage List, the Council may be able to exercise its discretion pursuant to cl. 7.5 of the Scheme and vary the development requirements for the site. The process for including the property on the Heritage List has commenced.

It is recommended that, upon receipt of necessary additional information from the applicant in relation to the restoration of the building, and subject to the property being included on the Heritage List, the Council follow its decision of 17 July 2012 and grant development approval for the proposed "fast food outlet" use. Any such approval should include conditions to limit the opening hours and services provided to ensure that the use does not impact on the amenity of residents.

### RECOMMENDATION

That:

- (i) subject to the property being included on the Heritage List of TPS3, following the implementation of the required public consultation processes;
- (ii) subject to the submission of a detailed schedule of external finishings (including paint colours); advertising signage; and internal materials and finishings (including removal or retention of any existing heritage features) to the satisfaction of the CEO;
- (iii) subject to the submission of amended plans demonstrating compliance with the relevant Australian Standards for provision of toilet facilities, to the satisfaction of the CEO on advice of the Environmental Health Officer;

Council exercise its discretion pursuant to Clause 7.5 of TPS3 in granting approval for the change of use to "fast food outlet" at No. 99 (Lot 344 on Plan 1515) King Street, East Fremantle, as described on the plans date stamped received 18 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. The opening hours of the use are to be from 7:00am to 6:00pm only.
3. No consumption of food or beverages on site.
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 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.
6. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

### Footnote:

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

- (a) *with regards to condition 3, the approval is for the use as described in the written information provided and deemed a "fast food outlet" use by the Council. Any changes to the nature of the use, including commencement of activities that may be considered a "restaurant" use of the land, will require further approval by Council.*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *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.*

- (d) *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.*
- (e) *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).*
- (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".*

The email from Mr Walsh, referred from Correspondence (MB Ref T66.1) was tabled.

Mr Walsh (applicant) addressed the meeting in support of the proposal.

#### RECOMMENDATION TO COUNCIL

Cr Martin – Cr Collinson

That:

- (i) **subject to the property being included on the Heritage List of TPS3, following the implementation of the required public consultation processes;**
- (ii) **subject to the submission of a detailed schedule of external finishings (including paint colours); advertising signage; and internal materials and finishings (including removal or retention of any existing heritage features) to the satisfaction of the CEO;**
- (iii) **subject to the submission of amended plans demonstrating compliance with the relevant Australian Standards for provision of toilet facilities, to the satisfaction of the CEO on advice of the Environmental Health Officer;**

**Council exercise its discretion pursuant to Clause 7.5 of TPS3 in granting approval for the change of use to "fast food outlet" at No. 99 (Lot 344 on Plan 1515) King Street, East Fremantle, as described on the plans date stamped received 18 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. **The opening hours of the use are to be from 7:00am to 6:00pm only.**
3. **No consumption of food or beverages on site.**
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 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.**
6. **Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
7. **This planning approval to remain valid for a period of 24 months from date of this approval.**

**Footnote:**

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

- (a) *with regards to condition 3, the approval is for the use as described in the written information provided and deemed a "fast food outlet" use by the Council. Any changes to the nature of the use, including commencement of activities that may be considered a "restaurant" use of the land, will require further approval by Council.*
- (b) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (c) *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.*
- (d) *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.*
- (e) *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).*
- (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****T68.4 George Street No. 48 (Lot 300)****Applicant: Lisa Keen****Owner: Mulloway Pty Ltd****Application No. P93/2012**

By Jamie Douglas, Manager Planning Services and Carly Pidco, Town Planner on 16 July 2012

**BACKGROUND****Purpose of this Report**

This report considers an application to amend a condition of Planning Approval which restricts the wine bar at 48 George Street to a maximum of 70 patrons, such as to allow for 100 patrons. The proposal is recommended for refusal.

**Statutory Considerations**

Town Planning Scheme No. 3

Local Planning Strategy – Plympton Precinct (LPS)

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Mixed Use – TPS No. 3

'A-' Management Category Municipal Heritage Inventory

**Relevant Council Policies**

Local Planning Policy – Contribution to the Management of Access and Parking in George Street Precinct

**Impact on Public Domain**

Tree in verge : No impact  
 Light pole : No impact  
 Crossover : No impact  
 Footpath : No impact

Streetscape : The queuing patrons are at times impacting upon the streetscape.

**Documentation**

Application and supporting information date stamp received 8 June 2012.

**Date Application Received**

8 June 2012

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

- 24 January 2001 A Planning Approval for alterations and additions to the bottle shop was approved by Council.
- 21 April 2004 Building Licence issued for alterations and additions to the liquor store.
- 12 January 2011 Planning Approval issued for external repainting, replacement of awning and re-cladding of planter boxes.
- 15 March 2011 Council conditional approval for a partial change of use from bottle shop to restaurant and wine bar and for an extension and internal alterations.

**BACKGROUND**

The application approved by Council in 2011 was for a partial change of use from existing bottle shop and retail use to bottle shop and restaurant/wine bar and for a minor extension and internal alterations associated with the proposed change of use. The change of use was associated with the rear shop and cellar areas which have floor areas of 160m<sup>2</sup> and 100m<sup>2</sup> respectively and it was proposed would have seating for 70 people – 48 on the ground floor and 22 overflow seats in the cellar.

The proposed hours of operation were:

Day	Bottle Shop	Restaurant/Wine Bar
Monday – Tuesday	9.30am – 10.00pm	11.00am – 10.00pm
Wednesday – Saturday	9.30am-10.00pm	11.00am-midnight
Sunday	10.00am-10.00pm	11.00am – 10.00pm

The total number of staff at any one time would be 5-6 (Wine Bar 3-4 & Bottle Shop 2-3)

No additional on site car parking was available to support the application, accordingly. In combination with the existing 17 bay dispensation and 3 on site spaces, the proposal was assessed as having a net parking shortfall of 15 bays for the entire floor area proposed for the wine bar use.

To address the above shortfall conditions of approval were applied which:

1. Required a contribution of \$135,000 to a future George Street Precinct Access and Parking study (instead of a 'cash-in lieu' payment of \$337,500 which would otherwise be required under the Scheme).
2. Required the premises to close by midnight, except on Sunday, Monday and Tuesday nights when customers are required to leave the premises by 10.00pm.
3. Restricted the maximum number of customers in the wine bar/restaurant to seventy (70) at any one time.

The applicant now seeks to increase the maximum number of customers allowed on site to 100. The applicant has described this as a modification to condition 4 of the existing planning approval, however, pursuant to cl. 8.3 of the Scheme, the Town cannot amend the existing approval. The development must therefore be considered as a new application.

**CONSULTATION**

**Advertising**

The application was advertised by a sign on the site, newspaper advertisement and letter to neighbours and submissions were invited during the comment period 23 June to 9 July 2012. Eighteen submissions were received during the advertising period. An additional twenty seven submissions were received from the close of the comment period to the time of finalising this report. A significant number of them were in support and were submitted by the applicant. A summary of the submissions received is provided in the following tables.

**Submissions Received By Submission Date**

	Received During Comment Period	Received After Comment Period	Total
Support	2	24	26
Objection	16	3	19
Total	18	27	45

**Submission Received By Submitter Location**

	Address in Plympton Precinct	Address Outside Plympton Precinct	Total
Support	10	16	26
Objection	19	0	19
Total	29	16	45

The location of the submissions received is of interest as it indicates that all objections received were from nearby residents, who are most at risk of any undue amenity impacts. The submissions of support were received from a mix of local residents, residents in other areas of East Fremantle, and residents from outside the local government area.

It is noted that many of the letters of support appeared to have been either organised or solicited. For example a number of letters use the phrase “true asset to the Plympton Ward”. As another example the letter in support from Alicia Robinson of and Love & H Agency are completely identical.

Copies of the various submissions are attached in full and the following is a summary of the issues which have been raised and comments on each. The applicant has also responded to the submission and this response is included below.

ISSUE	APPLICANT’S RESPONSE
<p><u>Support for Application</u></p> <ul style="list-style-type: none"> <li>- The Wine Store is an asset to the Town and a neighbourhood meeting point</li> <li>- Have not been personally impacted by excessive noise or inability to find parking</li> <li>- The limited capacity is not congruent with the large floor area</li> <li>- Council should be supportive of local business developing in the mixed use zone</li> <li>- Staff have been proactive in managing capacity and ensuring patrons don’t disturb neighbours</li> <li>- Allowing more patrons into the bar would have less impact on residents than a queue outside the bar</li> <li>- Parking is not an issue as local residents walk to the bar</li> <li>- The process of applying for a One off Variation Permit is frustrating and unfair</li> </ul>	N/A
<p><u>Parking</u></p> <ul style="list-style-type: none"> <li>- There is currently a problem with lack of parking particularly severe on Friday, Saturday and Sunday nights.</li> <li>- Lack of parking particularly affects residents who do not have driveways.</li> <li>- Parking problems are particularly severe in Hubble</li> </ul>	A Parking and Traffic Management Plan and in-house Parking Survey has been submitted and indicates that there is adequate parking to accommodate residents and local business at the western end of George Street. The fact that people are already at the venue and indeed queuing to be granted access when the

ISSUE	APPLICANT'S RESPONSE
<p>Street which also suffers from the patrons from the Trade Winds Hotel.</p> <ul style="list-style-type: none"> <li>- Already tight in area of dense housing.</li> <li>- There will be more demand for parking along George Street west of the kindergarten during summer due to increased use of the park.</li> <li>- Significant increase in on-street parking in Hubble Street since the wine bar opened. Increased traffic and turning movements are a pedestrian hazard since Hubble Street is poorly lit.</li> <li>- Neighbour opposite in Hubble strongly objects – 2 bays opposite her driveway are occupied most nights making access to her driveway difficult and dangerous.</li> <li>- Cash in lieu payments and parking studies have not resolved parking problems especially after 6 pm Thursday night onwards.</li> <li>- Parking is already at a premium with many residents having no onsite parking and two cars parked on the street.</li> </ul>	<p>venue is at capacity helps establish that parking is not adequate.</p>
<p><u>Use/Amenity</u></p> <ul style="list-style-type: none"> <li>- An increase in numbers may lead to future extension in trading hours, queues and anti-social behaviour.</li> <li>- Smokers gather outside the venue, talk loudly and leave cigarette refuse.</li> <li>- Late evening departures cause disturbance from noise.</li> <li>- Increased numbers would lead to increased cigarette smoke from patrons outside the venue.</li> <li>- Increase noise, door slamming, intoxicated inconsiderate laughing and shouting plus increased traffic coming up Hubble Street the wrong way.</li> <li>- The financial limitations of the Wine Bar are not a concern or endorsement for approval.</li> <li>- Increasing the capacity will not solve the issue of queues nor disruption to neighbours.</li> <li>- Is it a wine bar, Tapas Bar or restaurant?</li> <li>- Cars doing burn outs</li> <li>- Beer bottles and cigarette packets thrown into neighbouring front yards.</li> <li>- Noise levels for patrons directed to Hubble Street to smoke and customers leaving are causing noise disturbance to residents – increasing the numbers will exacerbate this.</li> <li>- Had supported a small local wine and tapas bar rather than the outcome-another watering hole in a residential area.</li> <li>- The wine bar has only been operating since February and the community has yet to experience the impact of a full festive season.</li> <li>- Increasing the number of customers will not mitigate the line to enter. There will simply be 100 people inside and another twenty five or so outside.</li> <li>- "the queue never exceeds 25 persons". How does the wine bar enforce this ?</li> <li>- Review support that the wine bar is noisy.</li> <li>- Financial factors should not be a concern.</li> </ul>	<p>Since opening there has not been one formal complaint to the Town or Department of Racing, Gaming and Liquor regarding any aspect of The Wine Store.</p> <p>The venue addressed feedback from one local resident regarding patrons smoking immediately. Patrons have respected requests not to venture away from the designated smoking area and to use the ashtray provided. Objections pointing to cigarette butts outside the venue are invited to provide further evidence. After 10 weeks of trading a letter was sent to four immediate neighbours asking for feedback. No negative feedback was received.</p> <p>Closing times are strictly adhered to. The submission stating that patrons leave at 2am is simply untrue.</p> <p>The Wine Store attracts local residents and large groups are rare. When approaching capacity a staff member will stand on the door and manage numbers and the conduct of patrons outside of the venue. There have been a number of incident reports filed for events occurring outside of the venue, however, not one has involved a Wine Store Patron.</p> <p>Objections stating overcrowding do not take into account the significant floor area of the cellar. To illustrate the size of the floor area BCA Compliance would allow for a capacity of 176 persons in the given area.</p>
<p><u>Customer Survey</u></p> <ul style="list-style-type: none"> <li>- Customer responses give a biased result as to acceptability of the use.</li> <li>- Results are irrelevant</li> <li>- Not a true reflection of the effect on the community.</li> <li>- No prior attempt to communicate with the community.</li> <li>- Misrepresented concerns expressed in survey by one objector.</li> <li>- Why wasn't a resident specific survey conducted ?</li> </ul>	<p>The Wine Store met with Manager Planning to be advised on the best course of action in preparation and submission of the Application. The number of Town residents who have indicated their support via surveys or letters of support is significant.</p> <p>Note the advertising period set out by Council invites comment from the community.</p>

ISSUE	APPLICANT'S RESPONSE
- Customer survey was a joke and an insult to anyone's intelligence.	

**ASSESSMENT**

The matters considered by Council in granting the current approval will not be repeated here where they remain unchanged. The issues discussed in the following section relate directly to the increase of capacity from 70 to 100 persons.

**Car Parking**

The principal impact from any increase in the numbers of patrons will be the added demand for on-street car parking. The following is an extract from the planning assessment report of the initial application.

*Given that it is a licence requirement that alcohol be served in association with food it is reasonable to apply the Scheme's parking standards for a 'restaurant'. These standards require 1 space for every 5 seats or persons to be accommodated or 1 space per 5m<sup>2</sup> seating area, whichever is the greater, plus 1 space per staff member. In this instance the latter requirement is the greater and is therefore applicable as follows;*

Parking Assessment as Proposed – (Ground Floor & Cellar) - 70 Seats		Parking Assessment for Ground Floor Wine Bar Only – 48 Seats#	
Shop 160m <sup>2</sup>	8 bays	Shop 260m <sup>2</sup>	13 bays
Wine Bar – Ground Floor 65 m <sup>2*</sup>	13 bays	Wine Bar – Ground Floor 65 m <sup>2*</sup>	13 bays
Cellar - 80m <sup>2</sup>	16 bays		
Staff	6 bays	Staff	6 bays
Total	43 bays	Total	32 bays
Less on site parking - 3 bays and existing dispensation -17 bays	= 23 bay shortfall	Less onsite parking 3 bays and existing dispensation - 17 bays	= 12 bay shortfall

\* area shown for seating has been scaled from the plans- bar, toilets and other service areas are not included in the floor area assessment in accordance with the Scheme's requirements.

# the proponent has not agreed to a reduced floor area.

*.....it is reasonable to allow a shortfall of 5 on-site parking bays to be addressed by immediately adjacent on street parking spaces. These spaces include two bays which are time limited to 15 minutes up until 9 PM and a loading zone which applies up until 5 PM. In combination with the existing 17 bay dispensation and 3 on site spaces, this results in a net parking shortfall of 15 bays for the entire floor area proposed for the wine bar use.*

Given that the existing development already relies upon the available 'immediately adjacent' on-street car parking which can be attributed under the Planning Scheme, the proposed increase in customer numbers would generate an additional parking shortfall of 6 car spaces all of which. If the current application is approved, the development would then have a net parking shortfall of 21 spaces.

There are several factors which mitigate against approval of a parking shortfall of this magnitude at this time.

- The developers have contributed to the cost of the preparation of an Access and Parking Management Plan for the George Street Precinct (although they still have a liability to complete the full amount of contributions required under condition 1 as they have been allowed to stage their contributions to assist with their establishment costs). This Plan is presently being drafted. Upon completion it will provide a better indication of current and projected parking demand.
- The existing on-street parking availability may be influenced by outcomes from the Plan such as resident parking schemes and/or possible additional parking provisions. The range of possible outcomes from the Plan is not determined at this time.

- It is inequitable to allow any one developer to generate a parking shortfall which is to be met by on street car parking to the extent to which it may be to the future detriment of existing commercial operations or which restricts the potential to develop other commercial sites because all available on street capacity has been absorbed.
- Residents concerns in respect to the amenity impacts which may result from intensification of the use (and increased traffic and parking demand on local streets) are considered valid. There is substance to the argument that an increase to 100 customers allowed on site will not necessarily stop queuing at the entrance to the venue. Accordingly, the proposal may result in as many as 125, or more persons accessing the site.
- The outcomes from the Access and Parking Management Plan which are intended to address the existing parking are yet to be determined and implemented.

The applicants were asked if they wished to defer the application pending implementation of the Parking and Access Management Plan but have requested a determination at this time.

It is considered premature to approve a parking shortfall of this magnitude until such time as the Access and Parking Management Plan has been finalised. To do so may undermine the integrity of the Management Plan and cash contribution received; if the Management Plan is necessary to address parking issues, the Town should be using this tool in its decision-making. While the applicant's submission of a Traffic Study is acknowledged, the study does not replace the Management Plan currently under preparation.

The submissions received during the comment period are mixed. However, it is significant that the 29 objections received uniformly cited parking as a concern and were authored by residents of the Plympton Precinct. While the submissions are based on anecdotal evidence, the Town must be confident that an increased capacity to The Wine Store will not have an undue impact on residents prior to issuing any approval. The applicant has provided a Traffic Assessment, however, the fieldwork for this study was conducted in 2011, prior to the small bar component of the business opening. At peak times this study found up to 72% of bays in the study area occupied. It is uncertain how the occupation of on-site parking has changed since the opening of the small bar, particularly when considering patrons are likely to stay at the small bar for longer periods of time than the retail store, and therefore occupy car bays for longer. The Access and Parking Management Plan being prepared by the Town will consider updated traffic data and a more informed decision can be made upon its finalisation.

Car parking is a significant development consideration in the Mixed Use Zone under the Scheme. The objectives of the Mixed Use Zone include:

To provide for a limited range of commercial, civic and community facilities to meet the day to day needs of the community, but which will not prejudice the amenities of the neighbourhood;

To ensure the location and design of vehicular access and parking facilities do not detract from the amenities of the area or the integrity of the landscape.

These objectives indicate that residential amenity is of utmost concern in this precinct and commercial uses are to be small, 'local' and low-impact in scale.

The Scheme includes specific provisions to ensure obtainment of the objectives in relation to car parking and residential amenity. The officer's assessment against these provisions is detailed below.

Scheme Provision	Officer Assessment
5.8.5 <i>Car Parking and Vehicular Access</i> : Car parking in respect of development in the Commercial Zones is to be	The development does not provide car parking in accordance with Schedule 11.

Scheme Provision	Officer Assessment
provided in accordance with the standards set out in Schedule 11 of the Scheme and the specifications in Schedule 4 of the scheme.	
<p>5.8.7 <i>On-Street Parking</i>: The local government may accept immediately adjacent on-street car parking as satisfying part or all of the car parking requirements for development, provided such allocation does not prejudice adjacent development or adversely affect the safety or amenity of the locality.</p>	<p>It is accepted that on-street car parking can service development in the mixed used zone, and is often the only option in heritage precincts. However, the Town does not have sufficient data at this point in time to be certain that additional car parking demand for increased capacity at The Wine Store will not adversely affect residential amenity.</p> <p>It is also noteworthy that the Scheme states on-street parking should not prejudice adjacent development. While many of the business on George Street currently operate during normal business hours, it is feasible that, as the area develops, existing and new businesses may look for extended trading hours. It is problematic to allow one business to benefit from all nearby on-street car parking in an assessment. The problem here is twofold; firstly, it is inequitable for one business to take advantage of all available on-street parking so that subsequent applications cannot, and secondly, it is very difficult for the Town to make accurate assessments where on-street car parking is considered in lieu of on-site parking. The Access and Parking Management Plan will provide a coordinated approach to the whole precinct, rather than a piecemeal property-by-property approach, ensuring better planning outcomes.</p>
<p>5.8.10 <i>Development in the Mixed Use Zone</i>: .... No development is to be approved in a Mixed Use zone where it would prejudice the character or amenity of the locality by reason of the nature of the resultant activities, the building design or the impact of traffic or car parking.</p>	<p>The Town does not have sufficient data at this point in time to be certain that additional car parking demand for increased capacity at The Wine Store will not adversely affect residential amenity.</p>

**CONCLUSION**

The proposed variation to the existing planning approval to increase capacity of The Wine Store from 70 to 100 will require a parking dispensation of 6 bays, in addition to the 15 bay shortfall already approved. The Town has acknowledged that car parking in the George Street precinct is problematic and is currently preparing an Access and Parking Management Plan to ensure a coordinated approach to managing parking for the precinct into the future. The applicant has not provided a current traffic study to give the local government confidence that the on-street parking available is sufficient to service the proposed increase in capacity. It is also noteworthy that 29 objections expressing concerns with car parking have been received from residents of the Plympton Precinct.

The Manager Planning has discussed the possibility of deferring determination of the application until such time as the Access and Parking Management Plan is finalised, however, the applicant wishes to proceed with the application. The existing shortfall in car parking, while approved, is significant and any further shortfall may have an undue impact on residential amenity in the precinct. It is recommended that the application be refused.

**RECOMMENDATION**

That Council refuse to vary the conditions of planning approval relating to a restaurant and wine bar at No. 48 George Street, East Fremantle, by raising the maximum number of customers permitted on the premises from 70 to 100, be refused for the following reasons:

1. The proposed variation is not consistent with cl. 5.8.5, cl. 5.8.7 and cl. 5.8.10 of the Town of East Fremantle Town Planning Scheme No. 3 relating to provision of car parking the Mixed Use Zone.
2. The proposed variation is not consistent with the objectives of the Mixed Use Zone as laid out in Part 4 of the Town of East Fremantle Town Planning Scheme No. 3.
3. The proposed variation will have a detrimental impact on the amenity of the locality in conflict with the following matters as set out in cl. 10.2 of the Town of East Fremantle Town Planning Scheme No. 3:
  - (a) the aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);
  - (o) the preservation of the amenity of the locality; and
  - (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.

Mr Bates-Smith (applicant) addressed the meeting in support of the proposal and answered numerous questions raised by elected members.

#### RECOMMENDATION TO COUNCIL

**Cr Martin – Cr Collinson**

**That the matter be deferred pending finalisation of the Access and Parking Management Study to enable officers to prepare a further report based on those findings.** CARRIED

**T68.5**

**Coolgardie Avenue No. 2 (Lot 1)**

**Owner & Applicant: L W K Khaw & S Yamamura**

**Application No. P95/2012**

By Aaron Augustson (Relief Town Planner), on 13 July 2012

#### PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for the construction of a patio at No. 2 Coolgardie Street, East Fremantle

#### BACKGROUND

##### Description of Proposal

The proposed development consists of a proposal to construct a 'patio', partially enclosed on two sides with a 'solarspan' roof within the front setback. The proposed patio will have a floor area of approximately 37.76m<sup>2</sup> and replace an existing pergola structure.

##### Description of Site

The subject site is:

- a 379m<sup>2</sup> freehold lot
- zoned Residential R12.5
- located in the Richmond Precinct
- located on the corner of Preston Point Road

##### Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5 (to be assessed as R25 in accordance with clause 5.3.3 of Town Planning Scheme No. 3)

Residential Design Codes (R-Codes)

##### Relevant Council Policies

Local Planning Policy 066	:	Roofing (LPP 066)
Local Planning Policy No. 142	:	Residential Development (LPP 142)
Local Planning Policy No. 145	:	Neighbourhood Consultation (LPP 145)
Council Policy No. 023	:	Use of Reflective Metal Roofing Material (CP 023)

##### Impact on Public Domain

Tree in verge : No impact

7 August 2012

## MINUTES

Light pole : No impact  
 Crossover : No impact  
 Footpath : No impact  
 Streetscape : Proposal will be visible from two public streets

**Documentation**

Plans and relevant forms date stamp received on 11 June 2012.

**Date Application Received**

11 June 2012.

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

Nil

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours for a two week period between the 19 June and the 4 July 2012. No comments were received.

**CONSULTATION****Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 10 July 2012. The Panel made the following comments:

- *Description of application as 'Patio' contradicts drawings representing a studded wall structure with window openings.*
- *Difficult to assess application due to poor quality of drawings submitted.*
- *Appears to be largely a building licence matter.*

**STATISTICS**

FILE	P/95/2012
ZONING	R12.5
LOT AREA	379 M <sup>2</sup>
HERITAGE LISTING	NOT LISTED

SITE:	REQUIRED	PROPOSED	STATUS
Open space	R25 (50%)	No change	-
Site works	Less than 500mm	Nil	-

LOCAL PLANNING POLICIES:	ISSUES	STATUS
Policy 142	Setback discretion	D
Roofing	No change	A
Solar access & shade	No impact	A
Drainage	To be conditioned	A
Views	No impact	A
Crossover	No impact	A
Trees	No impact	A

OTHER	ISSUES	STATUS
Overshadowing	No impact.	A
Privacy/overlooking	No impact	A

HEIGHT:	REQUIRED	PROPOSED	STATUS
Wall	5.6	2.5	A
Ridge	8.1	3.7	A
Roof type		Skillion – 16 ° (not dominant roof)	

<b>SETBACKS:</b>							
Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Actual Setback	Status
Rear (east)	Ground	N/A	N/A	N/A	N/A	N/A	-
Side (west)	Ground	2.5	11.8	Yes	Consistent with locality (approx 4.5m)	2.7	D
Rear(north)	Ground	3.85	3.3	Y	1.8	1.7	A
Front (south)	Ground	N/A	N/A	N/A	N/A	N/A	-

### Site Inspection

No site inspection undertaken.

### ASSESSMENT

The application has been assessed in regard to the R-Codes and Council's Local Planning Policies and the variations proposed are discussed below.

#### *Development Classification*

The proposed development is marked on the plans date stamped 11 June 2012 as a 'Proposed Patio'. At its meeting of 10 July 2012, the Town Planning Advisory Panel raised that it was not of the view the proposed development constituted a patio because it is enclosed (at least partially) on two sides and contains stud walls and windows.

A 'patio' is defined pursuant to the definitions of the R-Codes as;

*'A water impermeable roofed open-sided area which may or may not be attached to a dwelling.'*

Notwithstanding the fact the proposed development is approximately half enclosed, the proposal conforms to the definition for a 'patio'.

#### *Secondary Street Setback*

The proposed patio does not comply with the Council's LPP 142 with respect to the building being within the secondary setback area. Pursuant to LPP 142, buildings are to be setback such a distance as is generally consistent with the building setback on adjoining lands and in the immediate locality. The patio is proposed to be setback 2.7 metres from the secondary street boundary (Preston Point Road).

The median average setback of buildings in the immediate locality of the subject land is approximately 4.5 metres. The existing dwelling at the subject land is setback approximately 6 metres from the secondary street boundary.

Development to the north and south of the subject land, fronting Preston Point Road is setback *generally* 4.5 metres. However, development fronting Coolgardie Avenue nearby to the subject land is setback only 1.5 metres. The proposed patio will be constructed fronting the Preston Point Road frontage, however, given the subject lands corner location, the proposed patio will be equally visible from both frontages; and therefore have a

similar built-form impact from both frontages.

While the level of setback may be considered out of character with the level of development setback along (at least) Preston Point Road, the limited scale and size of the proposed patio reduces the potential impact on streetscape. The height and scale of the patio will be broadly consistent with the existing built form of the existing dwelling and will be largely obscured from view by existing street trees and a solid high boundary wall along the subject land's frontage.

#### *Side (Other) Setbacks*

The northern elevation of the proposed patio does not comply with the relevant side setback requirements of the R-Codes. A variation of 0.1 metres is sought as a result of the height of the proposed wall; being 3.85 metres at its ridge. Due to the walls height, it does not comply with the discretionary criteria for approval of side setback variations under Part 3 of the Council LPP 142.

Notwithstanding this, the proposed variation of 0.1 metres is minor in nature. Moreover, despite the wall containing a window, there is no opportunity for overlooking or impact on visual privacy resulting from the proposed variation. Discretion is available to the Council to approve the variation pursuant to clause 5.6.1 of Town Planning Scheme No. 3 should it be of the view the other components of the proposed development are not objectionable.

#### **Conclusion**

The proposed development of a patio in the front setback area of the subject land does not comply with the side (other) setback requirements of the R-Codes and the front setback requirements of Council's LPP 142.

With respect to the setback of the proposed patio to the northern boundary of the subject land, a minor variation of 0.1 metres is sought.

A significant variation to the secondary street setback of development is sought. A variation of 1.8 metres is sought to the required level of setback (4.5 metres). The proposed variation is considered appropriate in so far as the proposed patio has a limited scale will be broadly consistent with the existing built-form of the subject land and will be partially obscured by existing street trees and high boundary wall.

#### **RECOMMENDATION**

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

- (a) variation to the north side boundary setback pursuant to the Residential Design Codes from 1.8m to 1.7m;
- (b) variation to the secondary street boundary setback pursuant to Local Planning Policy 142 – Residential Development from 4.5m to 2.7m;

for the construction of a patio at No. 2 (Lot 1) Coolgardie Avenue in accordance with the plans date stamp received on 11 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. the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.

3. with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. all storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
5. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. 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.
6. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

**RECOMMENDATION TO COUNCIL**

**Cr Martin – Mayor Ferris**

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

- (a) **variation to the north side boundary setback pursuant to the Residential Design Codes from 1.8m to 1.7m;**
- (b) **variation to the secondary street boundary setback pursuant to Local Planning Policy 142 – Residential Development from 4.5m to 2.7m;**

**for the construction of a patio at No. 2 (Lot 1) Coolgardie Avenue in accordance with the plans date stamp received on 11 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. **the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
3. **with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
4. **all storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
5. **where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. 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.

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

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *the patio may not be enclosed without the prior written consent of Council.*

CARRIED

T68.6

**Glyde Street No. 8 (Lot 85)**

**Owner & Applicant: M Dearn & A Sheehy**

**Application No. P117/2011**

By Aaron Augustson (Relief Town Planner), on 13 July 2012

**PURPOSE OF THIS REPORT**

This report considers a revised application for Planning Approval for front portico restoration/refurbishment, balcony area & front window repair at No. 8 Glyde Street.

**BACKGROUND**

**Description of Proposal**

The proposed development is for the restoration/refurbishment of a front portico, addition of a balcony area and front window repair at No. 8 Glyde Street.

The proposed balcony area will be created out of the removal of a portion of the existing portico roof. The balcony area will be surrounded by a 1.2 metre high glass balustrade and will overlook the public street and forward portions of adjacent properties.

This report recommends conditional approval on the basis of modifications to the proposal so that portions of the balustrade are increased in height and/or made obscured.

**Description of Site**

The subject site is:

- a 509m<sup>2</sup> block
- zoned Residential R20
- former Church new Guide Hall, now used for residential purpose
- management category A-^ on Heritage Survey 2006
- located in the Plympton Precinct.

**Statutory Considerations**

Town Planning Scheme No. 3

Local Planning Strategy – Plympton Precinct (LPS)

R20 Residential Design Codes (RDC)

A-^ Management Category - Municipal Heritage Inventory

**Relevant Council Policies**

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

Local Planning Policy No. 145 : Neighbourhood Consultation (LPP 145)

**Impact on Public Domain**

Tree in verge : No impact

- Light pole : No impact
- Crossover : No impact
- Footpath : No impact
- Streetscape : Proposed balcony structure overlooking public street and modifications to front facade.

**Documentation**

- .. Plans and relevant forms date stamp received on 10 August 2011 and revised plans date stamped received on 8 June 2012.
- .. Adjoining owner (north) submission received on 29 June 2012
- .. Adjoining owner (south) submission received on 5 July 2012
- .. Owner’s response to adjoining owner submissions received on 6 July 2012
- .. Town Planner’s response to adjoining owner submission and owner’s response 9 July 2012

**Date Application Received**

- 10 August 2011
- 8 June 2012 (revised)

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

- 23 August 2011 Town Planning Advisory Panel emphatically does not support additional porticos on top of existing portico elements.

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 20 June and the 4 July 2012 in accordance with LPP 145. At the close of advertising two submissions were received, which will be detailed and responded to below:

Submitter	Submission	Applicant’s Response	Town Planner’s Response
Kevin McCabe 10 Glyde Street	In regards to plans P117/11 we object to the plans in their current form. The issue for us would be the overlooking on to our property from the south side of the proposed balcony and the lack of privacy that would create. (photo supplied )  If our neighbours would agree to build a facade/ partition so as not to be able to look down on us while we use our balcony we would be happy with that ie blocked off.  Our buildings are very close together so this overlooking issue will need to be addressed.	The neighbours to the south (#10) may have a point and we could end the balcony at their end with a 1600mm high opaque glass screen if council deems that a satisfactory address to their concerns.	Agreed. The two opaque glass privacy screens should be sufficient for privacy. Requiring both screens to be opaque should give design more balance in any event.
Bill & Louise Ward 6B Glyde Street	My husband and I are residents of 6/b Glyde St and have been invited to comment on the proposed addition to 8 Glyde St, East Fremantle. Given the close proximity to our house and front verandah, we are very concerned that our already limited privacy will be further compromised by these extensions, so feel we must make an objection. However, should the residents of number 8 agree to install a	The neighbours to the north (#6b) - I think it can be proved in the drawing that all we will see from the balcony will be the roof of their balcony. However in the interest of addressing their concerns we would be prepared to make the glass balustrade at their end opaque at the current height of	Agreed. The two opaque glass privacy screens should be sufficient for privacy. Requiring both screens to be opaque should give design more balance in any event.

	screen on their north side, we would not object to the proposal.	1200mm.	
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**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 10 July 2012. The Panel made the following comment:

- Panel supports the revised application.

**Heritage Council of WA**

The application was referred to the Heritage Council of Western Australia ('HCWA') on 14 June 2012. On 18 July 2012, the HCWA provided the following comments with respect to the proposal;

- '1. We note that the proposed balcony addition is consistent with the residential use of the building, and that the proposed door to the balcony is within the existing window opening.
- '2. The current proposal to modify the portico roofline will alter the appearance of the facade of the Guide Hall (fmr). The retention of the existing front portico roofline would be encouraged.'

**STATISTICS**

File	P/GLY8
Zoning	R20
Lot Area	509 m <sup>2</sup>
Heritage Listing	A-^

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	45%	No change	A				
Site Works	Less than 500mm	No change	A				
<b>Local Planning Policies:</b>							
<b>Policy 142</b>	<b>Setback variations</b>		<b>D</b>				
Roof	No change to dominant roof		A				
Solar Access & Shade	North facing balcony		A				
Drainage	To be conditioned		A				
Views	Complies with height		A				
Crossover	To be conditioned		A				
Trees	No impact – to be conditioned		A				
<b>Other:</b>	<b>Issues</b>		<b>Status</b>				
Overshadowing	No change		A				
Privacy/Overlooking	Balcony overlooks front setback		A				
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Wall (Concealed Roof)	6.5	6.3	A				
Roof type	No change to dominant roof						
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (west)							
<b>Ground</b>	<b>Church Building</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>Consistent with locality</b>	<b>0.5; Locality characterised by small front setbacks but few this minimal</b>	<b>D</b>
<b>Upper</b>	<b>Balcony</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>6.0</b>	<b>0.5</b>	<b>D</b>
Rear (east)							
Ground/Upper	Church Building	No change to existing					

Side (south)							
Ground	Church Building	No change to existing					
<b>Upper</b>	<b>Balcony</b>	<b>7.0</b>	<b>4.5</b>	<b>Y</b>	<b>3.3</b>	<b>1.6</b>	<b>D</b>
Side (north)							
Ground	Church Building	No change to existing					
<b>Upper</b>	<b>Balcony</b>	<b>6.4</b>	<b>4.5</b>	<b>Y</b>	<b>3.0</b>	<b>2.0</b>	<b>D</b>

**Site Inspection**

No inspection.

**ASSESSMENT**

The application has been assessed in regard to the R-Codes and Council's Local Planning Policies and the variations proposed are discussed below.

*Setback of Balcony*

The existing building currently exceeds the setback limits of LPP 142. Part 2(iii)(a) of LPP 142 requires that upper floors be setback in accordance with *Table 1* of the R-Codes, in this instance being 6 metres. The existing building also exceeds the relevant side (other) setback requirements pursuant to the R-Codes.

Notwithstanding this non-compliance, the proposed balcony results in only a minimal change to the built-form of the existing building; by way of removal/replacement of a portion of the existing portico roof structure. The proposed development also does not result in an extension to the existing walls setbacks or heights. The proposed modification will not increased the bulk and scale of the existing building when viewed from the public street. The potential for the proposed development to impact on the amenity of the surrounding locality is best determined by its impact on visual privacy and overlooking.

*Visual Privacy & Overlooking*

The proposed development will result in the creation of an accessible outdoor active space that overlooks the public street as well as forward portions of surrounding land.

Section 6.8.1(A1) of the R-Codes provides that unenclosed outdoor active habitable spaces (i.e. balconies) which overlook areas of other properties outdoor areas (other than that within the other properties front setback area), be separated by a cone-of-vision distance of 7.5 metres.

The proposed balcony will maintain partial line-of-sight views over existing verandah areas of 6B and 10 Glyde Street. In recognition of the potential overlooking, it is recommended that the balcony area be screen with obscured glazing to a height of 1.6 metres on its southern aspect and with the same glazing, to a height of 1.2 metres along its northern aspect.

The provision of the obscured glass privacy screens remove the potential for direct overlooking into neighbouring outdoor habitable spaces. As a result, the requirement that the two spaces be separated by a 7.5

metre cone-of-vision distances falls away.

#### *Heritage*

The HCWA noted in its comments to the Town dated 18 July 2012 that, notwithstanding the balcony not being objectionable, retention of the portico roofline would be desirable. It is not possible to provide the proposed balcony while retaining the entirety of the portico roofline.

A portion of the portico roof is proposed to be retained. When viewed from most locations (in particular from ground level at the public street) the existing roofline of the portico will be apparent, albeit in a reduced form.

There are otherwise no significant heritage issues arising as a result of the proposed development.

#### **Conclusion**

The proposed development represents a minor change to built form but incorporates development that allows for access to and use of a balcony area above the existing portico structure. The new balcony area will have views over the public street and existing outdoor areas of adjoining properties.

The existing building currently exceeds the setback limits of LPP 142. Notwithstanding this non-compliance, the proposed balcony results in only a minimal change to the built-form of the existing building.

The proposed development does not comply with the relevant separation distance between outdoor spaces of 6.8.1 of the R-Codes. It is therefore recommended that obscured glazing be installed along the northern and southern aspects of the balcony area to prevent direct overlooking of adjoining spaces.

#### **RECOMMENDATION**

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

- (a) variation to the street boundary setback pursuant to the Residential Design Codes from 6.0 metres to 0.5 metres having regard to the existing built-form, existing streetscape and minimal modifications proposed;
- (b) variation to the north and south side boundary setback pursuant to the Residential Design Codes of 1.0m and 1.7m respectively;

for the construction of front portico restoration/refurbishment, balcony area & front window repair at No. 8 (Lot 85) Glyde Street in accordance with the plans date stamp received on 8 June 2012 subject to the following conditions:

1. the northern and southern most extents of the balcony area are to be fully screened along each full aspect with appropriate obscured glass screening to a height of 1.2 metres and 1.6 metres (respectively) above the finished floor level of the balcony area to the satisfaction of the Town of East Fremantle.
2. notwithstanding condition 1 of this approval, the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. all storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.

6. 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.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit 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.*

**RECOMMENDATION TO COUNCIL**

**Cr Martin – Cr Collinson**

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

- (a) **variation to the street boundary setback pursuant to the Residential Design Codes from 6.0 metres to 0.5 metres having regard to the existing built-form, existing streetscape and minimal modifications proposed;**
- (b) **variation to the north and south side boundary setback pursuant to the Residential Design Codes of 1.0m and 1.7m respectively;**

**for the construction of front portico restoration/refurbishment, balcony area & front window repair at No. 8 (Lot 85) Glyde Street in accordance with the plans date stamp received on 8 June 2012 subject to the following conditions:**

1. **the northern and southern most extents of the balcony area are to be fully screened along each full aspect with appropriate obscured glass screening to a height of 1.2 metres and 1.6 metres (respectively) above the finished floor level of the balcony area to the satisfaction of the Town of East Fremantle.**
2. **notwithstanding condition 1 of this approval, the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
3. **the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
4. **with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
5. **all storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
6. **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.**

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

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit 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.*

CARRIED**T68.7 King Street No. 28 (Lot 453)**

**Applicant:** A Malecky

**Owner:** J & H Brown

**Application No.** P94/2012

By Aaron Augustson (Relief Town Planner) on 24 July 2012

**PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval for an undercroft addition under the main existing residence at No. 28 King Street, East Fremantle.

**BACKGROUND****Description of Proposal**

The proposal is an application for planning approval for an undercroft addition under the main residence at the subject land.

The new undercroft will be constructed entirely below the existing residence and will include an ensuite bathroom, powder room, dress room and walk-in-robe, master bedroom and retreat area.

The undercroft area will be accessed directly from the existing dwelling via a new stairwell.

New limestone retaining walls and/or Colorbond fencing are proposed along the subject lands north, west and south boundaries.

**Description of Site**

The subject site is:

- a 508m<sup>2</sup> freehold lot
- zoned Residential R20
- management category B on Heritage Survey 2006
- currently occupied by a single house
- located in the Plympton Precinct.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes (RDC)

'B' Management Category - Municipal Heritage Inventory

7 August 2012

## MINUTES

**Relevant Council Policies**

Local Planning Policy No. 142 : Residential Development (LPP 142)  
 Local Planning Policy No. 145 : Neighbourhood Consultation (LPP 145)  
 Local Planning Policy No. 144 : Rainwater Tanks (LPP 144)

**Impact on Public Domain**

Tree in verge : No impact  
 Light pole : No impact  
 Crossover : No impact  
 Footpath : No impact  
 Streetscape : The proposed undercroft addition will not be visible from the public street.

**Documentation**

Plans and relevant forms date stamp received on 8 June 2012

**Date Application Received**

8 June 2012

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

Property listed in Heritage Inventory with a Management Category 'B'.

**CONSULTATION****Advertising**

This application required advertising to surrounding neighbours. Upon submission of the plans, three adjoining neighbours (21 Duke Street, 26 King Street & 30 King Street) endorsed the plans and indicated they have no objection to the 'proposed extensions'.

**CONSULTATION****Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 10 July 2012 and the following comment was made:

- *Innovative proposed addition with no apparent impact.*

**STATISTICS**

File	P/KIN28
Zoning	R20
Lot Area	508 M <sup>2</sup>
Heritage Listing	B

<b>SITE:</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>STATUS</b>
Open space	R20 (50%)	No change	A
Site works	Less than 500mm	1.35m	D
<b>LOCAL PLANNING POLICIES:</b>	<b>ISSUES</b>		
<b>Policy 142</b>	<b>Variation to setback requirements (retaining walls &amp; outbuildings)</b>		<b>D</b>
Roof	No change.		A
Solar access & shade	No change.		A
Drainage	No change.		A
Views	No change.		A
Crossover	Existing		A
Trees	No		A

OTHER:		ISSUES		STATUS	
Overshadowing		No change.		A	
Privacy/overlooking		No overlooking		A	

  

HEIGHT:	REQUIRED	PROPOSED	STATUS
Wall	6.0	Complies.	A
Ridge	9.0	Complies.	A
Roof type	N/A		

  

SETBACKS:							
Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Actual Setback	Status
Rear (East)							
Undercroft	Bedroom Wall	2.9	9.7	Y	1.5	12.2	A
Ground		N/A	N/A	N/A	N/A	N/A	-
Upper		N/A	N/A	N/A	N/A	N/A	-
Side (north)							
Undercroft	Stairwell	2.6	8.5	Y	1.5	1.5	A
Ground	Stairwell					No Change to Existing	
Upper		N/A	N/A	N/A	N/A	N/A	-

**Site Inspection**

No inspection.

**REPORT**

**Issues**

The proposed development will be constructed entirely below the existing extension to the main dwelling. As a result, there is no net increase to building height or size and therefore no requirement for any greater setbacks to the dwelling or reduction in height. Moreover, the proposed undercroft does not result in any loss of open space or outdoor living area.

The proposed undercroft does no impact on the heritage aesthetic of the existing dwelling.

*Retaining & Fencing*

New limestone block, rendered brick and Colorbond retaining and fencing sections are proposed along the subject lands northern, eastern and southern boundaries. The maximum height of each section of fencing and retaining is outlined in the table below;

Max Height (Permitted)	Northern Elevation - Side	Southern Elevation - Side	Eastern Elevation - Rear
Max Height of Fence	1.8m (1.8m)	1.8m (1.8m)	1.8m (1.8m)
Max. Height of Retaining	1.35m (0.5m)	N/A	0.95m (0.5m)
Max. Overall Height	2.914m	2.309m	2.183m

The proposed maximum fence height of 1.8 metres along all side and rear boundaries complies with the Town’s *Local Laws Relating to Fencing*.

Clause 6.6.1 (Excavation or fill) provides the criteria for the filling and retaining of the land behind the front setback line in so far as;

*‘...filling behind a street setback line and within 1 m of a common boundary not more than 0.5 m above the natural level at the boundary except where otherwise stated in a local planning policy or equivalent.’*

The proposed level of retaining allows for the filling of land within 1 metre of the subject lands northern and southern boundaries at a height greater than 0.5m.

The performance criteria of 6.6.1 (P1) provides the criteria for variation to this standard;

*'Development that retains the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property.'*

The variation requested must also be considered in relation to clause 6.3.3 (Setback of retaining walls) which outlines that retaining walls be setback in accordance with *Tables 2a* and *Table 2b* of the R-Codes. This would require a nominal setback of 1 metre.

The performance criteria of 6.3.3 provide that;

*'P3 Retaining walls designed or setback to minimise the impact on adjoining properties.'*

Having regard to the performance criteria of 6.3.3 and 6.6.1 of the R-Codes, the proposed level of retaining is considered appropriate as it does not modify the natural ground level at either of neighbouring properties at 26 & 30 Duke Street. The stepping down of the boundary wall and retaining also helps to retain the visual impression of the fall of the land from neighbouring properties.

It is noted that the owners of 26 & 30 Duke Street have agreed to the submitted plans. Moreover, the overall height of the retaining and fence is not considered objectionable as it does not result in any significant overshadowing and promotes privacy between the use of the outdoor area of the subject land and adjoining properties.

The level of retaining proposed along the eastern boundary of subject land is not considered objectionable because it abuts land reserved for Stirling Highway.

#### *Shed & Water Tank*

A new 6 square metre shed is proposed in the south-east corner of the subject land. The proposed height of the shed is 2.4 metres. A nil setback to the rear (eastern boundary) and 0.23metre to the side (southern) boundary are proposed.

A new circular water tank with a radius of approximately 1.7 metres and a height of 1.8 metres is also proposed to the rear of the land. The water tank is proposed to be setback 0.4 metres from the side (northern) and rear (eastern) boundary.

The proposed shed does not comply with the relevant setback criteria established under the Acceptable Development criteria of clause 6.3.1 (Buildings setback from the boundary). Further, the proposed water tank does not comply with the setback requirements of LPP 145. The performance criteria of 6.3.1 of the R-Codes provide that a lesser setback is acceptable when it provides:

- *Adequate direct sunlight and ventilation to the building, adjoining properties and appurtenant open spaces;*
- *Assist in ameliorating the impacts of building bulk; and*
- *Assist in protecting privacy between adjoining properties.*

It is apparent that the reduced setbacks required for both the shed and water tank are consistent with the objectives of the performance criteria of 6.3.1 of the R-Codes. The reduced setback will not result in any adverse impact on access to sunlight, privacy nor will it increase the bulk of buildings on the land by virtue of the outbuildings being obscured behind the proposed boundary wall.

#### **Conclusion**

A new undercroft area is proposed entirely below the existing extension of the dwelling. The proposed undercroft will not result in any net increase in building height or a lesser level of building setback.

New limestone block, rendered brick and Colorbond fencing is proposed surrounding the rear of the subject land. Some sections of this new fencing are at a greater height than permitted. A new shed and water tank are also proposed at a lesser setback than required. The proposed variations are considered consistent with the discretion afforded under the performance criteria of the R-Codes.

### RECOMMENDATION

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

- (a) variation to the height of filling of 0.5 metres up to 1.35 metres and to the setback of retaining walls to a nil setback pursuant to clause 6.6.1 (P1) for the filling and 6.3.3 (P3) for the setback of retaining walls;
- (b) variation to the setback of the proposed shed and water tank pursuant to clause 6.3.1 (P1) of the Residential Design Codes from 1 metre to a nil setback for the shed and 0.4 metres for the water tank;

for the construction of an undercroft extension at 28 King Street in accordance with the plans date stamp received on 8 June 2012 subject to the following conditions:

1. 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.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed dwelling/extensions is not/are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the applicant's expense and to the satisfaction of the CEO.
9. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. 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.
11. 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.
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. the water tank is not to exceed 5000L capacity or have a maximum effective height greater than 2.4m.
  14. the overflow from the water tank is to be directed to a soakwell within the property.
  15. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit 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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (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**

**Cr Martin – Cr Collinson**

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

- (a) **variation to the height of filling of 0.5 metres up to 1.35 metres and to the setback of retaining walls to a nil setback pursuant to clause 6.6.1 (P1) for the filling and 6.3.3 (P3) for the setback of retaining walls;**
- (b) **variation to the setback of the proposed shed and water tank pursuant to clause 6.3.1 (P1) of the Residential Design Codes from 1 metre to a nil setback for the shed and 0.4 metres for the water tank;**

**for the construction of an undercroft extension at 28 King Street in accordance with the plans date stamp received on 8 June 2012 subject to the following conditions:**

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

3. the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed dwelling/extensions is not/are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face at the applicant's expense and to the satisfaction of the CEO.
9. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. 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.
11. 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.
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. the water tank is not to exceed 5000L capacity or have a maximum effective height greater than 2.4m.
14. the overflow from the water tank is to be directed to a soakwell within the property.
15. this planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit 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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (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

T68.8

**Duke Street No. 70 (Lot 500)****Applicant: John Chisholm Design****Owner: R Taylor****Application No. P96/2012**

By Aaron Augustson (Relief Town Planner) on 16 July 2012

**PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval for the construction of alterations and additions to the rear of a single residence at No. 70 Duke Street, East Fremantle.

**BACKGROUND****Description of Proposal**

An Application for Planning Approval for the construction of additions and alterations to an existing dwelling.

The proposal includes a large, single storey addition to the rear of the existing dwelling encompassing a new kitchen, bathroom, laundry and living area(s).

Alterations are also proposed to the front of the existing dwelling including a new front fence, installation of new doors and modifications to the existing verandah facade.

**Description of Site**

The subject site is:

- a 516m<sup>2</sup> freehold lot.
- zoned Residential R20
- located in the Plympton Precinct.
- assigned B- Management Category in the Town's Heritage Survey 2006
- currently occupied by a single house.

**Statutory Considerations**

Town Planning Scheme No. 3 – Residential R20

Residential Design Codes (RDC)

B- Management Category - Municipal Heritage Inventory

7 August 2012

## MINUTES

**Relevant Council Policies**

Local Planning Policy 066	:	Roofing (LPP 066)
Local Planning Policy No. 142	:	Residential Development (LPP 142)
Local Planning Policy No. 145	:	Neighbourhood Consultation (LPP 145)
Council Policy No. 023	:	Use of Reflective Metal Roofing Material (CP 023)
Council Policy 129	:	Verandahs (CP 129)

**Impact on Public Domain**

Tree in verge	:	No impact
Light pole	:	No impact
Crossover	:	No impact
Footpath	:	No impact
Streetscape	:	Alterations to existing building facade including the replacement of existing windows with new doors and a new front fence.

**Documentation**

Plans and relevant forms date stamp received on 11 June 2012.

**Date Application Received**

11 June 2012.

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

Property listed in Heritage Inventory with a Management Category 'B-'.

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours for a two week period between 19 June and 4 July 2012. No submissions were received during this period.

**CONSULTATION****Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 10 July 2012.

The Panel made the following comments in regard to the application and the applicant has responded.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
Panel supports single storey addition to the rear.	The Panel's support of the proposed rear addition is thankfully acknowledged.	Noted.
Greater retention of existing architectural features to the front facade should be considered in order to retain existing style of Category 2 listed property.	<p>A detailed examination of the existing facade shows that the building appears to have undergone some alterations during its history. The two existing front windows are not typical of the age of the building, and the internal wall surfaces over each window bear marks of later plastering, with cracks over each corner of the window head.</p> <p>The existing windows are also incorrectly placed in the wall plane, being completely flush with the internal face of plaster, again indicating interference and supporting the view that they are not original.</p>	<p>Comments relating to the previous modernisation of the front facade are noted.</p> <p>Replacement of the non-original windows is considered appropriate on the basis of the information provided by the Applicant.</p> <p>No comment is provided by the Applicant with respect to the replacement of existing verandah support piles/poles and verandah walls however these appear to also be non-original features of the dwelling.</p>
Query retention of existing chimney.	This is a drafting error. The	Noted.

	intention is to fully retain the chimneys and fireplaces as architectural features.	
The suggested transformation of front windows to French doors is contentious.	The aim of the design proposal is to rectify this previous interference with the facade and to bring the street presentation back up to a level commensurate with the age of the building. To this end, the proposed doors and sidelights are to be detailed and manufactured to match the scale and detailing of the existing front door, sidelights and highlight (fan light) over.	Agreed. The replacement of non-original window features with the proposed French doors will complement the existing doorway to the original dwelling.

**STATISTICS**

File	P/DUK70
Zoning	R20
Lot Area	516 m <sup>2</sup>
Heritage Listing	B-

<b>SITE:</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>STATUS</b>
Open space	R20 (50%)	51%	A
Site works	Less than 500mm	Nil.	A

<b>LOCAL PLANNING POLICIES:</b>	<b>ISSUES</b>	<b>STATUS</b>
Policy 142	No.	A
<b>Roof</b>	<b>Lesser pitch proposed; 7.5°</b>	<b>D</b>
Solar access & shade	No	A
Drainage	No	A
Views	No	A
Crossover	Existing	A
Trees	No	A

<b>OTHER:</b>	<b>ISSUES</b>	<b>STATUS</b>
Overshadowing	< 25%	A
Privacy/overlooking	<b>Kitchen 3.0m over southern boundary. Deck 5.5m over northern boundary &amp; 2.0m over southern boundary</b>	<b>D</b>

<b>HEIGHT:</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>STATUS</b>
Wall	3.0	2.81	A
Ridge	6.0	4.21	A
Roof type	Skillion		

<b>SETBACKS:</b>							
Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Actual Setback	Status
Front (west)							
<i>Ground</i>		N/A	N/A	N/A	N/A	N/A	
Rear (east)							
<i>Ground</i>	Rear	3.8	9.65	Y	2.0	13.0	A
Side (north)							
<i>Ground</i>	<b>Side</b>	<b>3.2</b>	<b>18.5</b>	<b>Y</b>	<b>1.5</b>	<b>0.27</b>	<b>D</b>
Side (south)							
<i>Ground</i>	<i>Kitchen Wall</i>	2.81	18.5	Y	1.5	2.31	A
	<b><i>Laundry Wall</i></b>	<b>2.81</b>	<b>18.5</b>	<b>Y</b>	<b>1.5</b>	<b>1.40</b>	<b>D</b>

**Site Inspection**  
No site inspection.

**REPORT  
Issues***Modifications to Front Facade*

The existing dwelling at the subject land is listed as a Category 'B- (Category 2)' property pursuant to the Town's Municipal Heritage Inventory. The existing dwelling is noted as having 'Aesthetic' and 'Representative' significance. The existing dwelling is constructed in an interwar bungalow style with Georgian influence.

Several design alterations are proposed to the front facade of the existing dwelling as part of the proposed development. The proposed alterations include:

- Existing low brick boundary wall to be removed and replaced with a new limestone feature wall;
- Replacement of existing verandah structural pillars and wall with new support poles; and
- Replacement of existing front windows with French doors and framing windows.

Replacement of other aluminium window frames along the side (north and south) elevations of the existing dwelling is also proposed.

No heritage assessment/discussion has been provided by the Applicants. When considering development involving heritage listed properties, the Town may require a heritage assessment to be carried out in accordance with clause 7.4 of Town Planning Scheme No. 3 ('TPS 3').

It is apparent that the replacement of the existing window treatment with French doors and the verandah support structure will significantly alter the built-form appearance of the existing dwelling. The Applicant notes in their response to the Town Planning Advisory Panel comments that the existing facade features (windows) are not original features and that the replacement doors will complement the existing door and entrance frame. It is unclear, notwithstanding the Applicant's comments to what extent the proposed changes will impact on the aesthetic appearance and representativeness of the listed property.

The chimney stack of the existing dwelling is not depicted on the stamped plans dated 11 June 2012. The Applicant acknowledges this as a drafting error. The omission of the chimney from the drawings means the existing chimney is not the subject of this application for development; and if approved, the chimney is not to be altered as part of the proposed development.

*Setback of Building*

Variations to side (other) setback requirements are sought pursuant to the R-Codes.

The proposed addition maintains the same setback (0.27 metres) along the northern elevation of the subject land as the existing dwelling.

Further setback variations are sought for the southern elevation of the proposed addition. The laundry segment of the building wall is located 1.4 metres from the southern boundary where 1.5 metres is required. This variation is considered minor in nature and reflects the setback of the existing dwelling. This variation is considered appropriate in light of the fact that it reflects the existing level of building setback and assists in the integration of the proposed addition.

Part 3 of Council's LPP 142 provides discretion for the variation of side setback standards pursuant to the R-Codes; at (d), it provides that Council may approve a lesser minimum where the variation is consistent with the character of development in the immediate locality and does not adversely affect the amenity and/or views of adjoining properties. The proposed variations are minor in nature and remain consistent with the setback of the existing dwelling.

*Roof Pitch*

The proposed addition includes a roof pitch at approximately 7.5°. Notwithstanding the requirement for at least 28° Council's LPP 142, the lesser minimum roof pitch is considered appropriate in so far as it will exist behind and lower than the roof structure of the main dwelling. The lesser roof pitch also helps to minimise overshadowing of the property to the south of the subject land.

*Privacy*

The proposed deck does not meet privacy requirements in relation to the eastern opening. The overlooking is considered acceptable as it is not direct and use of the deck is likely to occur at its centre, not periphery.

The applicant has provided privacy screening at places of potential direct overlooking and this will minimise the impression of privacy intrusion. No objections have been received from neighbours and the proposal is considered acceptable.

The major opening to the kitchen allows for direct overlooking of the southern neighbour. However, the FFL of the neighbouring property is higher than No. 70 Duke Street and the actual opportunity for overlooking and impact on privacy is negligible.

**Conclusion**

The existing dwelling at the subject land is listed as a Category 'B- (Category 2)' property pursuant to the Town's Municipal Heritage Inventory. Several modifications to the front facade of the existing dwelling are proposed as part of the overall development. It is unclear, however, to what extent the proposed changes to the front facade will impact on the heritage aesthetic appearance and representativeness of the listed property. It is outlined by the Applicant, however, that the proposed changes replace non-original features.

Variations to side (other) setback requirements are also sought. The proposed addition maintains the same setback (0.27 metres) along the northern elevation of the subject land as the existing dwelling. A variation of 0.1 metres is sought for a portion of wall adjoining the laundry along the southern boundary. These variations are considered appropriate in light of the fact that it reflects the existing level of building setback and assists in the integration of the proposed addition.

The proposed addition includes a roof pitch at approximately 7.5°. This level of roof pitch is considered appropriate in so far as it will be largely obscured from view from the public street.

Variations to privacy setbacks from the deck and kitchen window are proposed. The actual impact on privacy of neighbours is minimal and these variations are supported.

**RECOMMENDATION**

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

- (a) variation to the south side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.4m;
- (b) variation to the permitted roof pitch pursuant to Local Planning Policy 066 – Council Policy on Roofing from 28° to 7.5°;
- (c) variation to privacy requirements of Residential Design Codes to permit the cone of vision as measured from the kitchen window to intrude 3.0m over the southern boundary; and as measured from the eastern opening of the deck to intrude 5.5m over the northern boundary and 2.0m over the southern boundary;

for the construction of alterations to an existing dwelling and a rear addition at 70 Duke Street in accordance with the plans date stamp received on 11 June 2012 subject to the following conditions:

1. 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.

2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed dwelling/additions is not/are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. 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, 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.
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 Permit 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) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.
- (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"

The Manager Planning Services advised the meeting that it had been revealed that the registered owner of the property had not signed the planning application and would not be available to do so until she returned from overseas.

#### RECOMMENDATION TO COUNCIL

Cr Martin – Cr Rico

That following receipt of written authorisation from the registered owner of the property, Council exercise its discretion in granting approval for the following:

- (a) variation to the south side boundary setback pursuant to the Residential Design Codes from 1.5m to 1.4m;
- (b) variation to the permitted roof pitch pursuant to Local Planning Policy 066 – Council Policy on Roofing from 28° to 7.5°;
- (c) variation to privacy requirements of Residential Design Codes to permit the cone of vision as measured from the kitchen window to intrude 3.0m over the southern boundary; and as measured from the eastern opening of the deck to intrude 5.5m over the northern boundary and 2.0m over the southern boundary;

for the construction of alterations to an existing dwelling and a rear addition at 70 Duke Street in accordance with the plans date stamp received on 11 June 2012 subject to the following conditions:

1. 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.
2. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. the proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. the proposed dwelling/additions is not/are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
6. all storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.

7. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. 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, 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.
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 Permit 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) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (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

- T68.9**      **60 View Terrace (Lot 86)**  
**Applicant: Ross Griffin Homes**  
**Owner: Richard and Dale Ramsay**  
**Application No. P65/2012**  
By Christine Catchpole, Town Planner, 20 July 2012

#### **PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval involving the demolition of a single storey house and the construction of a two storey dwelling at 60 View Terrace. The application is recommended for refusal in regard to the demolition of the existing house.

#### **BACKGROUND**

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

The application for Planning Approval comprises the demolition of an existing single dwelling which was included in the Heritage Survey in 2005. The survey designated a C management category for the property. Accordingly a Heritage Impact and Assessment Report was requested and this was subsequently prepared by SIA Architects P/L. A double storey dwelling is proposed which, if considered for approval by Council, would require an exercise of discretion in respect to building height, setbacks, site works, overlooking and open space provisions under the R-Codes and Council Policies.

#### **BACKGROUND**

##### **Description of Site**

The subject site is:

- a 1062m<sup>2</sup> freehold lot
- zoned Residential R12.5
- located in the Richmond Hill Precinct
- existing single storey 1950s brick and tile house in sound condition
- assigned C Management Category in the Town's Heritage Survey 2005

##### **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 : Proposed demolition of existing heritage dwelling

##### **Documentation**

Plans and relevant forms date stamped received on 1 May 2012  
Heritage Impact Assessment – SIA Architects P/L received on 15 May 2012  
Adjoining owner (north) submission date stamped received on 17 May 2012  
Owner's response to adjoining owner submission and Town Planning Advisory Panel's comments date stamped received on 18 June 2012  
Applicant response to adjoining owner's comments date stamped received on 19 June 2012  
Revised Heritage Impact Assessment SIA Architects P/L date stamped received on 25 June 2012  
Heritage Assessment and Impact Statement – prepared for the Town by Griffiths Architects date stamped received on 26 June 2012  
Streetscape Photographic Folio – submitted by applicant date stamped received on 16 July 2012

**Date Application Received**

1 May 2012

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

Property listed in Heritage Inventory with a Management Category 'C'.

31 October 2006

Council records note a residential building inspection undertaken for 60 View Terrace by Scott and Associates. The report concluded "Based on visual observations made, we consider that this residence is structurally sound and suitable for its purpose".

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours from 8 to 24 May 2012. At the close of advertising one submission was received from the owners of 9 Philip Street; the property immediately to the rear of the subject site. The submission has been addressed and has been outlined in the table below:

Neighbour Submission	Applicant/Owner Response	Planning Comments
<p><i>9 Philip Street (north)</i></p> <p>The proposal is acceptable providing:</p> <ul style="list-style-type: none"> <li>- the northern boundary setbacks including retaining walls are compliant with Council's policies and guidelines; and</li> <li>- the proposed roof heights are within Council's policies and guidelines.</li> </ul> <p>Objection to the proposal on grounds of impact on privacy and amenity if the proposal is non-compliant.</p>	<p>The letter from the adjoining owner offers no objection unless it is proposed to diminish the amenity of their property or there is an intention to impinge on setbacks. The owner states there 'is no plan to do either' and as such no further comment is warranted.</p> <p>The rear setback is acceptable and will have no adverse effects on the neighbouring property (setback 15.64m). It is compliant with all R-Code and Council policies.</p> <p>The proposed building height is acceptable with regard to all policies. The building will be two storeys and given the two storey section is visible only from the rear it cannot be viewed from the street. There is no impact regarding views of significance for any neighbour – the height is therefore compliant and acceptable.</p>	<p>The application has been assessed and complies with the setbacks in regard to the northern boundary; however, the application does not comply in regard to the open space, site fill/works, privacy /overlooking, building heights and western boundary setbacks in regard to the R-Codes and LPP 142 requirements.</p> <p>As the application does not comply with the height limits of LPP 142 the submission is considered an objection to the proposal.</p> <p>Albeit the building height requirement is exceeded this will have no impact on the lot to the immediate north as the lot will not be overshadowed by the proposed dwelling and the minimum setback of 14 metres (to the northern boundary) complies with R-Code and LPP 142 requirements in regard to overlooking/privacy and building bulk and scale matters.</p> <p>The development would not impede significant views from the rear of 9 Philip Street.</p>

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 22 May 2012. The Panel made the following comments:

Panel Comment	Applicant/Owner Response	Planning Comments
<p>Panel does not support the demolition of the residence.</p>	<p>Panel's comments contradicts several recent demolitions in the Richmond Hill Precinct notably 68A View Terrace and 1 Philip Street; both these houses have a similar 'character, vintage and similar or</p>	<p>Noted that demolition licences have been issued for the properties mentioned.</p> <p>History: 68 View Terrace issued Jan 2012</p>

Panel Comment	Applicant/Owner Response	Planning Comments
	<p>better condition' to the 60 View Terrace dwelling. It is therefore requested that the application be considered in the same light.</p>	<p>(C+ Management Category) – considered that contribution to the streetscape has diminished due to contrasting contemporary development that has occurred. Not identified as a significantly rare example of its type and that within the current setting, the significance of the building in terms of its group/precinct value has been diminished.</p> <p>History: Demolition licence issued Dec 2010 for 1 Philip Street (Management Category B-). Council file history noted that planning approval to demolish not required as due to an administrative issue the dwelling was not assigned to the Town's Heritage List. CEO 'reluctantly' resolved to agree to application to demolish.</p>
<p>Panel notes that the heritage report does not contradict the heritage significance noted in the Town's Municipal Heritage Inventory being that of 'worthy of retention'</p>	<p>Disputes comment made in respect to heritage significance and the following observations are made in support of application:</p> <p>Aesthetic significance – over 50% of the front facade comprises extensions which were constructed post original construction.</p> <p>House and lot have no historic, social, scientific significance.</p> <p>The house is representative of no specific architectural era – comprising of only a two bedroom bungalow of ~60m<sup>2</sup> living space before additions.</p> <p>Request a detailed explanation of criteria used to support retention of residence. Housing today still constructed of similar materials so not representing a unique or unusual era or genre.</p>	<p>Refer to Heritage Assessment and Impact Statement prepared by Griffiths Architects.</p>
<p>Existing building appears to be in sound condition as noted in the Town's survey and could be adapted for contemporary additions.</p>	<p>Disputes view that dwelling is of high integrity – over half the windows have been replaced with aluminium frames. The front room and lounge are later additions and there are many different plaster and ceiling finishes. Wet areas are approximately 20 years old.</p> <p>The condition of the house is considered poor in regard to structural condition and finishes to the mortar, plumbing, eaves, roof flashing and chimney. Disagree with '2' rating as repairs to the house to a modern standard would cost in excess of that to replace with a modern house.</p> <p>The cost of the proposed house is less than that to repair and renovate. The outcome would be a house not in keeping with neighbours or meeting</p>	<p>Refer to Heritage Assessment and Impact Statement prepared by Griffiths Architects.</p>

Panel Comment	Applicant/Owner Response	Planning Comments
	<p>modern living demands and significantly undermines the land value.</p> <p>Sustainability – retention of current house will result in ~990m<sup>2</sup> of garden and driveway area. This is not in accord with community expectations in respect to water use. The application proposes a more efficient use of this resource. The new home will maximise the opportunity to be energy efficient.</p> <p>Majority of homes in the vicinity are less than 15 years old. The existing dwelling detracts from neighbour's amenity and will generally have a negative impact on house pricing and the overall appeal of the Richmond Hill Precinct.</p>	

**Site Inspection**

By Town Planner on 25 May 2012.

**ASSESSMENT**

This assessment addresses the following:

- the heritage issues;
- proposed demolition of the existing dwelling;
- Amendment No. 9 to Town Planning Scheme No. 3; and
- the proposed replacement dwelling.

**Municipal Heritage Inventory**

The following information is an extract from the Town's Municipal Heritage Inventory 2005.

Management Category	Lot	St No.	Street	Precinct (TPS3)	Type of Place
C		60	View Terrace.	Richmond Hill	Residence
TPS 3 Heritage List					
TPS 3 Heritage Area					<b>X</b>
Categories			Significance		
Historic Theme	Demographic Settlement		Aesthetic	<input checked="" type="checkbox"/>	
Sub-Theme	Land Subdivision		Historic		
Period	Post War		Social		
Style	Early Modern Bungalow Porch House		Scientific		
			Representative	<input checked="" type="checkbox"/>	
			Rarity		
Rating & Assessment			High	Low	
Aesthetic Value			1	2	3
Architectural Merit			1	2	3
Rarity Value			1	2	3
Group/Precinct Value			1	2	3
Condition			1	2	3
Integrity			1	2	3

The ***Municipal Inventory Heritage Areas Report*** states that 1950s planning and lot patterns resulted in houses generally being setback on wider lots and filling their width.

Open front gardens are characteristic and the houses representative of a range of Inter-War bungalow types of varied architectural styles. The houses are generally substantial in appearance and in good original condition with good architectural elements, demonstrating the changing face of domestic architecture over the period of development. This group accentuates the historical age of the area that has otherwise been predominated with more recent development that differentiates it from the majority of the Town. It is this cohesive, collective historical identity relative to the Richmond Hill area as a whole that warrants designation of this small heritage area as such.

**Initial Heritage Impact Assessment (received on 15 May 2012) – SIA Architects**

SIA Architects undertook a historical analysis and heritage assessment of the place in April 2012 for the purpose of recording the likely impact of the proposed demolition on the heritage value of the place, the existing street and the environment, as well as to assess the potential heritage values of the existing residence.

In summary the assessment outlines the following:

The place is an early modern bungalow porch house single storey residence of brick and tile construction which has some cultural significance.

The place:

- is representative of residences of this period, but is one of numerous existing buildings of this period and this type;
- moderately authentic; and
- has low to moderate rarity.

The residence was constructed in 1951 with a rear verandah and front verandah that was enclosed as a sleep-out during initial construction and later rebuilt. The interior has been modified with new kitchen cabinetwork, ceilings and architraves to the second bedroom.

A carport was added to the side of the house in 1958. The original rear verandah has also since been enclosed in fibrous cement. There is also a subsequent brick addition at the rear of the house. An undercroft part cellar constructed in limestone is also at the rear of the house. The brick is red and the front facade is rendered and painted white above the sill level. The original timber framed windows and boxed eaves still remain. Outbuildings at the rear of the property include the original garage and sheds constructed at a later date.

In regard to significance the assessment has stated that the existing building has *‘some heritage significance as it has some integrity and is representative of residences of this type.’*

The following Statement of Heritage Impact was provided.

How does the proposed development impact on the heritage significance of the place with regard to the following criteria:	
Degree of permanent impact (irreversible loss of value) that the proposal is likely to have on the heritage significance of the place.	Some loss as this is one of a few houses left of the period notwithstanding the low aesthetic and architectural value of the place.
Compatibility with heritage building in terms of scale, bulk, height – the degree to which the proposal dominates, is integrated with, or is subservient to a heritage place.	N/A as this is not an addition to an existing dwelling but the proposed demolition of the house.
Compatibility with the streetscape and/or heritage area in terms of the siting, local architectural patterns, and the degree of harmonised integration of old and new.	A new dwelling (removal of existing house) will have little impact on local architectural patterns and siting since much of the street and surrounding dwellings are new to refurbished houses.
Compatibility with heritage building in terms of the design solutions and architectural language such as refinement and finesse of detailing, texture, material, finishes and	N/A

quality of craftsmanship.	
Degree of impact on the important public views, vistas, landmarks and landscape features.	N/A

A ‘Statement of Conservation’ was considered not applicable and no comment was made by the architect under this section of the report.

**Revised Heritage Impact Assessment (received on 25 June 2012) – SIA Architects**

A revised heritage impact assessment has been received in response to the TPAP’s comments. The revised document now contains a ‘Statement of Conservation’ section which reads as follows:

*“It is understood that demolition is proposed for the premises.*

*Although the bulk of the original fabric is in good condition, internally there has been considerable modification to the original fabric. Externally the context/streetscape has been modified with all but one neighbouring house having undergone redevelopment. The place is not rare nor does it have aesthetic or cultural significance. With a photographic and written record already obtained the demolition of the premises will not diminish the heritage value of the place or its neighbourhood.”*

The supporting evidence section of the document contains internal and external photographs of the property and neighbouring houses.

**Heritage Assessment and Impact Statement (dated June 2012) Griffiths Architects**

Following consideration of the application by the TPAP the Town commissioned Griffiths Architects to prepare a heritage assessment and impact statement.

The report notes that the prime issues to be considered include:

- the heritage value of the existing house;
- the contribution to the streetscape; and
- whether or not demolition could be supported following on from the findings of the above.

Additional comments noted that the Council’s Municipal Inventory states that the significance lies in the “aesthetic value, architectural merit, rarity value and group precinct value”.

Since the time the Town’s heritage survey was compiled the report also notes that further places from the post WW II period have been demolished and replaced with contemporary single and two storey residences. Post WW II period residences in the vicinity are a diminishing commodity.

The impact statement also points out that in the past three decades, the momentum of replacement has increased. A number of lots around the subject site now have two storey residences and there are a few instances of battleaxe subdivision.

The architect also notes that:

*“The strong interwar and post WW II historic and visual relationships have been much reduced in this context, though a place at 68 is visually and stylistically related.*

*Development to the west has been fairly modest in scale and relates well to the house at 60 View Terrace. In this context the place and its mature setting still make a positive visual contribution to the streetscape.”*

The house plan and the existing plantings are also typical of a post WW II home and garden on a larger lot and apart from the garden being neglected the place appears in good condition.

In summary, the following was concluded:

*"In the context of dwellings built in the period, this dwelling could be described as a good representative example of its type and time. Though apparently built in stages, the core house appears to be quite well built."*

#### **Streetscape Photographic Folio**

In further support of the application the applicant has submitted a series of photographs of the 'street view' of homes in the vicinity with the aim of highlighting the diversity of age and style of construction.

#### **Heritage Conclusion**

Based on the Town of East Fremantle's assessment criteria for places of heritage significance adapted from the Heritage Council's criteria, the place has some heritage significance to the Town of East Fremantle and met the threshold for entry onto the Town of East Fremantle's Municipal Inventory of Heritage Places.

No. 60 (Lot 86) View Terrace is noted in the Inventory as being of some heritage significance at a local level and a place that ideally is to be retained and conserved. The place contributes to a group of circa and post WW II homes which establish the character of the area and contribute to its amenity. This group of housing accentuates the historical age of the area that has otherwise been predominated with more recent development and this distinguishes it from the majority of the Town.

The recommendation of the Heritage Assessment and Impact Statement commissioned by the Town does not concur with the Heritage Assessment undertaken by SIA Architects on behalf of the owner.

SIA Architects concluded that the place is not rare nor does it have aesthetic or cultural significance; demolition of the premises will not diminish the heritage value of the place or its neighbourhood.

However, the recommendation of Griffiths Architects states:

*"The house...has some significance at a local level and its loss would alter the balance of the streetscape, further eroding the heritage density of Richmond Hill. It is recommended that the Council should seek to have the place retained."*

#### **Demolition**

The dwelling is a post WW II bungalow which is noted in Council's Municipal Heritage Inventory as having a high value in regard to integrity and a relatively high aesthetic value, while having moderate to high significance in terms of condition and moderate value in regard to architectural merit, rarity value and group/precinct value. The Survey allocates a C Management Category. The determinations in respect to this Management Category state:

*"Some heritage significance at a local level; places to be ideally retained and conserved; endeavour to conserve the significance of the place through the standard provisions of the Town of East Fremantle Planning Scheme and associated design guidelines; a Heritage Assessment/ Impact Statement may be required as corollary to a development application, particularly in considering demolition of the place. Full documented record of places to be demolished shall be required..."*

In consideration of the above, staff requested a Heritage Assessment and Impact Statement from the applicant which has been detailed above and as noted above in its

initial version did not reach any conclusion in regard to demolition nor did it address the issue of conservation.

The existing dwelling is located in the Richmond Hill Precinct and both Council's **Local Planning Strategy** and **Draft Residential Development Guidelines** state that conserving the Precinct's remaining heritage and traditional buildings is a significant component of maintaining the character of the area.

The existing dwelling is in good condition and representative of its era, it is accepted that its contribution to the streetscape has diminished due to the contrasting contemporary development that has occurred surrounding it, however, in the current setting the significance of the building in terms of its representative value has been increased and its demolition is not supported. Furthermore, the **Draft Residential Development Guidelines** state that in regard to the Richmond Hill Precinct the desired future character should incorporate the maintenance of its traditional buildings.

The retention of the home does not preclude development opportunities or numerous design options for the site.

### **Town Planning Scheme No. 3 Provisions - Amendment No. 9**

Clause 10.2.c of Town Planning Scheme No. 3 states as follows:

*The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application the requirements of orderly and proper planning **including any relevant proposed new town planning scheme or amendment**, or region scheme or amendment, which has been granted consent for public submissions to be sought.*

In regard to the above Clause Council has initiated Amendment No.9 to the Scheme and the Amendment is currently in the final stages of consideration by the WAPC and the Minister for Planning. The Amendment in effect will, amongst other things, alter Clause 8.2 of the Scheme to have the result of expanding planning control in respect to demolition of properties that are included in the municipal (heritage) inventory.

In this respect the Scheme Amendment is proposed for a number of reasons as outlined below:

- to expand planning control in respect to demolitions and allow for better protection of properties which, whilst not entered on the Council's Heritage List, hold heritage values recognised through inclusion on the municipal inventory;
- it would allow for increased certainty in development outcomes relating to 'replacement' buildings or structures on sites of heritage value; and
- the Planning and Development Act provides a clear 'head of power' to require development applications for demolition by the specific inclusion of demolition within the definition of development. The proposed amendment accords with the intent of this provision.

Given the above forthcoming changes to the Scheme Council is now in a position, pursuant to clause 10.2(c) of the Scheme, to require a planning approval for demolition of the existing house and to give due consideration to refusal of demolition of the existing dwelling.

### **Proposed Replacement Dwelling**

The proposed dwelling is two storeys with a total floor area of 624m<sup>2</sup>. It is of white rendered masonry construction with a dark grey shingle tile roof at a pitch of approximately 34° degrees. The attached garage is to be constructed of the same materials in the same colours. The living rooms and a lower alfresco area (undercroft)

and ground (street level) roofed balcony are located at the rear of the home to take advantage of the slope of the land away from the street to the rear of the site.

The proposed development does not comply fully with the Residential Planning Codes or LPP 142 in regard to building height, side setbacks, overlooking/privacy, site works and open space as detailed in the assessment table below.

**ASSESSMENT**

Key: A = Acceptable, D = Discretion

Site:	Required	Proposed	Status				
Open Space	55%	52%	D				
Site Works	Less than 500mm	< 500 mm eastern boundary & rear of lot last 1.7m of house	D				
<b>Local Planning Policies:</b>							
<b>Policy 142</b>	<b>Issues</b>		<b>Status</b>				
Roof	see below for further details		D				
Solar Access & Shade	Roofing material complies		A				
Drainage	Open outdoor areas face north		A				
Views	To be conditioned		A				
Crossover	Potential impact						
Trees	site inspection required						
<b>Other:</b>							
Overshadowing	Issues		Status				
Privacy/Overlooking	No impacts - overshadowing on street		A				
Clause 7.4.1 FFL 0.5m above NGL major opening to active hab spaces	cone of vision drawings – see below		D				
	see below						
	Required	Proposed					
	4.5m from bedrooms	N/A	D				
	6.0m other hab rms	5.9m - family room	D				
	7.5m unenclosed outdoor active hab (eg balcony)	7.3m - balcony	D				
<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>				
Wall	east 5.6m west 5.6m	6.486m 6.386m	D D				
Ridge	rear front east 8.1 8.1 west 8.1 8.1	rear front east 7.95 9.586 west 8.5 9.186	D D				
Roof Type	Pitched - 34.59°		A				
<b>Setbacks:</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (south)							
Ground		N/A	N/A	N/A	consistent	7.6	A
Upper		N/A	N/A	N/A	7.5	7.6	A
Rear (north)							
Ground		N/A			6.0	14.0	A
Upper					6.0	14.0	A
Side (west)							
Ground		3.00	6.00	✓	1.5	5.5	D

<i>Upper</i>		6.386	18.00	✓	4.7	5.4	D
Side (east)							
<b>Ground</b>		2.6	15.8	✓	1.5	0.8 - 1.6*	D
<i>Upper</i>		6.486	7.2	✓	3.0	2.0	A

**Notes:** 1. \*If bathroom section on eastern boundary considered separately setback still not compliant.

## CONCLUSION

### Heritage Considerations

The heritage assessments and impact statements do not concur in regard to the subject site. The architects offering their professional opinions do not share the same view in regard to the principal issue of retention of the dwelling.

Given the considerable modification to the house (internally) and all but one neighbouring house having undergone redevelopment the architect engaged by the owner has reached the conclusion that the place is not rare nor does it have aesthetic or cultural significance therefore demolition will not diminish the heritage value of the place or neighbourhood.

On the other hand the architect engaged by the Town has concluded that loss of the place will have some impact on cultural heritage values of the Richmond Hill Precinct and in East Fremantle more generally, therefore demolition will result in permanent loss of heritage significance.

### Proposed Demolition

No. 60 (Lot 86) View Terrace is considered to be of considerable local heritage significance and meets the threshold of entry into the Town of East Fremantle Municipal Inventory of Heritage Places. The place contributes to a group of circa and post WWII homes which establish the character of the area and contribute to its amenity. The retention of the home does not preclude development opportunities or numerous design options for the site.

Given the existing dwelling is a good representative example of its type and that within the current setting, the significance of the building in terms of its group/precinct value has been increased over recent times, demolition cannot be supported.

### Proposed Dwelling

The subject site slopes away from the ground level of the road reserve and falls away to the rear reasonably steeply. The topography of the site and the proposed two level dwelling tends to increase the impact of the building height, mass and overlooking of the proposed dwelling. The intended design and detailing of the proposed residence is sympathetic to the recently constructed housing within the immediate streetscape which does comprise a number of contemporary double storey dwellings. The non-compliance with various provisions of the R-Codes and Council's LPP 142 could be dealt with through further discussion with the applicant regarding modifications to the plans and/or by imposing conditions of planning approval should this application be given further consideration by Council.

Given the comments of the TPAP, the heritage issues that have arisen concerning the dwelling on the subject site and the recommendations of the Heritage Assessment and Impact Statement commissioned by the Town it is recommended that demolition of the existing dwelling on the site be refused.

## RECOMMENDATION

That demolition of the dwelling at 60 (Lot 86) View Terrace, East Fremantle be refused:

(A) on the basis that:

1. the place is included in Council's Municipal Inventory by virtue of its local heritage significance which is a result of:

- (a) having aesthetic significance as a good representative example of a Post War Early Modern Bungalow Porch House;
  - (b) reflecting post WW II development in general and in East Fremantle;
  - (c) continuing to serve its function and retaining a high degree of integrity and a moderate to high degree of authenticity; and
  - (d) accentuating the historical age of the area that has otherwise been predominated with more recent development and distinguishing it from the majority of the Town;
2. the place contributes to homes that establish the character of the Richmond Hill Precinct and contributes to the amenity of the area;
  3. the demolition of the place would have an adverse impact on cultural heritage values of Richmond Hill and in East Fremantle more generally; and
  4. the retention of the home does not preclude development opportunities or numerous design options for the site; and
- (B) pursuant to Clause 10.2 of Town Planning Scheme No. 3 as in considering an application for planning approval the Council is to have due regard to:
1. the aims and objectives of the Scheme (Clause 1.6) which include:
    - (a) “to recognise the historical development of East Fremantle and to preserve the existing character of the Town”;
    - (b) “to enhance the character and amenity of the Town, and to promote a sense of place and community identity within each of the precincts of the Town”;
    - (c) “to promote the conservation of buildings and places of heritage significance, and to protect and enhance the existing heritage values of the Town”; and
    - (d) “to conserve significant places of heritage value, and to preserve the existing character of the Town”;
  2. the provisions of the Local Planning Strategy in regard to the precinct planning proposal to conserve the precinct's remaining heritage (Clause 10.2 (b)); and
  3. the requirements of the orderly and proper planning of the locality in regard to proposed Scheme Amendment No. 9 (Clause 10.2 (c)).

The letter from Ross Griffin Homes, referred from Correspondence (MB Ref T66.2) was tabled.

#### **RECOMMENDATION TO COUNCIL**

**Cr Rico – Cr Martin**

**That as per the applicant's request, the planning application for 60 View Terrace be deferred.**

**CARRIED**

#### **T69. CONFIDENTIAL BUSINESS**

Nil.

#### **T70. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**

Nil.

**T71. CLOSURE OF MEETING**

There being no further business the meeting closed at 8.10pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **7 August 2012**, Minute Book reference **T60. to T71.** were confirmed at the meeting of the Committee on*

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