



14 December 2010

MINUTES

MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 14 DECEMBER, 2010 COMMENCING AT 6.35PM.

329. DECLARATION OF OPENING OF MEETING

The Mayor (Presiding Member) declared the meeting open.

329.1 Present

Mayor A Ferris	Presiding Member
Cr C Collinson	
Cr B de Jong	
Cr R Lilleyman	
Cr S Martin	
Cr D Nardi	
Cr R Olson	
Cr M Rico	
Cr A Wilson	
Mr S Wearne	Chief Executive Officer
Mr J Douglas	Manager Planning Services (To 9.30pm)
Ms G Basley	Acting Town Planner (To 9.30pm)
Ms S Cocks	Principal Environmental Health Officer (To 7.40pm)
Ms J May	Minute Secretary

330. 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."

331. WELCOME TO GALLERY AND INTRODUCTION OF ELECTED MEMBERS AND STAFF

There were 11 members of the public in the gallery at the commencement of the meeting.

332. RECORD OF APPROVED LEAVE OF ABSENCE

Nil.

333. RECORD OF APOLOGIES

Nil.

334. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

335. PUBLIC QUESTION TIME

Nil.

336. APPLICATIONS FOR LEAVE OF ABSENCE

336.1 Cr Lilleyman

Cr Lilleyman sought leave of absence for the Council Meeting to be held on 1 February 2011.

Cr Martin – Cr Nardi

That leave of absence be granted to Cr Lilleyman for the meeting to be held on 1 February 2011.

CARRIED



14 December 2010

MINUTES

337. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

337.1 Council Meeting – 16 November 2010

Cr Nardi – Cr Collinson

That the Minutes of the Council Meeting held on 16 November 2010 be confirmed with the following correction to MB Ref 323.2 Annual Electors' Meeting

That the date "Tuesday, 7 February 2011" in the third paragraph of the item be amended to read "Tuesday, 8 February 2011".

CARRIED

338. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION

338.1 Discover Our Rivers

Mayor Ferris tabled a copy of the Local Government Charter for the Swan and Canning Rivers which had been signed by 21 local governments which are united in their call for more action to protect the river system.

The Mayor advised that he would be proposing Council provide funds in the new year to involve local school groups in projects to improve the quality of the Swan River and its foreshore.

338.2 Trevor & Elizabeth Kelly

338.3 Joan Greenough

338.4 Colin & June Jones

Mayor Ferris read letters from these residents who had attended and enjoyed the Pioneers Christmas Lunch held on Monday, 6 December 2010.

338.5 Community Midwifery

Mayor Ferris tabled a certificate of thanks from Community Midwifery WA for Council's donation to their fundraising event.

338.6 Glyde-In Recognition/Citizenship Function

Mayor Ferris read the following correspondence from Glyde-In:

"Last Monday's reception to recognise our ongoing work by our major supporter and benefactor was very much appreciated.

It was particularly significant when combined with a ceremony to welcome new Australian Citizens. We thank you for your continuing support and wish you all a very happy Christmas and a prosperous and health 2011."

339. QUESTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN WITHOUT DISCUSSION BY COUNCIL MEMBERS

Nil.

340. MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN BY COUNCIL MEMBERS

Nil.

341. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

341.1 T216.5 Preston Point Road No 19 (Lot 35)

Allerding & Associates: Submitted revised plans for 19 Preston Point Road which remove the upper level substantially reducing the bulk of the building and overshadowing issues.

Cr de Jong – Cr Lilleyman

That the correspondence from **Allerding & Associates** be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 343.3). CARRIED

341.2 T216.4 Glyde Street 8 (Lot 85)

A Dearn: Setting out background to current screening situation at 8 Glyde Street and seeking assistance from Council for a solution that will conform to Council's requirements.

Cr de Jong – Cr Lilleyman

That the correspondence from **Mrs A Dearn** be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 343.2). CARRIED

341.3 T219.6 King Street No 94 (Lot 2)

Jane Tangney: Enclosing photos that reflect the deteriorated condition of the rear chimney and the fact it is not visible from King Street, in support of the request to remove this chimney whilst retaining the chimney to the front of the residence.

Cr de Jong – Cr Lilleyman

That the correspondence from **Ms J Tangney** be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref 346.4). CARRIED

342. ORDER OF BUSINESS

Cr Rico – Cr de Jong

That the order of business be changed to allow members of the public to address agenda items. CARRIED

343. HEALTH & GENERAL PURPOSES

343.1 Proposed East Fremantle Community Garden (See also MB Ref 348.7)

By Shelley Cocks Principal Environmental Health Officer on 7 December 2010

ATTACHMENT

Freo Farm Inc Business Plan

PURPOSE

The purpose of this report is to facilitate a Council decision with respect to an application by East Freo Farm Inc to utilise part of Locke Park to create a community garden.

BACKGROUND

At the Council meeting of 3 August 2010, Ms Rebecca James made a presentation to Council on the concept of community gardens and their newly incorporated group, East Freo Farm Inc, wishing to occupy part of Locke Park to create a community garden, in an area which bounds Moss Street, the East Fremantle Football Club, Sumpton Green and the existing basketball court.

The following decisions ensued, involving various issues which had been identified as requiring addressing, in order to progress this matter.

Elected members voiced in-principle support for the concept, however raised queries regarding:

- *public access through the requested area*
- *membership arrangements and the concept of private allotments*
- *potential toxicity of soil*
- *cost of refurbishing old playgroup building*

14 December 2010

MINUTES

- *lack of bore water availability and issues in relation to using rainwater or scheme water*
- *potential for the future implementation of the East Fremantle Oval Precinct Master Plan and the group being required to find an alternative site, should the Moss Street site be approved.*

The Principal Environmental Health Officer answered questions regarding soil toxicity testing, rainwater catchment systems, the condition of the old playgroup building and food produce.

The Acting Works Manager advised:

- *of the difficulties of providing bore water to the area proposed*
- *that Council access would be required to the area immediately behind Sumpton Green which formed part of this proposal*
- *that given the previous use of part of the area as tennis courts, if this location was to be used, the top soil would need to be removed*
- *that the old playgroup building would require connection to the sewer as the septic system had been disconnected .*

The Mayor queried whether the group had prepared a Business Plan for the project which would be useful in Council's deliberations.

The CEO raised the issue of the "A" Class Reserve zoning of the land which had been vested in the Council for recreational purposes and advised that enquiries would need to be made regarding whether a community garden (including private allotments) would be a permitted use in that regard.

The CEO further advised that if the use was permitted that public advertising would be required.

The Mayor advised Ms James and the other members of the group present in the gallery that elected members would further discuss this matter when the Principal Environmental Health Officer's report was being considered on tonight's agenda.

In response to a query regarding whether the group had considered other potential sites in the Town, Ms James advised that no other sites had been explored due to the deemed advantages of the proposed site.

DISCUSSION

Following some investigation by Council's Principal Environmental Health Officer and Operations Manager, and on receipt of the East Freo Farm Inc Business Plan, the following points became evident when considering the queries raised in relation to the proposal:

- **Public access through the requested area**

The Business Plan states "the community garden will be open to all but only members will be able to participate in garden activities. Issues of access both physical eg, fencing and timing eg, opening hours will be determined in the future.

As a general rule A class reserves are open to all members of the public. Limiting access could, therefore, be an issue.

The area desired for the location of a community garden is part of an A Class Reserve and is currently open park land accessible to all. This matter will formulate an important issue with respect to the proposed community consultation of the community garden, as residents must understand that public land currently accessible to all will likely be restricted in access should the garden proceed.

By way of contrast, Council policy has long been that the East Fremantle Football Oval is required to remain open to the public at all times, barring during games where visitors are required to pay an entry fee.

- **Membership arrangements and the concept of private allotments**

The Business Plan states individuals and family memberships comprise the group and in time, individual plots may be made available to rent to non-members. Business Plan attached.

- **Potential toxicity of soil**

Soil samples can be taken and submitted to Matprolabs in Hayden Court Myaree, if required. However, given that the area was a tennis court and probably subjected to ongoing chemical use, there is a presumption of toxicity, therefore the topsoil could be removed, or all plantings could occur in raised plots with imported soil.

- **Cost of refurbishing old playgroup building**

Inspection of the old playgroup building was undertaken by Council's Operations Manager Ken Dyer, Principal Building Surveyor Paul Busby and Principal Environmental Health Officer. The building was found to be unfit for habitation, not connected with sewer or electricity, contaminated with asbestos and structurally unsound. The estimated cost of rendering the building safe and habitable is in the region of \$60,000-\$80,000. Council will therefore not allow this building to be used or refurbished; rather Council will investigate the cost of demolition of this building to make way for further redevelopment in accordance with the Master Plan for the East Fremantle Oval Precinct.

- **Lack of bore water availability and issues in relation to using rainwater or scheme water**

Operations Manager Ken Dyer advises that Town of East Fremantle is fully allocated with their bore water allocation and currently utilises up to 1,000,000 litres per week in summer for watering Locke Park, Sumpton Green and East Fremantle Oval, all of which run off the same bore.

A sample of bore water from East Fremantle Oval Turbine 1 was submitted for analysis to Agrifood Technology on 15 September 2010 and the results indicate that this water has a moderate salinity and should be suitable for irrigation for most plants with the exception of slightly to moderately salt susceptible species. Direct contact between the water and plant foliage should be minimised as this may cause salt burn, especially during summer months. Bicarbonate, total alkalinity and total hardness are high, therefore this water is likely to have an alkaline effect on soils to which it is applied, leave a calcium carbonate deposit on surfaces where it evaporates, and cause blockages of fine sprinklers.

Due to the above analytical report, Council would not support any further bore installations around this area. Accordingly, no bore water will be available for a community garden in this area, unless Council were to reduce watering of the abovementioned reserves. There may be scope for the provision of bore water in an alternative location.

There is the potential for scheme water to be installed and utilised for watering the proposed community garden. A big issue for Department of Water is the overall water shortage and measures are in place to address this shortage including watering only once per week in summer, unless watering by hand.

The group has requested 750 kL/annum as a minimum and have calculated the watering of vegetable garden beds at a rate of 1000L/m² per annum, so I surmise that the area of garden beds overall is 750m². We believe this rate to be an underestimation eg, 1000L/m² per annum equates to 2.7 litre/m²/day. We think the

rate required for a viable vegetable garden would be more likely to be in the vicinity of 10 litres/m²/day, especially in summer.

- **Implications for the use of A Class Reserves and the East Fremantle Master Plan**

The area is an A Class reserve (No 6229) for Recreation (East Fremantle Oval), and is 8.4374 hectares in area. Under the Metropolitan Region Scheme the area is classified as an MRS Reserve for "Parks and Recreation." There is an issue as to whether a "members only" community garden is consistent with this classification.

An Class A reserve affords the greatest degree of protection for reserved land, requiring approval of Parliament to amend the Reserve's purpose or land area, or to cancel the reservation. The A classification is used solely to protect areas of high community value or high conservation value.

- **Master Plan East Fremantle Oval Precinct**

Extensive community consultation carried out in connection with this Master Plan in 2008 gleaned 350 responses from the nearby and broader East Fremantle community when asked (about this area) "What's missing and should be provided?"

The most prevalent response was the request for gymnasium and fitness provision, there were requests in direct support of the football club and most requests were for family-friendly provision such as open space, parkland, BBQ and picnic facilities, walk/cycle trails and open access to the oval as part of the open space.

There were nearly 30 separate requests to remove the fence surrounding the oval – a feeling that the community is "shut out" of the grounds, even though the gates are unlocked.

There was significant commentary for the precinct to be opened up for mixed sporting use, more than 20 requests in support of building a community recreation facility and high up on the list of requirements was a swimming pool.

On consideration of the Final Redevelopment Proposal Map the following responses were evident:

Strong support for opening up the oval for greater public use, retention of the Bowling Club and Croquet Club, retention of the child health clinic and playgroup and enhancing the landscaping, including pathways and adding park furniture and equipment.

It is in the area desired by East Freo Farm Inc, that the landscaping, pathways and enhanced community facilities were mooted. This would have the effect of drawing the existing sporting clubs together in a welcoming accessible and family friendly manner and utilising the little open space available on the reserve.

- **Community Consultation**

The Master Plan identified the following constraints:

- The A Class Reservation of the Study Area severely restricts the range of uses that can be easily introduced.
- The conservative nature of surrounding residents, who may object to any changes to the current situation.

Accordingly Council could not make a recommendation for approval of the proposal at this location without undertaking community consultation (again) to surrounding residents and the current occupants of the site.

- **Alternative Sites**

There may be a number of alternative sites and the group has been invited to explore the possibility of alternative sites but to date this has not occurred. Given the

recommendations of the Master Plan for the East Fremantle Oval Precinct, and the suggestion that the group's tenure may be limited to 5 years it is strongly recommended that other sites be selected by the group for future consideration by Council. Examples of sites may include privately owned land such as vacant blocks in Staton Road and Canning Highway, - Preston Point Road or Reserve land to the north of the Town.

• **Hilton Harvest and Piney Lakes Gardens**

A directory of Western Australian community gardens as at 9 July 2010 reveals that there are many gardens ranging from 20 years old to others that are just planning their first plantings. There are communal gardens, allotment gardens and spaces that combine the two. Some gardens are open to the public and others are accessible to members only or are designed for particular groups. There are currently over 20 community gardens in the Perth metropolitan area, with the closest being Apace Community Garden in North Fremantle, Fremantle Environmental Resource Network (FERN) in Montreal Street Fremantle, Piney Lakes Community Garden in Melville, Hilton Harvest in Hilton (under construction) and Glyde In Community Centre in Glyde Street East Fremantle.

I have sought the terms of agreement and conditions of use both of Piney Lakes and Hilton Harvest to gain some insight into the operation and maintenance of community gardens and how other organisations have managed practical issues such as leasing arrangements, insurance, responsibility for costs and exit strategies. I have included this information as an attachment, however please refer to the following table for a quick reference.

	Piney Lakes Community Garden	Hilton Harvest
Location	Piney Lakes Environmental Education Centre Winthrop	Hilton Primary School
Lease	No leases as such but individuals who are members of the community group lease plots	No lease but a licence to undertake an activity on school grounds Individuals who are members of the community group lease plots.
Type of garden	Allotments. Members of the community group and fees have been paid.	Communal/Allotments, Preference given to Hilton residents, who have the least opportunity to garden, are members of a community group and are from culturally diverse backgrounds
Fees	Annual fee of \$40 plus - \$50 large plot, \$40 small plot plus \$10 key deposit.	Single \$20 or \$10 concession Family \$35 or \$15 concession Plots \$60 or \$30 concession
Costs	Council provided land and bore water, Community Group provided plots and fencing through funding by the Gowrie Community Services	School provided land, Community Group provided materials for plots through donations, fund raising, grants and fees. Group pays electricity and water to school.
Insurance	Plot holders must arrange for their own insurance and provide evidence to the community group	The community group must arrange their own insurance and provide evidence to the landowner.
Structures	No structures without approval	No structures without approval
Toilets	Key access to adjoining toilet block	Key access to adjoining toilet block (weekends only)
Tea/coffee Facility	Not provided	Not provided



14 December 2010

MINUTES

Glyde In Community Garden

It was interesting to note that the Directory of Community Gardens includes the Glyde-In Community Centre which Council has supported over many years and which has developed an ethos of offering environmentally and sustainability aware education including the nationally recognised "Living Smart" course. It was found that the community garden in the yard adjoining Glyde Street and Glasson Park is wholly tended by volunteers, but it is open for all to enjoy.

Financial Considerations

It should be noted that Council has previously approved of the establishment of a community garden "in-principle" and allocated \$10,000 in Council's budget. In addition to the \$10,000 budgeted, the organisation, in their Business Plan, factor in a grant of \$1,000 per annum from the Council. However it is unclear whether Council would also be expected to fund associated capital works such as water supply infrastructure. (the area in question is currently unwatered.)

East Freo Farm Inc Business Plan

The East Freo Farm Inc Business Plan was received by Council on 4 November 2010 and the following questions were emailed to Committee Secretary Rebecca James for clarification.

- The extent of community interest.
- Office bearers and committee members names and contact details to be provided.
- The group would have to take out their own public liability insurance as other user groups are required to do. I refer to the Piney Lakes Community Garden Guidelines which requires plot holders to arrange their own insurance. Hilton Harvest also requires public liability insurance of \$10,000,000. People using the facility do so at their own risk and no liability will be accepted. The suggestion that other locations be explored in the event that the community garden could only gain tenure for a limited time has merit, and it would be appropriate that an alternative site be identified now.
- Clubhouse - as discussed earlier the disused play group building is not available.
- Use of Sumpton Green. Sumpton Green hosts the East Fremantle Family Playgroup and the East Fremantle Child Health Centre, and is hired out for children's birthday parties on weekends. They currently share the premises on a 'dovetail' basis, as the centre is too small for both to run concurrently at optimum levels. The centre is fully utilised with both tenants adding that, while not inadequate for the current use could be improved. Currently the playgroup has 102 families with over 120 children enrolled and using the play equipment each week. There are 8 sessions with up to 20 families attending each session. The park is used by other families when the playgroup is not in session. The sessions run morning and afternoon on Monday and Friday, and mornings on Tuesday, Wednesday and Thursday. The Child Health Nurse uses the building for Mother's groups on those days.
- Council is aware of the WACOSS free energy audits as Glyde In recently had an audit and Council approved of their application for further funding. Council's Principal Environmental Health Officer has had limited training in undertaking energy audits, principally for small businesses through the Town's participation in SMRC ClimateWise committee. Council also keeps Planet Footprint records and tracks energy, water and gas consumption. Council has recently installed photovoltaic cells on Dovenby House with the intention of demonstrating this renewable technology to the community. Council has secured funding for the further installation of photovoltaic cells at Tricolore Community Centre. A feasibility study of all Council buildings with the aim of installing renewable energy was undertaken in 2008, and the Council has undertaken to install PV cells on those buildings deemed most suitable.
- Budget – how much did you want from Council up front and annually? (Was it \$10,000 and \$1,000?)
- Ken thinks you have under estimated the fencing and rainwater tank., reticulation and raised garden bed materials.
- Health and safety concerns may preclude frog ponds, open compost bays (we have compost bins!) and the pizza oven. Food preparation not permitted.

14 December 2010

MINUTES

- Ken also thinks you have underestimated the amount of water you would use in a given time compared with what Council uses on a similar area.

Rebecca has responded with clarification of the extent of community response as evidenced by their public meeting, clarification of finances sought from Council and Rebecca also provided the East Freo Farm Inc Committee Contact details.

The committee were not keen (I understand) to work on a plan of their proposal prior to being allocated any site, as they indicated that any plan would be site specific, so wanted to have the land first. This does create some difficulty in regard to community consultation as surrounding residents wouldn't be able to visualise the finished product.

No response has been forthcoming in relation to the water issues or the underestimation of costings in relation to infrastructure, identified by Council's Operations Manager.

A recent email from Rebecca asked about an alternative block of land in Canning Highway.

RECOMMENDATION

That:

1. East Freo Farm Inc submit alternative locations for a community garden to Council as Locke Park is deemed to be unsuitable by virtue of the following limiting factors:
 - Lack of routine access to Sumpton Green
 - Old playgroup building not fit for habitation
 - Lack of access to bore water
 - Inconsistency with the Master Plan for the East Fremantle Oval Precinct
 - Inconsistency with the concept of "public open space"
 - Council's commitment to progressing the recommendations of the East Fremantle Oval Precinct Master Plan in accordance with the community consultation of that time.
2. East Freo Farm Inc submit a plan of their proposal on which Council can base some community consultation in an alternative location.

The Principal Environmental Health Officer addressed the meeting with respect to matters in her report and responded to questions from elected members.

In response to a query from an elected member, the CEO advised the meeting that a request had been received from East Freo Farm to have this agenda item brought forward and dealt with prior to planning matters. Following discussion with the Mayor, it had been agreed to accede to this request and it was not known why the members of the group were not at the meeting.

The CEO advised of the progress of this issue and noted that he understood members of the group had not been inclined to view alternative sites as their clear preference was for the Sumpton Green site.

Ms Del Weston (East Freo Farm Inc) upon arrival addressed the meeting disputing the claim that the group had been unwilling to consider alternative sites and complaining that they had been unaware that this item was to be brought forward at tonight's meeting.

Ms Rebecca James (East Freo Farm Inc) upon arrival addressed the meeting complaining about the lack of assistance and communication from Council staff for this project, advising that the group had not previously been formally advised of the issues relating to the Sumpton Green site. Ms James advised that she looked forward to a meeting in the new year with staff and elected members to look at alternative sites with a view to progressing this project.



14 December 2010

MINUTES

Mayor Ferris – Cr Collinson

That the application be deferred pending a meeting to be held between East Freo Farm Inc, the CEO, the Mayor, the Operations Manager and Principal Environmental Health Officer to discuss the approach for identifying alternative sites. CARRIED

343. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN)

343.1 T216.11 & T219.1

Duke Street No. 34 (Lot 303)

Applicant: Cole Dryka Architects/National Trust

Owner: National Trust

Application No. P49/2009

Mayor Ferris gave a brief summary of how this matter would be progressed.

The CEO advised that the change of date for Council to consider this matter from 27 January to 1 February 2011 would need to be approved by the State Administrative Tribunal.

Cr Wilson – Cr de Jong

That Council:

1. defer determination of the proposal for the redevelopment and change of use of the Royal George Hotel, No. 34 (Lot 303) Duke Street, East Fremantle from artists' studios and art gallery to short term accommodation and restaurant preferably until the meeting of Council to be held on 1 February 2011, or if that is not possible, a meeting on the 27 January, 2011.
2. provide the proponents with a copy of the Traffic and Parking Assessment prepared by Donald Veal Consultants and the public submissions received and invite the submission by 14 January 2011 of an amended proposal addressing all relevant issues and incorporating all information necessary to complete the determination of the application. CARRIED

The CEO further advised that the site inspection that had been arranged for Saturday, 18 December had been cancelled by the National Trust due to the unavailability of the various parties.

The Principal Environmental Health Officer left the meeting at 7.40pm.

Mayor Ferris made the following impartiality declaration in the matter of 8 Glyde Street: "As a consequence of my friendship with the objector, Mr Bill Ward, 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".

Cr Collinson made the following impartiality declaration in the matter of 8 Glyde Street: "As a consequence of the objector, Mr Bill Ward, being known to me due to mutual friends, 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".

343.2 T216.4 Glyde Street No. 8 (Lot 85) – Retrospective Planning Approval

Applicant/Owner: Mike Dearn, 8 Glyde Street

Application No. P174/2010

The following additional information was provided by the Manager Planning Services:

In response to the following resolution of the Town Planning & Building Committee at its meeting held on 7 December 2010:

"That the application for retrospective planning approval for the extension in the height of a side boundary wall at No. 8 (Lot 85) Glyde Street, East Fremantle be deferred to allow the officers the opportunity to review the submitted report with a view to maintaining the additional masonry courses and removal of the slatted timber element above."



14 December 2010

MINUTES

it is recommended that Council adopt the officer's recommendation amended as follows:

1. Council exercise discretion in regard to clause 4.3 of the Planning Policy No. 143 – 'Local Laws Relating to Fencing' to provide retrospective approval of a masonry side boundary wall to a maximum height of 2.1 metres subject to the removal of the slatted wooden extension to the height of the boundary wall.
2. The applicants be directed, pursuant to Section 214 (3) (a) of the Planning and Development Act 2005, to remove the unauthorised building works (slatted wooden extension to the side boundary wall) not included within this retrospective approval within 60 days of the date of the notice of determination.

The letter from A Dearn (owner), referred from Late Correspondence (MB Ref 341.2) was tabled.

Mr and Mrs Dearn (owners) advised the meeting that they wished placed on record that they had originally believed they had the neighbour's support for the screening they had erected. They thanked Council for the time and effort spend in resolving this issue and requested that they be given sufficient time to plant appropriate screening prior to removing the unauthorised slatted wooden extension.

Cr Wilson – Cr Martin

That:

1. Council exercise discretion in regard to clause 4.3 of the Planning Policy No. 143 – 'Local Laws Relating to Fencing' to provide retrospective approval of a masonry side boundary wall to a maximum height of 2.1 metres subject to the removal of the slatted wooden extension to the height of the boundary wall.
2. The applicants be directed, pursuant to Section 214 (3) (a) of the Planning and Development Act 2005, to remove the unauthorised building works (slatted wooden extension to the side boundary wall) not included within this retrospective approval within 90 days of the date of the notice of determination. CARRIED

Cr Wilson made the following impartiality declaration in the matter of 19 Preston Point Road: "As a consequence of the owner, Mr Gary Archer, being known to me due to our sons previously attending primary school together, 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".

Cr Martin made the following impartiality declaration in the matter of 19 Preston Point Road: "As a consequence of the objector, Ms Penelope Johnson, being known to me due to her being my hairdresser, 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".

**343.3 T216.5 Preston Point Road No. No. 19 (Lot 35)
Four Level Residence & Change of Use from a 'Garage/Loft' to a 'Residence'
Applicant: Allerding & Associates Pty Ltd
Owner: Gary Archer
Application No. P185/2010**

The following additional report was considered:

**Preston Point Road No. 19 (Lot 35)
Four Level Residence and Change of Use from a 'Garage/Loft' to a 'Residence'
Applicant: Allerding and Associates Pty. Ltd
Owner: Gary Archer
Application P185/2010**

Combined Reporting Manager-Planning Services, CEO and Town Planner on 10 December 2010

BACKGROUND**Purpose of this Report**

An Application for Planning Approval for the construction of a four storey residence at 7 Reynolds Street and a Change of Use from a 'Garage/Loft' to a 'Residence' at 19 Preston Point Road, East Fremantle is the subject of this report. More specifically the application seeks approval for two grouped dwellings with site areas of 289m² and 250m² with frontage to Reynolds Street and Preston Point Road, respectively.

The application was considered at the Town Planning and Building Committee on 7 December 2010. The Committee recommended that the application be deferred pending a site visit.

The Chief Executive Officer and the Manager Planning Services have reviewed the report and recommendation and are of the position that the subject application cannot lawfully be approved under the existing statutory provisions of Town Planning Scheme No. 3 (TPS No. 3) and/or under the powers of the Planning and Development Act of 2005.

In addition to the above there is further apprehension about the recommendation based on the range and number of discretions being sought by the application, the objections raised by the southern neighbour and the potential for an undesirable precedent to be set for the approval of grouped dwelling developments that are contrary to the scheme provisions.

It is considered that there is an alternative way in which this proposal could be determined under the statutory provisions provided for in TPS No. 3. It is believed that this alternative should be pursued as a new application.

This report recommends that the current application be deferred pending the submission of new plans and the advertising of these for neighbour comment.

or

This report recommends that the current application be refused and that the applicants be invited to lodge a new application seeking approval for one dwelling only.

CONSULTATION

Consultation has occurred with the applicants in the week between the Committee meeting and the Council Meeting regarding the concerns with the current application.

A request was made to the applicant to submit a new proposal to just include the existing garage and loft and the proposed conversion of this to a residence. The applicant was also requested to consider withdrawing the current application.

The Applicants have responded to this request as detailed below:

"Further to your email to Dalia Gliozzi-Schenk regarding the Gary Archer's application, I wish to confirm that we expect that the current application for two dwellings to be determined at the Council meeting on Tuesday 14 December.

At the Committee meeting this week it was agreed that a site meeting would assist the Councillors in their assessment of the application. We understand that the site meeting has been arranged for Monday 13th. We are happy to facilitate the Councillors in their viewing of the site and would be grateful if you could forward the details of the meeting.

In the meantime we are liaising with the Councillors with regards to their concerns and are currently preparing a modified plan that reduces the bulk of the building."

On the 10 December 2010 the Manager Planning Services sent the following response;



14 December 2010

MINUTES

Dear John,

I refer to your email to Gemma Basley yesterday afternoon and our discussions of even date. You will recall in our conversation I expressed to you my opinion that the provisions of TPS No3 and the R-Codes did not allow for the determination of a 'grouped dwelling' development with site areas of 289 and 250 m² respectively within the R 12.5 zone which has a minimum site area per dwelling requirement of 700m² and an average of 800m² (see R-Codes Table 1). I invited your response as to how you thought the subject proposal could be achieved under the provisions of TPS No 3. Given that I have not heard back from you I understand that you are unable to advise how approval can be granted within the statutory context of the scheme.

You will recall our discussion regarding the potential ability of the WAPC to make a determination at variance to a local planning scheme provision in certain circumstances in respect to subdivision applications, however as I advised no such capacity exists for Council in respect to determination of development applications. Accordingly there is no option but to recommend to Council that the current proposal be refused.

In light of the above it is intended to recommend to the elected members that the site visit proposed on Monday 13 December 2010 not proceed.

Kind regards
Jamie Douglas

Accordingly it is recommended that the site visit not occur as planned for Monday the 13 December 2010 because of the statutory constraint to any approval of the current proposal.

ASSESSMENT Considerations

The proposal for two dwellings on the subject site does not accord with the provisions of TPS No.3 or the R-Codes. However, it was initially considered that the provisions of Clause 5.3.3 of TPS No. 3 were applicable and could enable the determination of the proposal for two dwellings notwithstanding they would be substantially below the minimum site area requirements for the R12.5 zone. This clause reads as follows;

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

- (a) *in the opinion of the local government, the proposed development will contribute more positively to the scale and character of the streetscape, the improvement of the amenity of the area, and the objectives for the precinct than the existing building"*

It is considered the two proposed grouped dwellings cannot reasonably be interpreted as constituting 'redevelopment up to the same density' as the current development on the lot and in light of the numerous variations to the R-Code requirements, the impact on the neighbouring property and the height and mass of the proposed development, the proposal does not meet the performance criteria identified in part (a) of Clause 5.3.3.

It is noted that Section 138 of the Planning and Development Act of 2005 enables the Western Australian Planning Commission (WAPC) to approve subdivisions in difference to the requirements of a local planning scheme, subject to certain conditions and

performance criteria. This section however only applies to the subdivision of land and does not apply to the granting of planning approval. Council is required to determine applications in accordance with the provisions of its local planning scheme.

Subsequent to the Town Planning & Building Committee meeting 7 December 2010, the landowner has advised that he does not intend to construct the proposed 4 level residence. Based on this the granting of planning approval for the 4 level residence is considered to be unnecessary. Rather it is considered that the applicant could more appropriately deal with this matter by submitting a new application which just deals with the existing building fronting Preston Point Road and seeks to convert this to a residence.

Conclusion

There is not considered to be any statutory basis upon which to approve 2 grouped dwellings on a single lot with an area below the minimum lot size requirements prescribed by the R12.5 R-Code density provisions of the R-Codes.

It is understood the Planning Approval is sought by the applicant's to facilitate a proposed survey strata subdivision. While the WAPC may at its discretion consider such an application for subdivision in difference to the requirements of TPS No 3, the Council has no such discretion in respect to the determination of development applications – the provisions of TPS No. 3 must be applied.

Finally, it is considered that the best way to approach this application would be for a new application to be submitted which only relates to the conversion of the loft/garage to a residence.

Based on the above it is recommended that the subject application be deferred and the applicant be invited to submit an alternate proposal which would subsequently be advertised to neighbours and re-determined (such a course would not require a second application fee to be paid). Alternatively, the application should be refused.

RECOMMENDATION

1. Subject to the applicant agreeing in writing to the deferral and an extension of time for determination, that Council defers the application for planning approval for a 4 level residence and the conversion of a garage/loft to a residence at No. 19 (Lot 35) Preston Point Road and 7 Reynolds Street, East Fremantle subject to the submission of revised plans that comply with the statutory requirements of TPS No. 3 (including section 9.4 – advertising).
2. Should the applicant decline to advise within 30 days (from the date of this determination) that they intend to submit revised plans, then it is recommended that Council refuse the application for planning approval for a 4 level residence and the conversion of a garage/loft to a residence at No. 19 (Lot 35) Preston Point Road and 7 Reynolds Street, East Fremantle for the following reasons:
 - (a) The proposal does not comply with the requirements of Part 5 of Town Planning Scheme No. 3.
 - (b) The subject application seeks extensive variations that would result in an adverse impact on the adjoining single storey dwelling to the south.
 - (c) The proposal does not comply with the requirements of Clause 10.2 (b) and (g) of TPS No. 3

The letter from Allerdig & Associates, referred from Correspondence (MB Ref 341.1) was tabled.

Mr Meggitt (Allerdig & Associates) addressed the meeting in support of the revised proposal and circulated photos of the subject site and surrounding lots. Given, in his view, the reduced impact of the revised proposal, he urged Council to give favourable consideration to this development.

14 December 2010

MINUTES

With respect to the issue of Council's discretion to approve the application, given statements by the CEO and Manager Planning Services, Mr Meggitt stated that a precedent to do so existed, by virtue of "cases tested in the Tribunal", which he said he unfortunately did not have with him.

The CEO and Manager Planning Services each provided advice indicating that Council had no discretion to determine this proposal.

344. ADJOURNMENT

Cr Nardi – Cr Rico

That the meeting be adjourned at 8.13pm for a short break to allow further consideration of this matter. CARRIED

345. RESUMPTION

Cr Rico – Cr Collinson

That the meeting be resumed at 8.40pm with all those present prior to the adjournment, in attendance. CARRIED

346. TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) (CONTINUED)**346.1 T216.5 Preston Point Road No. 19 (Lot 35) (Continued)****Four Level Residence and Change of Use from a 'Garage/Loft' to a 'Residence'****Applicant: Allerding and Associates Pty. Ltd****Owner: Gary Archer****Application P185/2010**

Cr Wilson – Cr Martin

1. Subject to the applicant agreeing in writing to the deferral and an extension of time for determination, that Council defers the application for planning approval for a 3 level residence and the conversion of a garage/loft to a residence at No. 19 (Lot 35) Preston Point Road and 7 Reynolds Street, East Fremantle in plans date stamped 14 December 2010 subject to the submission of revised plans that comply with the statutory requirements of TPS No. 3 (including section 9.4 – advertising).
2. Should the applicant decline to advise within 30 days (from the date of this determination) that they intend to submit revised plans, then it is recommended that Council refuse the application for planning approval for a 3 level residence and the conversion of a garage/loft to a residence at No. 19 (Lot 35) Preston Point Road and 7 Reynolds Street, East Fremantle in plans date stamped 14 December 2010 for the following reasons:
 - (a) The proposal does not comply with the requirements of Part 5 of Town Planning Scheme No. 3.
 - (b) The subject application seeks extensive variations that would result in an adverse impact on the adjoining single storey dwelling to the south.
 - (c) The proposal does not comply with the requirements of Clause 10.2 (b) and (g) of TPS No. 3. CARRIED

346.2 T216.7 Reynolds Street No. 5 (Lot 2)**Swimming Pool, Deck & Shade Structure****Applicant: Q3 Architecture****Owner: B & R Watson****Application No. P191/2010**

Mr Watson (owner) advised the meeting that he supported the Committee's recommendation.

Cr de Jong – Mayor Ferris

The adoption of the Committee's recommendation which is as follows:

That Council exercise its discretion in granting approval for:



14 December 2010

MINUTES

- a variation to the streetscape requirements of the R-Codes to allow the pool to be located within the front setback area; and
- a boundary wall with a maximum height of 3.895 metres along the southern boundary in lieu of the R-Code requirements for a maximum boundary wall height of 3.0 metres;

for the construction of a swimming pool, decking and shade cover at No. 5 Reynolds Street, East Fremantle, in accordance with plans date stamp received on 22 October 2010, subject to the following conditions:

1. the additions to be finished in high quality materials to match the existing residence.
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 approval from the Water Corporation has been obtained and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
6. protective barriers to be erected and maintained around excavation and any accumulated materials until such time as permanent fencing has been erected in accordance with the legal requirements.
7. pool installer and/or property owner to whom this licence is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the building licence has been granted.
8. pool filter and pump equipment to be located away from boundaries as determined by Council and all pool equipment shall comply with noise abatement regulations.
9. swimming pool is to be sited a distance equal to the depth of the pool from the boundary, building and/or easement, or be certified by a structural engineer and approved by Council's Building Surveyor.
10. prior to the issue of a building licence the applicant is to submit a report from a suitably qualified practising structural engineer describing the manner by which the excavation is to be undertaken and how any structure or property closer than one and half times the depth of the pool will be protected from potential damage caused by the excavation/and or the pool construction.
11. pool contractor/builder is required to notify Council's Building Surveyor ***immediately upon completion of all works*** including fencing.
12. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED



14 December 2010

MINUTES

346.3 T216.10 Osborne Road No. 47 (Strata Lot 1) - Alterations/Additions & Roof Replacement

Applicant/Owner: Darryl & Vicki Poletti

Application P189/2010

Mr Poletti (owner) advised the meeting that he supported the Committee's recommendation.

Cr Nardi – Cr Olson

The adoption of the Committee's recommendation which is as follows:

That Council exercise its discretion in granting approval for a variation to allow a maximum wall height of 3.2 metres in lieu of the 3.0 metres required under the R-Codes for the construction of additions at No. 47 (St Lot 1) Osborne Road, East Fremantle in accordance with the plans date stamp received on 21 October 2010 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 licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
6. all introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. all parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
8. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *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.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED



14 December 2010

MINUTES

Cr Wilson made the following impartiality declaration in the matter of 94 King Street: "As a consequence of the applicant, Jane Tangney, being known to me due to the purchase of her artworks, 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".

346.4 T219.6 King Street No. 94 (Lot 2) – Additions to Rear**Owner: Janene Adey****Applicant: Jane Tangney****Application No. P169/2010**

The letter from Ms Tangney, referred from Late Correspondence (MB Ref 341.3) was tabled.

Ms Adey (owner) addressed the meeting in support of her proposal.

Cr Collinson – Cr Nardi

That Council exercise its discretion in granting approval for:

- a boundary wall with a maximum height of 2.1 metres and length of 6.1 metres along the southern boundary in lieu of the R-Code requirements for only one boundary wall in an R20 coded area; and
- a maximum wall height of 4.55 metres in lieu of the 3.0 metres required under the R-Codes;

for additions including decking and a roofed sun deck and outdoor shower at No. 94 (Lot 2) King Street, East Fremantle, in accordance with plans date stamp received on 22 September 2010, subject to the following conditions

1. prior to the issue of a building licence plans be submitted showing the retention of both chimneys.
2. the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
3. that the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
4. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
8. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

LOST



14 December 2010

MINUTES

Cr de Jong – Cr Lilleyman

That Council exercise its discretion in granting approval for:

- a boundary wall with a maximum height of 2.1 metres and length of 6.1 metres along the southern boundary in lieu of the R-Code requirements for only one boundary wall in an R20 coded area; and
- a maximum wall height of 4.55 metres in lieu of the 3.0 metres required under the R-Codes;

for additions including decking and a roofed sun deck and outdoor shower at No. 94 (Lot 2) King Street, East Fremantle, in accordance with plans date stamp received on 22 September 2010, subject to the following conditions

1. the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.
2. the zincalume roofing be treated to Council's satisfaction to reduce reflectivity if requested by Council in the first two years following installation, at the owner's expense.
3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED

Cr Collinson made the following impartiality declaration in the matter of 10 Bolton Street: "As a consequence of the applicant, Mr John Chisholm, being known to me due to our shared ownership of the Donnelly River Holiday Village, 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".

Mayor Ferris made the following impartiality declaration in the matter of 10 Bolton Street: "As a consequence of my friendship with the applicant, Mr John Chisholm, 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".



14 December 2010

MINUTES

- 346.5 T216.3 Bolton Street No. 10 (Lot 24)**
Proposed Upper Floor Extension to Accommodate a Studio & Gym
Applicant: John Chisholm Design
Owner: M Duncan-Smith
Application P185/2010
 Cr Collinson – Cr de Jong

The adoption of the Committee's recommendation which is as follows:

That Council defer determination of the application for the construction of an upper floor studio/gym at No. 10 (Lot 24) Bolton Street, East subject to the submission of additional information including:

- (a) Submission of revised plans which remove the deck area parallel to the southern boundary and which increases the rear setback of the upper floor structure to 6.0 metres.
- (b) Submission of a Heritage Impact Assessment report to determine the appropriateness of the upper floor addition and the impact on the highly classified heritage property.

CARRIED

- 346.6 T216.8 Fletcher Street No. 1 (Lot 500)**
Applicant & Owner: Barry Toms
Application No. P148/2010

The following additional information was provided by the Acting Town Planner:

An administration check of the application for 1 Fletcher Street has noted that the application was not formally advertised to adjoining neighbours.

To address this we have amended the recommendation to include a clause requiring advertising to be carried out. Pending no adverse objections being received during the advertising period the application can then be approved in accordance with Council's recommendation.

However, should any objections be received at the close of the advertising period, the application would need to be deferred for consideration during the February 2011 round of meetings.

The Committee's recommendation be amended to read as follows:

That:

1. *The paragraph relating to Advertising as shown in the officer's report on Page 34 of the Town Planning & Building Committee Minutes of 7 December 2010 be deleted.*
2. *The application for the creation of two dwellings and the construction of a shed at No. 1 (Lot 500) Fletcher Street, East Fremantle be advertised by way of advice to adjoining landowners and sign on site for a period of 14days.*
3. *Subject to no adverse comment being received from adjoining landowners at the close of the comment period, the application for redevelopment of No. 1 (Lot 500) Fletcher Street, East Fremantle be approved as per the Committee's recommendation to Council (see 4 below). Should any adverse comment be received, the application be deferred for consideration during the February 2011 round of meetings.*
4. *That Council exercise its discretion in granting approval for:*
 - *a variation to the privacy requirements to allow the eastern opening of the upper floor balcony to be unscreened;*
 - *a variation to the open space requirements to allow a reduction in open space for the single storey residence from 50% to 40.11%;*
 - *a variation to the building height requirements to allow a single storey wall to exceed to 3.6 metres in lieu of 3.0 metres required by the Codes;*

for the creation of two dwellings and the construction of a shed at No. 1 (Lot 500) Fletcher Street, East Fremantle, in accordance with plans date stamp received on 26 November 2010, subject to the following conditions:

1. *the garage door to be cedar or similar material.*



14 December 2010

MINUTES

2. *the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.*
3. *the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.*
4. *the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.*
5. *with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.*
6. *all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.*
7. *this planning approval to remain valid for a period of 24 months from date of this approval.*

Footnote:

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

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

Elected members noted the paragraph relating to Advertising as shown in the officer's report on Page 34 of the Town Planning & Building Committee Minutes of 7 December 2010 was incorrect.

Cr Martin – Cr Wilson**That:**

1. **The application for the creation of two dwellings and the construction of a shed at No. 1 (Lot 500) Fletcher Street, East Fremantle be advertised by way of advice to adjoining landowners and sign on site for a period of 14 days.**
2. **Subject to no adverse comment being received from adjoining landowners at the close of the comment period, the application for redevelopment of No. 1 (Lot 500) Fletcher Street, East Fremantle be approved as per the Committee's recommendation to Council, as reprinted below. Should any adverse comment be received, the application be deferred for consideration during the February 2011 round of meetings.**

That Council exercise its discretion in granting approval for:

- **a variation to the privacy requirements to allow the eastern opening of the upper floor balcony to be unscreened;**
- **a variation to the open space requirements to allow a reduction in open space for the single storey residence from 50% to 40.11%;**
- **a variation to the building height requirements to allow a single storey wall to exceed to 3.6 metres in lieu of 3.0 metres required by the Codes;**

for the creation of two dwellings and the construction of a shed at No. 1 (Lot 500) Fletcher Street, East Fremantle, in accordance with plans date stamp received on 26 November 2010, subject to the following conditions:

1. **the garage door to be cedar or similar material.**
2. **the additions to be finished in high quality materials to match the existing residence and a Schedule of Materials and Finishes to be submitted to the satisfaction of the Chief Executive Officer prior to the issue of a Building Licence.**



14 December 2010

MINUTES

3. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
7. *this planning approval to remain valid for a period of 24 months from date of this approval.*

Footnote:

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

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

CARRIED

Cr Martin made the following impartiality declaration in the matter of 42 Glyde Street: "As a consequence of the adjoining neighbour, Ms Felicity Caulfield, being a former participant in my piano classes, 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".

346.7 T216.9 Glyde Street No. 42 (Lot 147) – Rear Deck
Applicant: Glyde –In Community Learning Centre
Owner: Town of East Fremantle
Application No. P179/2010
Cr Martin – Cr Olson

The adoption of the Committee's recommendation which is as follows:

That Council grant planning approval for the construction of wooden deck at No. 42 (Lot 147) Glyde Street, East Fremantle in accordance with the plans date stamp received on 20 October 2010 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 issued a building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the rear deck area the subject of this approval, is not to be utilised for activities which involve the use of public address systems or amplified music and should not be used for functions after 8 pm on any evening.
5. this planning approval to remain valid for a period of 24 months from date of this approval.



14 December 2010

MINUTES

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

Cr Olson declared an interest in the following item as the subject site abuts his property and left the meeting at 9.14pm.

346.8 T219.3 Alexandra Road No. 42B (Lot 2) – Rear Balcony/Walkway**Applicant & Owner: Phillip & Margaret Scott****Application No. P177/2010****Cr Martin – Cr de Jong****The adoption of the Committee's recommendation which is as follows:**

That Council grant retrospective planning approval for the construction of a balcony/walkway at No. 42B (Lot 2) Alexander Road, East Fremantle in accordance with the plans date stamp received on 20 October 2010 subject to the following conditions:

- 1. the erection of permanent screening, preventing direct line of sight for a minimum height of 1.65 metres above the relevant floor level and extending continuously along the northern elevation and for a minimum of 1 metre along the eastern elevation.**
- 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. an application being made for a building licence for the subject works and the issue of a licence which is in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 5. this planning approval to remain valid for a period of 24 months from date of this approval.**

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

Cr Olson returned to the meeting at 9.15pm and it was noted he neither spoke nor voted on the previous item.

Cr Wilson made the following impartiality declaration in the matter of 19 Preston Point Road: "As a consequence of the owner, Mr Gary Archer, being known to me due to our sons previously attending primary school together, 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".

Cr Martin made the following impartiality declaration in the matter of 19 Preston Point Road: "As a consequence of the neighbour, Ms Penelope Johnson, being known to me due to her being my



14 December 2010

MINUTES

hairdresser, 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”.

346.9 T219.7 Preston Point Road No. 19 (Lot 35) – Front Fence/Wall

Applicant & Owner: Gary Archer

Application No. P221/2010

Cr Wilson – Cr Collinson

That the application for the front fence/wall at No. 19 (Lot 35) Preston Point Road, East Fremantle be deferred pending the outcome of Application No. 185/2010.

Footnote:

The Committee in deferring this application expressed concern with the lack of visual permeability, overall height and the proposed materials within the context of the prevailing streetscape.

CARRIED

346.10 En Bloc Recommendations

Cr Nardi – Cr Martin

That Council adopts en bloc the following recommendations of the Town Planning & Building Committee Meeting of 7 December 2010.

CARRIED

(A) T216.6 View Terrace No. 3 (Lot 240)

New Residence and Swimming Pool

Owner: F & D Garofalo

Applicant: Darren Miller Building Design

Application P198 2010

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

- a variation to allow site works up to 0.7 metres in lieu of the maximum 0.5 metres permitted under the R-Codes;
- a variation to allow a maximum building height (retaining inclusive) of 6.7 metres in the north western area of the site and in lieu of the 5.6 metre height restriction under LPP No. 142;
- a variation to allow a roof pitch of 20° in lieu of the 28° as required under LPP No. 66;

for the construction of a two storey residence and swimming pool at No. 3 (Lot 240) View Terrace, East Fremantle in accordance with the plans date stamp received on the 23 and 29 November 2010 subject to the following conditions:

1. Fixed permanent privacy screens to a height of 1.65 metres on the eastern and western balcony openings, respectively in accordance with the requirements of the R-Codes.
2. Fencing to comply with the requirements of Local Planning Policy 143.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. The proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
8. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately



controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.

9. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *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.*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

(B) T219.2 Dalgety Street No. 8A (Lot 2) – Fence Application

Applicant & Owner: Mr J & Mrs A Harris

Application No. P200/2010

That Council exercise its discretion in granting approval for the following variation to the provisions of the Policy on Local Laws Relating to Fencing by permitting a non-visually permeable boundary wall at No. 8A (Lot 2) Dalgety Street, East Fremantle in accordance with the plans date stamp received on 28 October 2010 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 issued a building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*



14 December 2010

MINUTES

(C) T219.4 Irwin Street No. 50 (Lot 5) – Extension to Front Verandah
Applicant & Owner: Roger Bradshaw
Application No. P182/2010

That Council exercise its discretion in granting approval for a wall height that exceeds 3.0 metres by 0.172 metres to match the existing wall heights of the residence to allow the extension of the front verandah at No. 50 (Lot 5) Irwin Street, East Fremantle, in accordance with plans date stamp received on 8 October 2010, subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. all stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
5. this planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

(D) T219.5 Pier Street No. 26A (Lot 1) –Extension to Side Boundary Wall
Applicant & Owner: Pietro & Pamela Bongiascia
Application No. P193/2010

That Council exercise its discretion in regard to clause 4.3 of the Planning Policy No. 143 - 'Local Laws Relating to Fencing' by permitting a fence to a maximum height of 3.7 metres to be constructed at No. 26A (Lot 1) Pier Street, East Fremantle subject to the following conditions:

1. the submission of revised plans to incorporate visually permeable infill panels between the proposed rendered brick piers to the satisfaction of the Chief Executive Officer.
2. 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 issued a building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
4. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. this planning approval to remain valid for a period of 24 months from date of this approval.



14 December 2010

MINUTES

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

(E) T220.1 Review of Statutory Planning Provisions

That Council receive the report and endorse the strategy for change to the current statutory planning provisions in respect to the following:

1. Planning Policies
2. Detailed Area Plans
3. Demolition
4. R-Coding Density Control
5. Delegations
6. Exempt Development

(F) T220.2 Audit of Local Planning Policies

That Council:

1. Receive the report – ‘Audit of Planning Policies’.
2. Endorse the Program for Policy Development identified in the above report.
3. Pursuant with the provisions of Clause 2.5 (b) of the Town of East Fremantle Town Planning Scheme No. 3, (3 December 2004) revoke the following Planning Policies by advertising a formal notice of revocation once a week for two consecutive weeks in a local newspaper.

Policy No.	Description	Adoption Date	Amendments
002	STRATA TITLES	18/10/76	21/10/97
011	ELECTRONIC AMUSEMENT MACHINES	23/04/81	
026	RETAINING EAST FREMANTLE AS A RESIDENTIAL AREA	21/09/07	
030	HEIGHT CONTROL AMENDMENT ,	17/04/89	
031	CONSENT FOR OUTBUILDINGS WITH BOUNDARY WALLS	15/5/89	
038	ADDITIONAL UNIT POLICY – STRATA TITLE ACT NO 35-1985	22/05/90	
045	PLOT RATIO	25/05/92	25/02/98
046	DESIGN POLICY LOTS 507/8/9/10 DUKE STREET	25/05/92	
054	CONVERSION OF EXISTING RESIDENCE CLASS 1 TO CLASS 1A	21/09/02	21/10/97
061	SOLAR ACCESS AND SHADE	18/10/93	
063	DEVELOPMENT OF 15 RIVERSIDE ROAD	21/10/94	
071	VIEWS	18/07/94	
077	LANDSCAPING/ACCESS DRIVEWAY/CAR PARKING		
079	FORESHORE POLICY, POLICY PLAN & DESIGN GUIDELINES	19/6/1998	
092	NOTICE OF APPLICATION FOR DEVELOPMENT	22/10/96	
128	RESTAURANT LIQUOR LICENCES		
129	VERANDAHS	18/08/98	
132	CAR PARKING – (NUMBER OF BAYS PER DEVELOPMENT)	19/10/99	

(G) T220.3 Proposed Local Planning Policy - Guidelines for Solar Collectors

That Council endorse the proposed Local Planning Policy - Guidelines for Solar Collectors for the purpose of public advertising, pursuant with Clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3 (3 December 2004).

(H) T220.4 Proposed Local Planning Policy - Noise Attenuation

That Council endorse the proposed Local Planning Policy – Noise Attenuation for the purpose of public advertising, pursuant with Clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3, gazetted 3 December 2004.



14 December 2010

MINUTES

346.11 *Delegation of Authority – Planning Approval – 27B Duke Street*
*By Stuart Wearne, Chief Executive Officer, on 1 December 2010***BACKGROUND**

On Friday, 19 November 2010 the residence at 27B Duke Street was extensively damaged by fire.

This two storey residence was originally built in 1991 with the current owners carrying out upper floor extensions in 2005.

REPORT

The owners have approached Council seeking advice on what approvals are required with respect to the rebuilding of this residence.

It is understood by the owners that the upper floor will require complete demolition and rebuilding with the lower floor requiring restoration only.

The scope of works is still subject to assessment by the insurance company, however the plan is to commence rebuilding in January. This is the period when Council is in recess.

The Mayor had earlier discussed with the Chief Executive Officer what practical assistance the Council could provide to expedite any required planning and building approvals.

The Chief Executive Officer has discussed the proposed rebuilding plans with the owners, as has the Town Planner.

In terms of the original approval, under the proposed plans, there will be almost no changes to the external appearance of the building. All of the changes flagged constitute internal changes, eg two bedrooms being turned into one large bedroom.

Nevertheless a planning approval and building licence approval will be required.

In terms of the Mayor's request, the CEO recommends the officers be given delegated authority to deal with the necessary planning consents:

- (i) because of the fact that this will essentially constitute a partial rebuild of a structure Council had already approved.
- (ii) to avoid approval delays during the New Year recess period.

RECOMMENDATION

That the Chief Executive Officer be granted delegated authority under Section 5.42 of the Local Government Act to make decisions with respect to any planning application received in relation to the rebuilding of the residence at 27B Duke Street, subject to the works essentially comprising reconstruction of the existing structure and internal alterations, in accordance with previously approved plans and subject to consultation with the Manager, Planning Services. **Absolute Majority Resolution Required**

Cr Olson – Cr Collinson

That the Chief Executive Officer be granted delegated authority under Section 5.42 of the Local Government Act to make decisions with respect to any planning application received in relation to the rebuilding of the residence at 27B Duke Street, subject to the works essentially comprising reconstruction of the existing structure and internal alterations, in accordance with previously approved plans and subject to consultation with the Manager, Planning Services.

CARRIED
ABSOLUTE MAJORITY



14 December 2010

MINUTES

- 346.12 Sewell Street No 38 (Lot 531) – Change of Use**
Owner: Bruce Beattie
Applicant: Owner
Application No P017/2010
By Gemma Basley Town Planner on 10 December 2010

BACKGROUND

Council on 26 October 2010 received an application from the owner of 38 Sewell Street to change the use of the property from “Residential” to “Consulting Rooms”. The owner was subsequently requested to provide additional information regarding the proposal.

Due to an administrative oversight, this additional information, received on 8 November 2010, was not provided to planning staff to commence the advertising process necessary, given its location within the George Street Precinct. Following discovery of this error, the application has been advertised with a closing date of 24th December 2010.

Given the application has missed relevant Committee/Council meetings for this year, it is proposed that the matter be delegated to the CEO to allow a determination to be made early in the new year of 2011.

The purpose of this report is to provide a preliminary overview of the issues identified to date, in order to assist elected members in their determination of the recommendation. Further issues may be identified as a result of advertising and further assessment of the application.

Statutory Considerations

Town Planning Scheme No. 3
 Local Planning Strategy – Plympton Precinct (LPS)
 Zoned ‘Mixed Use’
 A-^ Management Category Municipal Heritage Inventory

Relevant Council Policies

Local Planning Policy No. 143: Residential Development

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 26 October 2010 and additional information received on 8 November 2010

Date Application Received

26 October 2010

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

1899 - 1922	Used as a draper’s shop
1922 – 1939	Used as a fruit shop
1939	Vacant
17 November 1975	Council decides to advise the owner that the property is zoned residential but “you will be permitted to continue the present occupation of Shoe Repair Shop as a non-conforming use”.
21 September 1981	Council approves a change of use from ‘bootmaker’ to ‘craft shop’
13 December 1982	Council approves the erection of two plywood signs over the shop windows facing George Street and Sewell Street.
21 April 1986	Council agrees to a second hand/bric-a-brac business under the authority of Amendment No. 4, TPS 2.



14 December 2010

MINUTES

- 17 November 1986 Council receives letter from D. Mazarakis advising that *“the shop which was rented for second hand furniture dealing has now been vacated. The shop will now be rented for Craft Supply and Gift lines”*.
- 21 July 1992 Council approves a change of non-conforming use from craft/gift shop to the display and sale of art works consisting of prints and paintings.
- 20 August 1992 Building Licence issued for awnings (canopies) above the door and two windows of the shop.
- 27 August 1992 Building Surveyor grants approval for a 130 X 130 wooden sign above the door entry.
- 20 April 1995 Council grants approval for a fashion design studio and showroom.
- 20 March 2007 Council defers its decision for a mixed use development to allow the applicant further opportunity to consider design matters and comments made by the Town Planning Advisory Panel.
- 16 May 2007 Licence 07/87 issued for scaffolding on the footpath to repair the baluster on the front and side elevation, restore parapets, facades and walls of existing dwelling & corner shop building.
- 2 May 2007 Approval is granted for the restoration of the front façade.
- 16 October 2007 Approval is granted for single storey additions and refurbishment.

CONSULTATION**Advertising**

The application is currently being advertised for a two week period between the 11th and the 24 December 2010. A sign has been placed on the site as well as a notice being advertised in the newspaper and correspondence being sent to surrounding property owners.

No submissions have yet been received however the comment period is still open.

Site Inspection

By Gemma Basley on 10 December 2010

ASSESSMENT

The application proposes a change of use to the cottage at 38 Sewell Street, East Fremantle from ‘Residential’ to ‘Consulting Rooms’. ‘Consulting Rooms’ are listed as a ‘D’ use under the Mixed Use zone which *“means that the use is not permitted unless the local government has exercised its discretion by granting planning approval”*.

The subject application seeks Planning Approval for a change of use from ‘Residential’ to ‘Consulting Room’. The cottage has recently been refurbished on the inside and the outside and this has occurred with the significant improvements and additions to the commercial building associated with the lot that fronts George Street.

Council exercised its discretion in granting approval for a variation to the parking requirements of the site and approved a shortfall of 6 parking bays at its meeting of 16th October 2007 for 2 shops and a cottage for residential use.

Car Parking

The application proposes 1 consulting room to be staffed by one practitioner and a receptionist. In accordance with Schedule 11 of TPS No. 3 the car parking requirements for consulting rooms are 2 spaces for every consulting room and 1 space for every staff member requiring the provision of a total of 4 parking bays.

The applicant however puts forward that the majority of the clients will be local residents with limited need for parking. The applicant has further advised that there is already one parking bay set aside for the cottage next to 80 George Street, which is attached to the cottage. In this regard it would appear that there is a shortfall of 1 parking bay and it is

considered that this could be serviced via the on-street parking available to the cottage on Sewell Street.

Heritage

38 Sewell Street is on the Heritage List under TPS 3, and has an A+ rating in the Draft Municipal Heritage Inventory.

As described above there is a parking shortfall as the application does not provide parking in accordance with Schedule 11 therefore Council's discretion is required to be exercised to allow the development.

The following provision under TPS 3 empowers Council to permit a variation to a site or development standard subject to certain conditions:

"5.6 Variations to site and development standards and requirements

- 5.6.1. *Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.*
- 5.6.2. *In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —*
- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and*
 - (b) have regard to any expressed views prior to making its determination to grant the variation.*
- 5.6.3. *The power conferred by this clause may only be exercised if the local government is satisfied that —*
- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and*
 - (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality."*

Being on Council's Heritage List the property is also able to be assessed having regard to clause 7.5, which states:

"7.5. Variations to Scheme provisions for a heritage place or heritage area

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.*

In regard to sub-clauses 5.6.1 and 5.6.2 the identified parking shortfall is considered to potentially primarily impact on the adjoining properties, and the immediate locality, so the adjoining property owners have been invited to comment.

In regard to sub-clause 5.6.3 the further criteria listed under clause 10.2 considered relevant to this application are:

- (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);

The property is in the George Street Mixed Use zone and the application is for mixed use development consistent with the aims, objectives and provisions of the Scheme.

- (j) the compatibility of a use or development with its setting;

and

- (o) the preservation of the amenity of the locality;

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

As noted in the officer's report above there is one parking bay for this development adjacent to 80 George Street and there is on street parking available in Sewell Street. TPS 3 specifies the requirement for 4 on-site parking spaces for the proposed consulting rooms.

Up to this point the shortfall has been calculated as 3 spaces. Given that there are adjacent on-street spaces, and based on the application of sub-clause 5.8.7 the shortfall could reasonably be accepted as 1 space.

Deletion of Residential Component

One of the Objectives of the Mixed Use; zone is:

"To ensure...that a significant residential component is retained as part of any new development"

This application is contrary to this objective. This is not necessarily a determining factor in the assessment of the application however is a factor which needs to be taken into account.

RECOMMENDATION

That the Chief Executive Officer be granted delegated authority under Section 5.42 of the Local Government Act to determine the planning application for a change of use from "Residential" to "Consulting Rooms" for 38 Sewell Street following the closure of the advertising period.

Absolute Majority Resolution Required

Cr Olson – Cr Collinson

That the Chief Executive Officer be granted delegated authority under Section 5.42 of the Local Government Act to determine the planning application for a change of use from "Residential" to "Consulting Rooms" for 38 Sewell Street following the closure of the advertising period.

CARRIED
ABSOLUTE MAJORITY



14 December 2010

MINUTES

- 346.13** **George Street No. 88 (Lot 433 & 534)**
Owner: Puresea Investments Pty Ltd
Applicant: Peter Broad: In House Building Design
Application No P83/2008
 By Stuart Wearne, Chief Executive Officer, on 14 December 2010

PURPOSE

The purpose of this report is to provide an update on the progress of this application and to seek the granting of a delegated authority to the Chief Executive Officer, in consultation with the Mayor, to determine the application, in order to expedite a decision in the matter which is currently facing a delay until February 2011, given the forthcoming Council recess period.

BACKGROUND

- 16 October 2006 Council received query from member of public regarding structural integrity of western wall.
- 27 October 2006 Inspection by Town's Principal Building Surveyor. No works ordered.
- 19 September 2007 Principal Building Surveyor reinspects and records "no additional visible cracks".
- 20 September 2007 Principal Building Surveyor writes to owners (F & M Verdi) requesting that building be inspected by "competent structural engineer".
- 22 April 2008 Council receives development application for a three level "mixed use" development from owners F & M Verdi and applicant Jewelpark Pty Ltd (Jim Masotto). Referred to Heritage Council for advice as property is included in Council's Heritage List.
- 9 May 2008 Heritage Council requests more details of application.
- 5 June 2008 Heritage Council confirms no objections to proposed development.
- 10 June 2008 Town Planning & Building Committee considers application. Recommends deferral, largely on basis of heritage concerns.
- 14 June 2008 Rosemary Rosario of Heritage and Conservation Professionals issues advice to applicants which notes, in part:
- "The proposal retains the whole of the stone eastern parapet wall of the shop and sets the new eastern wall of the upper section inside the line of the stone wall. Internally the ceiling height of the eastern shop is retained intact. At the back of the shop the nib sections of the original wall are retained as recommended in the April advice."*
- "As regards the streetscape context of the development, I have viewed your proposal in the context of the adjacent street and believe that it addresses the intent of the advice provided in April. This was to retain the streetscape value of the original facades of both shops and to retain the visual integrity of the eastern shop. The upper floor over the eastern shop is set back 2.5m and does not intrude on the streetscape value of the shopfronts. Furthermore the stone eastern wall remains evident as a discrete element."*



14 December 2010

MINUTES

- 22 June 2008 Property transfers from F & M Verdi to Jewelpark Pty Ltd (Jim Masotto).
- 8 July 2008 Town Planning & Building Committee reconsiders application. Recommends deferral, largely on basis of heritage concerns.
- 15 July 2008 Council Meeting considers application. Grants approval, *subject to including condition, which was requested by elected members, with respect to the authentic restoration of the façade.*
- 17 September 2008 Property transfers from Jewelpark Pty Ltd to Puresea Investments (Ian Riccardi).
- 26 October 2009 Application involving amended plans received, with request from owner and designer (Peter Broad) that application be considered by CEO under delegated authority, if possible.
- CEO advises application should be considered by elected members.
- 8 December 2009 Town Planning & Building Committee considers application. Recommends that Council amend 15 July 2008 planning approval.
- 15 December 2009 Council supports Committee recommendation.
- 30 March 2010 Council receives application to amend approval of 15 December 2009.
- Application involves removal of existing façade and return walls and reconstruction with a replica façade.
- No plans provided. Town Planner requests applicant provides plans which detail façade removal works and what replacement materials proposed.
- 27 April 2010 Town Planning Advisory Panel considers application and disagrees with recommendation of engineer who had been commissioned by owner, which recommended "that the front and side brick/limestone walls be removed and replicated..."
- Panel notes that engineer had not stated wall could not be remedied.
- 12 May 2010 Application referred to Heritage Council.
- 28 May 2010 Based on applicant's engineer's report and no site visit being carried out, advice received from Heritage Council indicates no objection to removal, essentially on basis of conclusion that no viable alternative existed.
- 4 June 2010 Further to suggestion of CEO, Peter Broad agrees to commission Ian Maitland, a Heritage Council recognised expert in heritage based engineering, to assess walls.
- 8 June 2010 Application considered at Town Planning & Building Committee meeting.
- Committee recommends "Committee defers making a recommendation on the application to replace the façade and return walls of the building at 88 George Street (Lots 433 & 534)



14 December 2010

MINUTES

pending an officer assessment of the engineering advice tabled by the applicant at the meeting, with a revised report, which should address the means of retaining as much as possible of the existing fabric, to be considered at the next Council Meeting”.

9 June 2010

Applicant formally forwards advice from Ian Maitland.

Ian Maitland advises, in part:

- *“the façade is structurally inadequate*
- *the means by which the façade could be made structurally adequate, which Mr Maitland stated were “tried and proven ways”*
- *The façade should be left in its current leaning state. Attempts at trying to revert it to a vertical position is highly problematic and damage would inevitably occur.*
- *Steel brace plates on the west return wall were of little use structurally and should be removed.”*

15 June 2010

Heritage Council suggest matter is deferred by Council to allow Heritage Council to consider Ian Maitland’s report and make formal comment.

Application considered at Council Meeting.

Council resolved to *“defer the determination of the application to replace the façade and return walls of the building at 88 (Lots 433 & 534) George Street pending further consultations with the applicant and other relevant parties and consideration of whether further specialist advice is required.”*

6 July 2010

Advice received from Heritage Council.

Heritage Council advises they have reassessed applicant’s engineer’s report in the light of Ian Maitland report and support the Maitland recommendations.

Heritage Council advice reads in part:

“Due to the conflicting advice we have reassessed both reports and would support the advice of Maitland Consulting Structural Engineering due to the following points:

- *our preference for conservation and remediation works will always be the solution that puts forward the most sympathetic approach that retains original fabric insitu wherever possible.*
- *Maitland Consulting Structural Engineering is included in our Directory of Heritage Consultants and has recognised specialist skills in heritage conservation works and materials conservation in brick, concrete and steel.”*

17 July 2010

Owner advises Council (in part):

- *“the leaning façade is totally unacceptable to me”*
- *“I am committed to completing a authentic/replica façade.”*

26 July 2010

Peter Broad advises owner has requested matter be put on hold until end of August as he was going overseas and requests a meeting after he returns.



14 December 2010

MINUTES

- 7 September 2010 CEO advises Council Meeting he “was in the process of arranging the consultant to provide Council with further advice, pursuant to Council’s earlier decision.”
- 9 September 2010 Peter Broad advises owner will not accept anything less than demolition of wall.
- CEO advises of intention to obtain heritage architects advice, which he would arrange at Council’s expense, in order to help resolve impasse.
- 13 September 2010 CEO commissions recognised heritage expert Phil Griffiths to provide heritage based architectural assessment and arranges site visit.
- 14 September 2010 Peter Broad advises Council:
- “Following a site meeting with the owner of 88 George Street this morning it is likely that Mr Riccardi will withdraw the application to demolish and re-construct, accepting the restoration of the existing façade.*
- I will prepare formal advice in the coming days.”*
- CEO requests Mr Griffiths to put his report on hold.
- 21 September 2010 Above advice provided to Council Meeting.
- 22 September 2010 Peter Broad advises he is still waiting for instructions from owner.
- 4 October 2010 Advice received from Peter Broad, on behalf of owners, outlining amended works which were now being proposed and advising that the owners were prepared to withdraw current application “on the understanding that the following areas of Re-construction are considered to be within the bounds of the original approval”.
- The proposed works involve an assessment of both technical and heritage issues and also an assessment of how the proposed works accorded with the recommendations in Ian Maitland’s report. In terms of Mr Broad’s proposal, they also involve an assessment of how the works accord with the original conditions of planning approval. It is noted no fees have been paid for an amended planning approval in this case, suggesting Mr Broad views the current proposal as an operational matter.
- Mr Broad concluded that “with Council acceptance of the two areas of Re-construction” (involved) “the owners...would be happy to withdraw the current application...”
- 2 November 2010 CEO writes to Peter Broad suggesting Ian Maitland’s advice be sought.
- 12 November 2010 Peter Broad advises that he had forwarded the above correspondence from the CEO to the owners, however had not received a response.
- Mr Broad concluded that “the owners would not be willing to commission Ian Maitland to provide further advice...and suggest that advices should be at Council’s expense...”
- 15 November 2010 CEO writes to Peter Broad.

Peter Broad responds, in part, "I can not respond to your email without seeking direction from my client...."

"I ask you allow time for a considered response in clarification of the applicant's intentions that you are seeking."

22 November 2010 Peter Broad responds stating that his clients have agreed to Ian Maitland's involvement in assessing amended plans. Email forwarded to Ian Maitland.

29 November 2010 Response from Ian Maitland received by CEO, in which Mr Maitland suggests site visit involving himself, CEO, Peter Broad and Ian Riccardi "at which all to agree" on action to be taken.

CEO points out he cannot speak on behalf of elected members in terms of any final decision.

Mr Maitland also requests formal instructions and background material.

30 November 2010 Peter Broad requests update on progress of application.

CEO explains the site meeting Ian Maitland is seeking, and Mr Maitland's wish to have transparent agreement, at that site meeting, between all parties with respect to what has been agreed.

In both this context and the issue of the forthcoming Council recess, CEO suggests delegated authority from elected members to CEO would expedite a decision. Peter Broad supports suggestion.

2 December 2010 CEO discusses situation with Mayor, particularly with respect to issue of delegated authority, given forthcoming recess period and fact it was unlikely site visit could be carried out and subsequent officer's report prepared prior to 10 December (close of agenda for Council Meeting) and noting there was never any possibility of matter being ready for 7 December Town Planning & Building Committee meeting.

REPORT

The above history is a full outline of the chronology of relevant matters.

Whilst it is noted the owner has complained of the delays incurred in this matter, on a broader level it should be noted that since Council's two year planning approval of 15 July 2008:

- no works have been carried out
- three different owners have been involved
- applications for amended plans were received by Council on 26 October 2009, 30 March 2010 and now on 4 October 2010.

In the CEO's view, much of the delay which have occurred following the 30 March 2010 application cannot be fairly attributed to the Council and where the Council has been involved, at both officer and elected member level, it has always involved a desire to help preserve as much of the heritage fabric of the building as possible – consistent with a key condition of Council's original planning approval and consistent with the advice of the Heritage Council.



14 December 2010

MINUTES

(With respect to the abovementioned requests to amend the original planning approval, it is concluded that under proper and orderly planning processes, the original planning approval should have lapsed in July 2010, however has been, arguably, inappropriately, extended for 2 years, by virtue of the wording of an approval for amended plans which occurred on 15 December 2009.)

It is relevant to note the current application relies on a Council decision that the proposed works are consistent with the original planning approval. In the event they were considered a slight variation, Council has already granted the CEO a delegated authority with respect to "changes of a minor nature between planning consent and building licence stage of a development".

Regardless, it is concluded that all of the outstanding issues can be appropriately and satisfactorily resolved at the proposed site meeting, which would benefit by being underpinned by a delegated authority and could be carried out fairly shortly.

RECOMMENDATION

That the Chief Executive Officer be granted delegated authority under Section 5.42 of the Local Government Act to make a determination, in consultation with the Mayor and Manager, Planning Services, on the application to replace the façade and return walls of the building at 88 (Lots 433 & 534) George Street, following a site inspection involving the Mayor, CEO, Manager Planning Services, Principal Building Surveyor, Ian Maitland, the applicant and the owner.

Absolute Majority Resolution Required

Cr Wilson – Cr Martin

That the Chief Executive Officer be granted delegated authority under Section 5.42 of the Local Government Act to make a determination prior to the Council Meeting on 1 February 2011, in consultation with the Mayor and Manager, Planning Services, on the application to replace the façade and return walls of the building at 88 (Lots 433 & 534) George Street, following a site inspection involving the Mayor, CEO, Manager Planning Services, Principal Building Surveyor, Ian Maitland, the applicant and the owner.

CARRIED

ABSOLUTE MAJORITY

347. FINANCE**347.1 Monthly Financial Activity Statement for Period Ending 31 October 2010**

By John Roberts Executive Manager Finance & Administration on 10 December 2010

PURPOSE

To provide financial information to the Council in the form of a financial activity statement for revenues and expenditures, both operating and capital, in accordance with statutory requirements.

BACKGROUND

The monthly Financial Activity Statement for the period ending 31 October 2010 is appended and includes the following:

- Financial Activity Statement
- Notes to the Financial Activity Statement including schedules of investments and rating information.
- Capital expenditure Report
- Capital Works Status Report – prepared by the Operations Manager

ATTACHMENT

The attached Financial Activity Statement is prepared in accordance with the amended Local Government (Financial Management) Regulations 1996; with additional material to provide Council with easy to understand financial information on Council activities undertaken during the financial year.

REPORT**Introduction/Comments**

The following is summary information on the attached financial reports:

The October 2010 year to date Financial Activity Statement report shows an overall actual surplus of \$4,898,591 compared to the year to date budget of \$4,492,143, a favourable variance of \$406,448.

Revenue and expenditure variances are generally timing in nature. The surplus is large at the start of the year as the full year rate revenue is brought to account. This surplus will decrease in the remaining months of 2010/11 as it is used to fund expenditure providing works and services.

The overall favourable variance of \$406,448 can be analysed as follows:

- The YTD actual Operating Revenue is \$6,145,883 compared to the YTD budget of \$6,221,138, an unfavourable variance of \$75,255. The variance is due primarily to issue value of rates and commercial waste charges being lower than budget, higher than anticipated income from recoverable works, Development Applications, and BCTIF fees offset by a delay in receiving the Grants Commission grant and reduced mooring pen fees.
- The YTD actual Operating Expenditure is \$2,285,858 compared to the YTD budget of \$2,327,220, a favourable variance of \$41,362. The variance is due primarily to lower than anticipated expenditure on functional administration expenses.
- The YTD actual Capital Expenditure is \$289,128 when compared to the YTD budget of \$703,694 a favourable variance of \$414,566. The variance is due to the timing of undertaking footpath, drainage, kerbing and building works offset with the completion of building projects and installation of bus shelters funded in 2009/10

Statutory Requirements

Local Government Act 1995 (As amended)

Local Government (Financial Management) Regulations 1996 (As amended)

Relevant Council Policies

Significant accounting policies are adopted by Council on a periodic basis. These policies are used in the preparation of the statutory reports submitted to Council.

Strategic Plan Implications

Nil

Financial/Resource/Budget Implications

The October 2010 Financial Activity Statement shows variances in income and expenditure when compared with budget estimates.

Conclusion

The attached Financial Activity Statement for the period 1 July 2010 to 31 October 2010 be presented to the Council for information.

RECOMMENDATION

That the Financial Activity Statement for the period ending 1 July 2010 to 31 October 2010 be received.

Cr Olson – Cr Nardi

That the Financial Activity Statement for the period ending 1 July 2010 to 31 October 2010 be received. CARRIED

The Manager Planning Services & Acting Town Planner left the meeting at 9.30pm.

- 347.2** **Accounts for Payment – November 2010**
By John Roberts, Executive Manager Finance & Admin on 6 December 2010

PURPOSE

To endorse the list of payments for the period 1 November to 30 November 2010.

BACKGROUND

It is a requirement of the Financial Management Regulations that the monthly Accounts for Payment are endorsed by the Council. The List of Accounts is attached.

ATTACHMENT

REPORT

Comments/Discussion

The List of Accounts for the period beginning 1 November and ending 30 November 2010 require endorsement by the Council.

RECOMMENDATION TO COUNCIL

That the List of Accounts for the period beginning 1 November and ending 30 November 2010 be received, as per the following table:

<i>November 2010</i>		
Voucher Nos	Account	Amount
3995-34014	Municipal (Cheques)	\$14,057.26
EFT12969 – EFT13109	Electronic Transfer Funds	\$464,158.97
Payroll	Electronic Transfer Funds	\$147,813.54
Loans	Direct Debits	-
	Municipal Total Payments	\$626,029.77

Cr Olson – Cr Lilleyman

That the List of Accounts for the period 1 November and ending 30 November 2010 be received. **CARRIED**

348. REPORTS OF CHIEF EXECUTIVE OFFICER

- 348.1** **Annual Report 2009/10 – Annual Electors’ Meeting**
By Stuart Wearne, Chief Executive Officer, on 8 December 2010.

Under s5.54 of the Local Government Act, the annual report for a financial year is to be accepted by the local government no later than 31 December after that financial year.

ATTACHMENT

The Electors’ Meeting must be held no more than 56 days after Council accepts the annual report for the previous financial year. It is proposed that this meeting be held on Monday, 7 February 2011.

RECOMMENDATION

That Council:

1. accept the 2009/2010 Annual Report
2. hold the Annual Electors’ Meeting on Monday, 7 February 2011 at 6.30pm.

Absolute Majority Resolution Required

Cr Nardi – Cr Collinson

That Council:

- 1. accept the 2009/2010 Annual Report**
- 2. hold the Annual Electors' Meeting on Wednesday, 2 February 2011 at 6.30pm.**

CARRIED
ABSOLUTE MAJORITY

348.2

Sporting Clubs and Community Groups Budget Briefing

By Stuart Wearne, Chief Executive Officer, on 10 December 2010

BACKGROUND

At the 16 November 2010 Council meeting it was informally resolved to hold a Budget Briefing for Sporting Clubs and Community Groups on Thursday 16 December 2010.

REPORT

For various administrative reasons this date has proved impractical. There were also concerns that if the Briefing had proceeded on that date that due to the closeness of Christmas, a good attendance by the organisations involved may have been difficult to achieve.

In discussion with the Mayor it has now been resolved to hold the Briefing on Tuesday 11 January 2011.

Prior to this date a letter will be sent to all of the organisations concerned, explaining the purpose of the Briefing and inviting their attendance.

At the Briefing it is intended firstly the Mayor, following his welcome to those in attendance, will further explain the purpose of the Briefing.

The Mayor will be followed by the Executive Manager Finance and Administration who will discuss in more detail Council's budget cycle and the information which was being sought from the organisations, in order to assist Council's financial planning in the short, medium and long term. In that regard a budget submission form will then be distributed to those in attendance (with copies subsequently posted to those organisations not in attendance).

Finally, prior to the Mayor summing up and inviting attendees for refreshments, it is expected either the Chief Executive Officer or a representative from Department of Sport and Recreation will then speak on the separate, but related issue of the Department's CSRFF grants program.

The 11 January date will allow a month for organisations to provide submissions without changing the budget timetable.

It is appreciated because of school holidays etc some elected members may not be able to attend however given the primary purpose of the Briefing is to provide information to the organisations concerned, whilst regrettable, this is not seen as a critical issue.

Holding the Briefing later than the 11 January date would compromise Council's Budget cycle and also gives the organisations less time to respond.

Nevertheless it would be appreciated if as many elected members as possible could attend.

RECOMMENDATION

The report be received.

Cr Rico – Cr de Jong

That the report be received.

CARRIED



14 December 2010

MINUTES

348.3

Town Planning Advisory Panel*By Stuart Wearne, Chief Executive Officer, on 10 December 2010***BACKGROUND**

In another report before this Council meeting, issues have been raised in relation to the status of the Town Planning Advisory Panel.

The Town Planning Advisory Panel was established pursuant to clause 5.5 of Town Planning Scheme No. 2 and operated both pursuant to the relevant sub clauses of clause 5.5 and guidelines adopted by Council at the time.

Provision for such Panels was included in the equivalent of what is now the Model Scheme Text, however this provision has been deleted with respect to the current Model Scheme Text and, partly as a consequence, Town Planning Scheme No. 3 contains no specific reference to the Town Planning Advisory Panel.

Nevertheless, following the adoption of Town Planning Scheme No. 3, the Town's Town Planning Advisory Panel continued to operate, pursuant to various more general provisions of Town Planning Scheme No. 3.

For example, under the Aims of the Scheme, clause 1.6 (g), states it is an aim of the scheme "To facilitate and encourage effective public involvement in planning issues of significance to the character, amenity and environmental attributes of the Town".

It has also been considered the deliberations of the Panel are a matter that Council is able to include within its consideration of an application for planning approval pursuant to clause 10.2 (*"Matters to be considered by Local Government"*), given 10.2 (z) which refers to *"any relevant submissions received on the application"*.

It is nevertheless intended that legal advice be obtained with respect to the optimal means of providing a more formal status for the Panel under Town Planning Scheme No. 3, for example via a Scheme Amendment or new Planning Policy.

Meanwhile this report seeks to facilitate the formalisation of the establishment of the existing Panel under clauses 5.8 - 5.10 of the Local Government Act.

REPORTMembership

Clause 5.8 of the Local Government Act states as follows:

"5.8 Establishment of Committees

A local government may establish committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

**Absolute majority required"*

Under clause 5.9 of the Act a committee may comprise persons who are council members and "other persons", with "other persons" meaning persons who are neither members nor employees of a local government.

The current members of the Town Planning Advisory Panel are:

- Cr Alex Wilson (representing the Mayor)
- Vanessa Collins
- Michael Connor
- Jonathan Dalitz
- Henty Farrar
- Nicolas Gurr
- Jill Hinde
- David Johnston
- Pam Walker

14 December 2010

MINUTES

It is recommended all of the above persons are appointed as members of the Committee under section 5.10 of the Local Government Act.

Terms of Reference

The Chief Executive Officer, in an earlier report to Council (July 2004), submitted the following "Optional Guidelines:

- "1. Matters may be referred to the Panel by:
 - (a) Council
 - (b) the Town Planning & Building Committee (Private Domain)
 - (c) the Chief Executive Officer
 - (d) the Town Planner*
- 2. Matters which may be referred to the Panel shall include but not be limited to:
 - (i) Applications for planning consent
 - (ii) Applications for demolition
 - (iii) Matters relating to streetscape
 - (iv) Matters relating to heritage, architecture, building design, building standards and neighbour amenity
 - (v) Council's Town Planning Scheme together with related policies, guidelines and strategies and any related matters
 - (vi) Other existing or proposed town planning related legislation.
 - (vii) Urban design and public amenity issues.*
- 3. The Panel shall examine, discuss and comment on all matters referred to it with the intent of providing Council with advice and guidance.*
- 4. In formulating its comments the Panel should have due regard to, and may advise on matters such as:
 - (a) The objectives and intent of the Scheme;
 - (b) The potential impact that a proposal may have on the adjoining properties and/or local area in respect of;
 - (i) Maintenance of visual harmony with existing buildings
 - (ii) Streetscape
 - (iii) Heritage
 - (iv) Building design
 - (v) Site planning
 - (vi) Scale
 - (vii) Privacy
 - (viii) Overlooking
 - (ix) Views
 - (x) Amenity issues, public benefit and community safety*
- 5. The Mayor or the Mayor's delegate shall serve as the Presiding Member.*
- 6. The Town Planner (or his/her delegate) shall attend however will not have voting rights.*
- 7. A quorum for a meeting of the Panel shall consist of the Presiding Member and at least three other Members.*
- 8. Notice of Meetings shall be given by way of the distribution of Agendas to all Members preferably at least one week in advance of the Meeting date.*
- 9. The Minutes shall be presented in the form of:
 - (a) An explanatory comment on each application conveying the Panel's general views and any concerns or other issues on the matter;
 - (b) Comments of individual Members which may be included at the request of any Member.*

10. *Where Council does not accept a recommendation of the Panel it will give reasons for its decision.*"

These Terms of Reference were unanimously endorsed by Council and are considered to remain appropriate, except for No. 5.

The reason for the above conclusion is firstly that whilst it was not a problem under the former Town Planning Scheme No. 2 provisions, under the Local Government Act "Mayor's delegate" is inappropriate. If an elected member is to be part of the Panel it is either the Mayor or a *specific* Councillor. If the member is the Mayor, in the absence of the Mayor, the automatic deputy would be the Deputy Mayor. However this is all a somewhat academic issue as it has become the practice for the Presiding Member of the Town Planning and Building Committee to serve on the Panel.

Secondly clause 5.12 of the Local Government Act provides that members of a committee "are to elect a presiding member from amongst themselves". Nevertheless it is expected that in practical terms this would generally, if not entirely, result in the elected member concerned serving as the Presiding Member.

CONCLUSION

It is concluded it would be appropriate to formalise the Panel and its membership in accordance with clauses 5.8 – 5.10 of the Local Government Act by the following means:

- (i) establish the Town Planning Advisory Panel as a Committee under Section 5.8 of the Local Government Act;
- (ii) adopt the following Terms of Reference for the Committee:
 1. Matters may be referred to the Panel by:
 - (a) Council
 - (b) the Town Planning & Building Committee (Private Domain)
 - (c) the Chief Executive Officer
 - (d) the Town Planner
 2. Matters which may be referred to the Panel shall include but not be limited to:
 - (i) Applications for planning consent
 - (ii) Applications for demolition
 - (iii) Matters relating to streetscape
 - (iv) Matters relating to heritage, architecture, building design, building standards and neighbour amenity
 - (v) Council's Town Planning Scheme together with related policies, guidelines and strategies and any related matters
 - (vi) Other existing or proposed town planning related legislation.
 - (vii) Urban design and public amenity issues.
 3. The Panel shall examine, discuss and comment on all matters referred to it with the intent of providing Council with advice and guidance.
 4. In formulating its comments the Panel should have due regard to, and may advise on matters such as:
 - (a) The objectives and intent of the Scheme;
 - (b) The potential impact that a proposal may have on the adjoining properties and/or local area in respect of;
 - (i) Maintenance of visual harmony with existing buildings
 - (ii) Streetscape
 - (ii) Heritage
 - (iv) Building design
 - (v) Site planning
 - (vi) Scale
 - (vii) Privacy

- (viii) Overlooking
 - (ix) Views
 - (x) Amenity issues, public benefit and community safety
5. The Town Planner (or his/her delegate) shall attend however will not have voting rights.
 6. A quorum for a meeting of the Panel shall consist of the Presiding Member and at least three other Members.
 7. Notice of Meetings shall be given by way of the distribution of Agendas to all Members preferably at least one week in advance of the Meeting date.
 8. The Minutes shall be presented in the form of:
 - (a) An explanatory comment on each application conveying the Panel's general views and any concerns or other issues on the matter;
 - (b) Comments of individual Members which may be included at the request of any Member.
 9. Where Council does not accept a recommendation of the Panel it will give reasons for its decision.
- (iii) appoint the following persons to be members of the Committee pursuant to section 5.10 of the Local Government Act:
- Cr Alex Wilson
 - Vanessa Collins
 - Michael Connor
 - Jonathan Dalitz
 - Henty Farrar
 - Nicolas Gurr
 - Jill Hinde
 - David Johnston
 - Pam Walker

RECOMMENDATION

That Council resolves to:

- (i) establish the Town Planning Advisory Panel as a Committee of the Council under Section 5.8 of the Local Government Act;
- (ii) adopt the following Terms of Reference for the Committee:
 1. Matters may be referred to the Panel by:
 - (a) Council
 - (b) the Town Planning & Building Committee (Private Domain)
 - (c) the Chief Executive Officer
 - (d) the Town Planner
 2. Matters which may be referred to the Panel shall include but not be limited to:
 - (i) Applications for planning consent
 - (ii) Applications for demolition
 - (iii) Matters relating to streetscape
 - (iv) Matters relating to heritage, architecture, building design, building standards and neighbour amenity
 - (v) Council's Town Planning Scheme together with related policies, guidelines and strategies and any related matters
 - (vi) Other existing or proposed town planning related legislation.
 - (vii) Urban design and public amenity issues.
 3. The Panel shall examine, discuss and comment on all matters referred to it with the intent of providing Council with advice and guidance.
 4. In formulating its comments the Panel should have due regard to, and may advise on matters such as:
 - (a) The objectives and intent of the Scheme;



14 December 2010

MINUTES

- (b) The potential impact that a proposal may have on the adjoining properties and/or local area in respect of;
 - (i) Maintenance of visual harmony with existing buildings
 - (ii) Streetscape
 - (ii) Heritage
 - (iv) Building design
 - (v) Site planning
 - (vi) Scale
 - (vii) Privacy
 - (viii) Overlooking
 - (ix) Views
 - (x) Amenity issues, public benefit and community safety
5. The Manager Planning Services (or his/her delegate) shall attend however will not have voting rights.
6. A quorum for a meeting of the Panel shall consist of the Presiding Member and at least three other Members.
7. Notice of Meetings shall be given by way of the distribution of Agendas to all Members preferably at least one week in advance of the Meeting date.
8. The Minutes shall be presented in the form of:
 - (a) An explanatory comment on each application conveying the Panel's general views and any concerns or other issues on the matter;
 - (b) Comments of individual Members which may be included at the request of any Member.
9. Where Council does not accept a recommendation of the Panel it will give reasons for its decision.
- (iii) appoint the following persons to be members of the Committee pursuant to section 5.10 of the Local Government Act:
 - Cr Alex Wilson
 - Vanessa Collins
 - Michael Connor
 - Jonathan Dalitz
 - Henty Farrar
 - Nicolas Gurr
 - Jill Hinde
 - David Johnston
 - Pam Walker

Absolute majority required

Cr Wilson – Cr Nardi

That Council resolves to:

- (i) **establish the Town Planning Advisory Panel as a Committee of the Council under Section 5.8 of the Local Government Act;**
- (ii) **adopt the following Terms of Reference for the Committee:**
 1. **Matters may be referred to the Panel by:**
 - (a) **Council**
 - (b) **the Town Planning & Building Committee (Private Domain)**
 - (c) **the Chief Executive Officer**
 - (d) **the Town Planner**
 2. **Matters which may be referred to the Panel shall include but not be limited to:**
 - (i) **Applications for planning consent**
 - (ii) **Applications for demolition**
 - (iii) **Matters relating to streetscape**
 - (iv) **Matters relating to heritage, architecture, building design, building standards and neighbour amenity**
 - (v) **Council's Town Planning Scheme together with related policies, guidelines and strategies and any related matters**
 - (vi) **Other existing or proposed town planning related legislation.**
 - (vii) **Urban design and public amenity issues.**



14 December 2010

MINUTES

3. The Panel shall examine, discuss and comment on all matters referred to it with the intent of providing Council with advice and guidance.
 4. In formulating its comments the Panel should have due regard to, and may advise on matters such as:
 - (a) The objectives and intent of the Scheme;
 - (b) The potential impact that a proposal may have on the adjoining properties and/or local area in respect of;
 - (i) Maintenance of visual harmony with existing buildings
 - (ii) Streetscape
 - (ii) Heritage
 - (iv) Building design
 - (v) Site planning
 - (vi) Scale
 - (vii) Privacy
 - (viii) Overlooking
 - (ix) Views
 - (x) Amenity issues, public benefit and community safety
 5. Notice of Meetings shall be given by way of the distribution of Agendas to all Members preferably at least one week in advance of the Meeting date.
 6. The Minutes shall be presented in the form of:
 - (a) An explanatory comment on each application conveying the Panel's general views and any concerns or other issues on the matter;
 - (b) Comments of individual Members which may be included at the request of any Member.
- (iii) appoint the following persons to be members of the Committee pursuant to section 5.10 of the Local Government Act:
- Cr Alex Wilson
 - Vanessa Collins
 - Michael Connor
 - Jonathan Dalitz
 - Henty Farrar
 - Nicolas Gurr
 - Jill Hinde
 - David Johnston
 - Pam Walker

CARRIED
ABSOLUTE MAJORITY

348.4 Reform Program

The CEO outlined advice, recently received from the Minister, which indicated the Minister would be considering "long term strategic measures" which he believed were necessary for those areas "not currently engaged in meaningful structural reform".

The CEO also referred to other correspondence from the Minister, which clearly indicated that the Minister's desire for the Town to amalgamate with the City of Fremantle, does not in any way factor in the expressed anti amalgamation wishes of an overwhelming number of the Town's residents.

348.5 SAT Mediation – 38 Wolsely Road

The CEO provided an update on the progress of this appeal and noted that ownership of the property has now changed hands.

348.6 Sunshade – 14 Angwin Street

The CEO advised that a SAT Appeal had been received today for a sunshade at 14 Angwin Street.

348.7 Community Garden

The CEO raised issues with respect to comments made by the two proponents of the Community Garden who had spoken earlier on the issue. The CEO stated he had not raised the issues at that time given the number of planning applicants who were waiting

to be heard on their applications, however it would be inappropriate not respond to some to the claims made, particularly as they reflected adversely on Council's Principal Environmental Health Officer.

With respect to claims that the Committee had never be advised there were issues in relation to the Sumpton Green site, including water access issues, the CEO tabled advice from Rebecca James to the group's members which clearly indicated otherwise (attached).

With respect to claims of a lack of assistance from Council officers, the CEO noted the amount of time which Council officers, in particular Shelley Cocks, had devoted to assisting the group. The CEO noted that Ms Cocks had, on numerous occasions, advised the CEO that requests from her to the group for relevant information, had frequently not been responded to, or inadequately responded to.

The CEO further noted the abovementioned attached advice from the group noted the group had had "a very positive meeting" with Stuart Wearne and Shelley Cocks "with Town of East Fremantle demonstrating initial support for the idea".

As a sample from other emails the CEO noted the following extracts:

"Dear Shelley

Thanks so much for getting our fliers (sic) printed. Much appreciated. Many thanks and best wishes.

Del Weston"

"Please pass on the thanks of the East Fremantle Community Garden Interim Committee for allowing us the venue" (Sumpton Green) "free of charge".

Rebecca James

Regarding the site issue, Shelley Cocks had advised that the organisation had stated they did not want to put energy into investigating other sites until they had obtained a decision from Council on the Sumpton Green site.

348.8 SMRC SAT Appeal

Cr Olson reported that the SAT appeal with respect to the Materials Recovery Facility (MRF) had recently been concluded, via mediation, with an approval granted.

The CEO advised he had not yet reported on this issue to elected members as a SAT Order had yet to be issued and thus the conditions of the Order were not known.

The Mayor suggested that, at future meetings, Cr Olson provide an update on SMRC matters.

349. CONFIDENTIAL BUSINESS

Nil.

350. NOTICES OF MOTION BY ELECTED MEMBERS FOR CONSIDERATION AT THE FOLLOWING MEETING

Nil.

351. MOTIONS WITHOUT NOTICE OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

Nil.



352. CLOSURE OF MEETING

There being no further business, the meeting closed at 10.30pm.

*I hereby certify that the Minutes of the meeting of the **Council** of the Town of East Fremantle, held on **14 December 2010**, Minute Book reference **329.** to **352.** were confirmed at the meeting of the Council on*

.....

Presiding Member