

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE (PRIVATE DOMAIN) MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 8 DECEMBER, 2009 COMMENCING AT 6.45PM.**

**T105. OPENING OF MEETING**

**T105.1 Present**

Cr Alex Wilson	Presiding Member
Cr Cliff Collinson	
Cr Barry de Jong	
Cr Rob Lilleyman	
Cr Siân Martin	
Cr Dean Nardi	
Mr Stuart Wearne	Chief Executive Officer
Mr Rohan Doust	Acting Town Planner
Mrs Peta Cooper	Minute Secretary

**T106. WELCOME TO GALLERY**

There were 13 members of the public in the gallery at the commencement of the meeting.

**T107. APOLOGIES**

Apologies were submitted on behalf of Mayor Ferris, Cr Olson & Cr Rico.

**T108. CONFIRMATION OF MINUTES**

**T108.1 Town Planning & Building Committee (Private Domain) – 10 November 2009**

Cr Wilson - Cr de Jong

That the Town Planning & Building Committee (Private Domain) minutes dated 10 November 2009 as adopted at the Council meeting held on 17 November 2009 be confirmed.

CARRIED

**T109. DEPUTATION**

**T109.1 Proposed Riverside Road Shelters**

Mr Graham Mackie & Mrs Robyn Mackie of 11 Riverside Road, Mr Gary Sprunt of 9 Riverside Road and Mr Tim Bailey of 13 Riverside Road addressed the meeting.

They asked that Council reconsider its decision of September 2009 to replace the recently removed shelters with new structures, in the same locations, citing various forms of antisocial behaviour arising from the use of the previous shelters and stating it was an excellent opportunity to relocate all or some of the shelters to a more suitable site.

**T110. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

**T110.1 T112.3 George Street No. 88 (Lots 533 & 534)**

Submission received from adjoining neighbour at 36 Sewell Street submitting comment on proposed amendments to an earlier planning approval.

Cr de Jong – Cr Martin

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T112.3).

CARRIED

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**T110.2**      **T112.4 Oakover Street No. 40A (Lot 2)**  
Submission received from the rear neighbour at 53 Petra Street submitting comment on the proposed two storey residence.

**Cr de Jong – Cr Martin**

**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T112.4).**

CARRIED

**T110.3**      **T112.5 Munro Street No. 18 (Lot 5049)**  
The following documentation relating to the boundary screen wall at 18 Munro Street was tabled:

- Requests for deferral of the item were received from Mrs Bronwyn Christie, Mr Adrian De Lucia of DesignWise Concepts and Mr Peter Webb (Town Planning Consultant).
- Submissions from Mr Joseph MacMillan, Ms Julie Craig & Ms Jennifer Byrne (all adjoining neighbours).
- Boundary fence elevations and an extract from the draft minutes of the Town Planning Advisory Panel Meeting held on 24 November 2009.

**Cr de Jong – Cr Martin**

**That the correspondence and additional information be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T112.5).**

CARRIED

**T110.4**      **T112.8 Munro Street No. 18 (Lot 5049)**  
The following documentation relating to the proposed new residence at 12 Peshurst Street was tabled:

- Submission from Mr Richard & Mrs Kateryna Longley on behalf of their son, Paul Longley Arthur, expressing concern with the proposal.
- an extract from the draft minutes of the Town Planning Advisory Panel Meeting held on 24 November 2009.

**Cr de Jong – Cr Martin**

**That the correspondence and additional information be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T112.8).**

CARRIED

**T111.      REPORTS OF COMMITTEES**

**T111.1      *Town Planning Advisory Panel – 24 November 2009***

Relevant extracts from the draft minutes of the Town Planning Advisory Panel Meeting held on 24 November 2009 were tabled for consideration when the relevant development application is being discussed

**T112.      REPORTS OF OFFICERS**

**T112.1      *Receipt of Reports***

**Cr de Jong – Cr Nardi**

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

CARRIED

**T112.2      *Order of Business***

**Cr de Jong – Cr Nardi**

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

CARRIED

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**T112.3**     **George Street No. 88 (Lots 533 & 534)**  
**Application No P160/09**  
**Owner: Puresea Investments Pty Ltd**  
**Applicant: Inhouse Building Design**  
By Rohan Doust, Acting Town Planner, 2 December 2009

**BACKGROUND**

**Description of subject site**

The subject site is:

- zoned Mixed Use;
- located in the Plympton Precinct
- 794m<sup>2</sup> in area; and
- developed with single-storey commercial building that is included on the Town's Municipal Inventory (management category B<sup>^</sup>); and
- located within the George Street Heritage Precinct. The George Street Precinct is listed in the Town Planning Scheme 3 Heritage List.

**Description of Proposal**

It is proposed to amend a previous approval of Council dated 15 July 2008. The previous approval is for a three-storey mixed-use development.

The amendments involve:

- reconfiguring the residential component of the development from one two-storey multiple dwelling to two single-storey multiple dwellings;
- a minor increase (10.9m<sup>2</sup>) to the width of the ground floor garage
- an 14.7m<sup>2</sup> increase in the floor area of the first floor residential floor space and provision of windows; and
- a minor increase (2.7m<sup>2</sup>) to the second area of the first floor residential floor space

The proposed amendments are shown as the shaded areas on the drawings provided. Additional details of the changes are provided in the applicant's correspondence.

**Statutory Considerations**

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy

**Relevant Council Policies**

None

**Date Application Received**

26 October 2009

**Date Advertised**

24 November 2009

**Close of Comment Period**

8 December 2009

**Site Inspection**

By Acting Town Planner on 4 November 2009

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

45 days

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

15 July 2009     Council approves a planning application for a three-storey mixed-use development at the subject site

## CONSULTATION

### Principal Building Surveyor's Comment

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

### Heritage Council of WA

The subject site is not included on the State Heritage Register and hence referral to the Heritage Council of WA is at the Town's discretion. In this case the proposal was not referred to the HCWA as it was considered the amendments are minor, are located to the rear of the development, and do not impact on the heritage fabric of the existing building. It is noted that HCWA provided advice on the previous mixed-used application.

### Public Submissions

Public consultation for this proposal closes 8 December 2009.

## REPORT

### Considerations

The amended proposal is generally the same as that which was approved by Council on 15 July 2008. The following aspects of the development are noted:

#### Visual Privacy

The extra floor space to the first floor dwelling includes a major opening for the new living area. This opening is to be set back 3.0m from the northern boundary. The northern boundary adjoins a residentially-zoned lot.

Whilst TPS3 does not set out privacy provisions for development in the mixed-use zone, given that the property adjoins a residential lot, privacy should be taken into account.

Using the Residential Design Codes of WA as a guide, it is considered the window to the living area should have a privacy setback distance of 6.0m. Since the window is 3.0m from the property boundary, it is recommended that any planning approve include a condition requiring the window to the north-facing first floor living area be visually impermeable up to 1.6m above the finished floor level.

#### Plot Ratio

TPS3 applies a plot ratio of 0.5:1 to the subject property. The previous planning approval for the mixed-use development endorsed a plot ratio variation of 1.185:1.

The proposed amendments include the provision of 27.9m<sup>2</sup> of additional floor space and accordingly the development's plot ratio will need to be recalculated.

The final page of the development plans detail the applicant's plot ratio calculations. It is noted that the amendments have *reduced* the plot ratio by 0.0083.

The reasons for this is that the plot ratio calculations for the previous application did not exclude the stairs/landing areas, as they were not associated with more than one dwelling. Given that the development is now proposed to comprise two dwellings instead of one, the stairs/landing areas common to both dwellings can be excluded from plot ratio calculations, as per the definition of 'plot ratio' in the R-Codes. Accordingly the resultant plot ratio is proposed to be slightly less than that previously approved.

## RECOMMENDATION

Subject to consideration of any public submissions received on or between 4 and 8 December 2009, Council amend the planning approval dated 15 July 2008 for a mixed use development at Lots 533 and 534 (No. 88) George Street, East Fremantle, by approving additional floor space as shown on plans received 26 October 2009 and subject to the following conditions:

1. The north-facing opening to the first floor dining area is to be provided with visually impermeable privacy screening up to 1.6m in height above finished floor level.



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2. All storm water resulting from the development is to be retained on site.
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 works 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. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (b) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (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 rear boundary 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.*

Correspondence referred from MB Ref. T110.1 was tabled.

Mr Kevin Bailey (adjoining neighbour to the west) addressed the meeting on his concerns with the proposed amendments to an earlier planning approval. As detailed in correspondence dated 7 December and received at this office today, Mr Bailey's concerns related to the matter of visual privacy and loss of amenity due to overlooking.

Mr Peter Broad (designer) and Mr Ian Ricciardi (owner) addressed the meeting in support of the proposed amendments.

**RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Collinson**

**That Council amend the planning approval dated 15 July 2008 for a mixed use development at Lots 533 & 534 (No. 88) George Street, East Fremantle, by approving additional floor space as shown on plans received 26 October 2009 and subject to the following conditions:**

1. **The north-facing opening to the first floor dining area is to be provided with visually impermeable privacy screening up to 1.6m in height above finished floor level.**
2. **All storm water resulting from the development is to be retained on site.**
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.**

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4. The proposed works are not to be commenced until Council has received an application for a demolition licence and a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. 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 works 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. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (b) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (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 rear boundary 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

*Cr Martin made the following impartiality declaration in the matter of 40A Oakover Street: "As a consequence of my friendship with the applicant and the fact that my husband had undertaken work on this property in the past, 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".*

**T112.4 Oakover Street No. 40A (Lot 331)**  
**Applicant: Broadhurst & Bott Architects**  
**Owner: Pamela Ann Peelen**  
**Application No. P81/2008**

By Chris Warrener (Town Planner) on 8 July 2009 and Rohan Doust (Acting Town Planner) on 2 December 2009

#### **INTRODUCTION**

On 21 July 2009 Council considered an application for a two-storey single house on a rear battle-axe lot and resolved that the application be deferred "to allow the applicant to submit revised plans that specify compliant setbacks to the north and east".

On 23 October 2009 amended plans addressing Council's resolution were received. These plans are the subject of this report.

The modifications to the proposal have resulted in compliant setbacks to the north and east. It is noted that the earlier setback variations were associated with an upper floor balcony which has since been deleted from the plans.

What follows is a modified version of the officer's report that was considered by the Town Planning and Building Committee on 14 July 2009 and by Council on 21 July 2009. A few changes have been made to that report given that the proposal no longer features an upper floor balcony:

- the sections dealing with overlooking and setback variations associated with a balcony have been deleted;
- the section on neighbour submissions has been modified;
- the setback calculations have been amended; and
- the condition relating to the provision of balcony screening has been deleted.

## BACKGROUND

### Description of Proposal

An Application for Planning Approval for a 2-storey house on the rear battleaxe lot at 40A Oakover Street comprising:

Ground Floor: double garage, store, porch, entry, family dining & kitchen, livingroom, bedroom, bathroom, linen press, and laundry;

First Floor: 2 bedrooms, study, bathroom, and balcony.

### Statutory Considerations

Town Planning Scheme No. 3 – Residential R12.5

Local Planning Strategy - Woodside Precinct (LPS)

Residential Design Codes (RDC)

### Relevant Council Policies

Local Planning Policy 066 : Roofing (LPP 066)

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

Council Policy 138 : Development on Rear Battleaxe Lots

### Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : Existing bitumen crossover in good condition.

Footpath : Existing bitumen footpath next to front boundary of 40 Oakover Street in good condition.

### Documentation

Plans and relevant forms date stamp received on 23 October 2009

### Date Application Received

14 April 2008 (original application)

Revised plans 14 May 2009 & 23 October 2009

### Additional information

Amended plans received on 23 October 2009

### Advertising

Adjoining land owners only

### Date Advertised

24 November 2009

### Close of Comment Period

8 December 2009

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

31 May 1991 Building Licence 81/1829 approved for additions to house at 40 Oakover Street;

15 June 2004 Council decides to advise the WAPC that it does not support the battleaxe subdivision of 40 Oakover Street into 2 lots (1 x 366m<sup>2</sup>, 1

- 25 June 2004 x 501m<sup>2</sup>, & 1 common property lot comprising 114m<sup>2</sup>);  
WAPC approves subdivision;
- 9 August 2006 Demolition Licence DL06/194 issued for a fibre-cement clad metal  
roofed garage;
- 11 December 2007 Survey-Strata Plan 51805 for 2 new lots registered.
- 21 July 2009 Council considered an application for a two-storey single house on  
a rear battle-axe lot and resolved that the application be deferred  
“to allow the applicant to submit revised plans that specify  
compliant setbacks to the north and east”.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 23 June 2009 and the following comments were made:

- urban infill which does not have an impact on the streetscape but does have an impact upon neighbours.
- concern regarding overlooking property from the north from the balcony.

Comment

This balcony has since been deleted from the proposal.

**Principal Building Surveyor’s Comment**

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

**Public Submissions**

Public consultation for this proposal closes 8 December 2009.

**Site Inspection**

By Town Planner on 3 June 2009

<b>STATISTICS</b>	<b>Required</b>	<b>Proposed</b>
Land Area		369m <sup>2</sup>
Open Space	55%	Existing 59.2%
Zoning		Acceptable R12.5

**Setbacks:**

Side (north)		
<i>Ground Family, Dine</i>	1.5	5.21 Acceptable
<i>Porch</i>	1.0	5.21 Acceptable
<i>Garage</i>	1.0	7.0 Acceptable
<i>Upper Beds 2 and 3</i>	2.8	4.8 Acceptable
Acceptable		
Side (south)		
<i>Ground Garage</i>	1.0	7.0 Acceptable
<i>Bed 1, Bath, Laundry</i>	1.0	1.2 Acceptable



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Upper	Stairs, Study	1.2	7.12
			Acceptable
	Bath	1.2	8.3
			Acceptable
Side (east)			
Ground	Laundry, Living, Kitchen, Family/Dine	1.5	3.1
			Acceptable
Upper	Study	2.5	5.7
			Acceptable
	Bath, Bed 3	1.2	3.1
			Acceptable
Side (west)			
Ground	Porch	1.0	6.0
			Acceptable
	Garage	Nil/1.0	Nil
			Acceptable
Upper	Balcony	7.5	7.5
			Acceptable
	Bed 2, Study, Stairs	1.2	6.0
			Acceptable
<b>Height:</b>			
Wall		6.0	5.4
			Acceptable
Building		9.0	7.2
			Acceptable

**Overshadowing:** Upper floor overshadow is of the roof over the ground floor.

**Privacy/Overlooking:** N/a

**REPORT  
Issues**

*Submission* A submission from the property owner at the rear boundary of 40A Oakover Street expresses concerns about potential invasion of privacy from an upper floor balcony.

**Comment**

This balcony has since been deleted from the proposal.

*Roof Pitch* The application proposes a 2-storey house with a terracotta tiled roof pitched at 26°5'.

LPP 066 states:

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

**Discussion**

*Roof Pitch* While the application proposes a roof pitch at variance with LPP 066 this is considered acceptable given the variety of roof forms and pitches nearby and in the general locality; it is considered a relatively minor variation and is supported.



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**RECOMMENDATION**

That Council exercise its discretion in granting approval for a variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 26°5' for the construction of a 2-storey house on the rear battleaxe lot at 40A Oakover Street, East Fremantle comprising:

Ground Floor: double garage, store, porch, entry, family dining & kitchen, livingroom, bedroom, bathroom, linen press, and laundry;

First Floor: 2 bedrooms, study and bathroom;

in accordance with the plans date stamp received on 23 October 2009 subject to the following conditions:

1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
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) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Correspondence referred from MB Ref. T110.2 was tabled.

Ms Pamela Peelen (applicant) addressed the meeting in support of the development proposal.

**RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Lilleyman**

**That Council exercise its discretion in granting approval for a variation to roof pitch pursuant to Local Planning Policy 066 from 28° to 26°5' for the construction of a 2-storey house on the rear battleaxe lot at 40A Oakover Street, East Fremantle comprising:**

**Ground Floor: double garage, store, porch, entry, family dining & kitchen, livingroom, bedroom, bathroom, linen press, and laundry;**

**First Floor: 2 bedrooms, study and bathroom;**

**in accordance with the plans date stamp received on 23 October 2009 subject to the following conditions:**

- 1. the works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. the proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 3. with regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 4. the proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 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) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation***

*report should be lodged with Council and one copy should be given to the owner of any affected owner.*

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

T112.5

**George Street No. 129-131**

**Applicant: Angelfyre Pty Ltd T/A "Gigi's on George"**

**Owner: E & D D'Alessandro**

**Application No. P106/2009**

By Rohan Doust, Acting Town Planner, 4 December 2009

### **BACKGROUND**

#### **Description of subject site**

The subject site:

- comprises Part Lots 1-3 on Strata Plan 41827;
- is zoned Mixed Use
- is developed with:
  - o a single-storey commercial building and outdoor area located on Part Lots 3 and used as a restaurant (Gigi's);
  - o a single-storey commercial building located on Part Lot 2 at the corner of George and Duke Street and which is used as a restaurant/take away (Pizza Palace)
  - o a single-storey former house on Part Lot 1 and which is used as an office; and
  - o a single-storey commercial building located on Part Lot 2 (next to Gigi's) which was formerly used as a tanning salon and which now forms part of Gigi's;
- is included in the Town's Municipal Inventory (management Category of B+); and
- is located within the George Street Heritage Precinct. The George Street Precinct is listed in the Town Planning Scheme 3 Heritage List.

#### **Description of Proposal**

Retrospective planning approval is sought for a change in use of Part Lot 2 (next to Gigi's) from Consulting Rooms (ie the use category the former Tanning Salon is considered to fall into) to Restaurant. The subject area is approximately 21.6m<sup>2</sup> in size and has already been converted for restaurant use by Gigi's Restaurant through the provision of furnishings and a bar to serve drinks to the restaurant patrons.

Retrospective approval is also sought for the following unauthorised works:

- A new cool room linking Gigi's restaurant and the former tanning salon. This room presents a limestone wall to George Street.
- Toilet facilities over the site have been upgraded.
- A roof and a masonry screen wall have been provided to the toilet area located at the rear of the outdoor dining area;
- A roof has been provided to the toilet area located behind the former tanning salon.
- Timber decking has been provided to the outdoor dining areas.
- Clear vinyl blinds have been provided to upper portion of the verandah facade.
- Opaque, white plastic panels have been provided to the lower portion of the verandah facade.
- Minor works such as shelving, a store and screen wall within the restaurant area.

#### **Statutory Considerations**

Town Planning Scheme. 3

Local Planning Strategy - Plympton Precinct (LPS)

**Date Application Received**

4 August 2009

**Dates Advertised**

26 August 2009

**Close of Comment Periods**

11 November 2009.

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

69 days

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

20 May 2003: Council grants special approval for a change of use from professional office to service premises – Airbrush Tanning Salon at 131 George Street.

**CONSULTATION**

**Heritage Council**

The proposal was referred to the Heritage Council and the following advice was received:

Comment	Response
The installation of additional screens to the George Street verandah has a considerable impact on the aesthetic value of the individual place and the George Street Precinct.	It is recommended that a condition accompany any retrospective planning requiring the metal infill panels to the upper portion of the verandah facade be removed.
The formed limestone block wall is considered inappropriate within the context of the George Street Precinct – consideration should be given to removing the structure or providing it with weatherboard cladding or similar.	It is recommended that this be enforced by way of a condition included in any retrospective planning approval.
The internal alterations are not considered to have an adverse impact on the building's street presentation. Consideration should be given to ensuring the finishing detail on the alterations is sympathetic to the original building fabric while being clearly distinguishable as new.	The first point is agreed with. With respect to the second point, it is considered that the unapproved works to the exterior are generally sympathetic to the original building fabric (with the exception of the white plastic panels applied to the verandah and the limestone facade of the cool room) and are distinguishable as new works.

**Town Planning Advisory Panel**

This application was considered by the Panel at its meeting on 22 September 2009 and the following comments were made:

Comment	Response
Full height metal screening on street front veranda should not be supported under any circumstances because of the highly negative impact on the significance on the place, the street and the local area	It is recommended that a condition accompany any retrospective planning requiring the metal infill panels to the upper portion of the verandah facade to be removed.
Metal screening on veranda should be ordered to be removed.	See above.

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Screening represents a total disregard for heritage, the George Street Precinct and the Plympton Ward.	See above.
Works undertaken undermines the heritage lure of the George St Precinct and restaurant itself	Noted
Council should consider applying relevant penalties for carrying out the work without planning approval.	Higher planning application fees do apply for applications for retrospective planning approval.
Support comments from the Heritage Council with the exception of support for the installation of screening that is removable during the day and installed at night.	See above.
Alternative less obtrusive security measures should be investigated.	See above.
Owners should be informed that any proposed works should be sought through a planning approval and building licence– prior to any building work being undertaken – and any additions should be done sensitively and taking into account the heritage fabric and value property at 129 George Street	The owners have been advised of this.
The unapproved concrete/limestone link work should be removed and replaced with a timber-framed link as per the suggestion put forward by the Heritage Council	It is recommended that this be enforced by way of a condition included in any retrospective planning approval.

On 27 October 2009 the Panel viewed amended plans providing further details of the existing works, including those works that have modified the tanning salon for restaurant use. The Panel provided the following advice:

Comment	Response
The proposed outdoor shelter features poor window proportions and it should be a more open and transparent structure. Applicant is to provide better quality plans so that the Panel can fully consider the outdoor shelter.	The proposed outdoor shelter considered by the Panel does not form part of this application.  It is noted that a temporary marquee that has been erected on site is currently the subject of a separate application for retrospective approval.
Applicant to detail landscaping to George Street	Indicative landscaping has been shown on the attached site plan.  It is recommended that any retrospective approval include a condition requiring a detailed landscaping plan be provided to and endorsed by the CEO prior to issuance of a Building Approval Certificate.

Applicant to address carparking by detailing the extent of restaurant floor space and identifying any existing car bays on site, any reciprocal car parking arrangements and any street parking	Information provided.
The Panel viewed photographs of the development which showed unapproved metal balustrading installed above the existing timber balustrading on the front verandah. The Panel did not support the metal balustrading. The Town Planner has since been advised by the applicant that the metal balustrading has been removed.	It appears the applicant's advice to the Planner was incorrect, or alternatively the metal balustrading was taken down and then re-affixed.  As stated above, it is recommended a condition accompany any retrospective approval requiring the removal of these screens.
The current application appears to show the site being developed in a rather ad-hoc manner. The applicant is to provide additional information that demonstrates that the various aspects of the proposal will result in a consolidated, high-quality outcome <i>across the whole of the site</i> .	The requested information has been received and forms part of this item.

**Adjoining landowner comments**

One item of correspondence was received from an adjoining landowner as detailed below:

Comment	Response
The enclosures to the verandah conceal the original building and impacts negatively on the heritage-listed streetscape.	It is recommended the metal balustrading to the upper portion of the verandah facade be removed.  It is recommended that the opaque, white screening to the lower portion of the verandah be removed.  It is considered that the clear plastic blinds to the upper portion of the verandah can remain as they do not detract from the building.
The owners of George Street seem intent on hiding the original building.	See comments above.
No objection to the provision of a shelter to the outdoor dining area, but queries on how it complies with Council Policies.	The temporary shelter is the subject of a separate application and the respondent's comments will be addressed as part of relevant report.

**Site Inspection**

By Town Planner on 3 December 2009

**REPORT**

**Considerations**

Retrospective Change in Use from Shop to Restaurant

The former tanning salon is approximately 21.6m<sup>2</sup> in area and has already been converted for restaurant use by Gigi's Restaurant through the provision of furnishings and a bar to serve drinks to the restaurant patrons.



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The change in use adds a further 21.6m<sup>2</sup> of restaurant floor space to the existing area of restaurant use. The new area is intended to be used as the main entry for Gigi's. It includes a bar and seating area which the applicant has advised is to be used by restaurant patrons waiting to be seated or having after-meal drinks. The applicant has stressed that this area is not intended to be used as a bar (notwithstanding advertising materials for Gigi's which refer to the subject area as an "intimate cocktail/lounge bar")

TPS3 states that a restaurant land-use is permissible in the Mixed-Use zone.

With respect to car-parking provisions, TPS3 states that one space is to be provided for every five persons the building is to accommodate. Such parking has not been provided. However the applicant has advised that the former tanning salon is not intended to accommodate any additional persons over that which are already accommodated by the restaurant's existing seating arrangement – the bar area is intended to be used as a reception/waiting area for patrons prior to them being shown to their seats in the main part of the restaurant. Accordingly it is claimed that the proposed change in use does not result in a requirement to provide additional car parking spaces.

The bar and internal works provided to the former tanning salon are considered be of an acceptable standard and are recommended to be approved as part of any retrospective approval for the change in use.

It is recommended that the applicant be advised that the subject area is not to be used for any purpose other than restaurant (including bar) without first obtaining planning approval for a change in use.

It is also noted that a liquor licence has yet to be obtained for the additional restaurant floor space associated with the re-use of the former tanning salon. It is thus recommended the applicant be advised that the service and consumption of alcohol in this area is not permitted until an appropriate liquor licence has been secured.

Other Unapproved Works

It is recommended that the street-facing limestone wall associated with the cool room be provided with weatherboard cladding or similar in accordance with the Heritage Council's advice set out above, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Approval Certificate.

It is considered that the metal infill panels to the upper portion of the verandah facade detract from the heritage significance of the subject building and the George Street locality in general, as per the advice of the Heritage Council and the Town Planning Advisory Panel. Accordingly, it is recommended that any retrospective planning approval include a condition requiring the removal of these panels.

It is considered that the opaque, white plastic panels affixed to the lower portion of the front verandah detract from the heritage significance of the subject building and the George Street locality in general. It is therefore recommended that that any retrospective planning approval include a condition requiring the removal of these panels.

An assessment of this application has indicated that the limestone steps and retaining walls at the western end of the property may have been constructed without Council approval. It is recommended that the applicant be requested to apply for retrospective approval if this is found to be the case

Otherwise, the existing unapproved works to the remainder of the restaurant are considered to be relatively minor in nature, of an acceptable standard, and do not result in any additional seating to the existing restaurant floor area. Accordingly it is recommended these works be the subject of retrospective planning approval.





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**RECOMMENDATION**

That Council grant retrospective planning approval for:

- a change in use from Consulting Rooms to Restaurant for the former tanning salon located on Part Lot 2 on Strata Plan 41827; and
- existing building works to Part Lots 2 and 3 on Strata Plan 41827;

associated with Gigi's Restaurant at 129-131 George Street, East Fremantle as shown on plans received 10 November 2009 and subject to the following conditions:

1. The limestone steps and retaining walls to the front of the outdoor dining area do not form part of this retrospective planning approval.
2. The metal infill panels provided to the upper portion of the balcony are to be removed, details of which are to be provided to the CEO for endorsement prior to issuance of a Building Approval Certificate.
3. The opaque, white plastic panels affixed to the lower portion of the front balcony are to be removed, details of which are to be provided to the CEO for endorsement prior to issuance of a Building Approval Certificate.
4. Weatherboard cladding or similar is to be provided to the street-facing limestone wall associated with the cool room, details of which are to be provided to and endorsed by the CEO for endorsement prior to issuance of a Building Approval Certificate.
5. A detailed landscaping plan is to be provided to and endorsed by the CEO for endorsement prior to issuance of a Building Approval Certificate.
6. There is to be no increase in the number of seats for restaurant patrons, compared with the situation which existed prior to the unauthorised works being carried out, with any increase requiring further planning approval.

Footnote:

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

- (a) *With respect to condition 1, in the event the limestone steps and retaining walls determined by Council have not been approved, they are to be the subject of a separate application for retrospective planning approval.*
- (b) *The restaurant area approved as part of this application is not to be used for any purpose other than restaurant (including bar) without first obtaining planning approval for a change in use.*
- (c) *The service and consumption of alcohol in the restaurant area approved as part of this application is not permitted until an appropriate liquor licence has been secured*
- (d) *The works that are the subject of this approval are to be subject of application for a Building Approval Certificate.*
- (e) *A copy of the approved plans as stamped by Council are attached.*

Mr Domenic Lupis (restaurant owner) addressed the meeting in support of the works undertaken.

**RECOMMENDATION TO COUNCIL**

**Cr Martin – Cr Nardi**

**That Council grant retrospective planning approval for:**

- a change in use from Consulting Rooms to Restaurant for the former tanning salon located on Part Lot 2 on Strata Plan 41827; and
- existing building works to Part Lots 2 and 3 on Strata Plan 41827;

**associated with Gigi's Restaurant at 129-131 George Street, East Fremantle as shown on plans received 10 November 2009 and subject to the following conditions:**

- 1. The limestone steps and retaining walls to the front of the outdoor dining area do not form part of this retrospective planning approval.**
- 2. The metal infill panels provided to the upper portion of the balcony are to be removed, details of which are to be provided to the CEO for endorsement prior to issuance of a Building Approval Certificate.**
- 3. The opaque, white plastic panels affixed to the lower portion of the front balcony are to be removed, details of which are to be provided to the CEO for endorsement prior to issuance of a Building Approval Certificate.**



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4. Weatherboard cladding or similar is to be provided to the street-facing limestone wall associated with the cool room, details of which are to be provided to and endorsed by the CEO for endorsement prior to issuance of a Building Approval Certificate.
5. A detailed landscaping plan is to be provided to and endorsed by the CEO for endorsement prior to issuance of a Building Approval Certificate.
6. There is to be no increase in the number of seats for restaurant patrons, compared with the situation which existed prior to the unauthorised works being carried out, with any increase requiring further planning approval.

**Footnote:**

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

- (a) *With respect to condition 1, in the event the limestone steps and retaining walls determined by Council have not been approved, they are to be the subject of a separate application for retrospective planning approval.*
- (b) *The restaurant area approved as part of this application is not to be used for any purpose other than restaurant (including bar) without first obtaining planning approval for a change in use.*
- (c) *The service and consumption of alcohol in the restaurant area approved as part of this application is not permitted until an appropriate liquor licence has been secured*
- (d) *The works that are the subject of this approval are to be subject of application for a Building Approval Certificate.*
- (e) *A copy of the approved plans as stamped by Council are attached.* CARRIED

T112.6

**Munro Street No. 18 (Lot 5049)**

**Application No. P159/09**

**Owner/Applicant: BJ Christie**

By Rohan Doust, Acting Town Planner, 2 December 2009

**BACKGROUND**

**Description of subject site**

The subject site is:

- zoned Residential R12.5;
- 1062m<sup>2</sup> in area; and
- developed with a two-storey single house currently under construction.

**Description of Proposal**

Retrospective planning approval is sought for decorative caps that have been provided to existing fence piers.

**Statutory Considerations**

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

**Relevant Council Policies**

- Council Policy Regarding Views (LPP071)
- Council Policy on Fencing (LPP143)

**Date Application Received**

26 October 2009

**Advertising**

Adjoining landowners

**Date Advertised**

24 November 2009

**Close of Comment Period**

8 December 2009

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

42 days

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

15 February 2005	Council refuses an application for Planning Approval for a 3-level residence;
21 June 2006	State Administrative Tribunal dismisses an appeal against Council's decision to refuse the application;
21 November 2006	Council grants conditional approval for variations to wall height, setbacks, & 2 crossovers for the construction of a 3-level house;
13 June 2007	Building Licence 07/116 issued for 3-level residence and pool;
24 July 2007	Demolition Licence 07/167 issued for 2-storey house;
11 December 2007	Amended Building Licence issued for amended boundary retaining wall details.
12 May 2008	Building Licence issued for amendments to the northwest and northeast elevations of the approved house.

**CONSULTATION**

**Principal Building Surveyor's Comment**

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

**Public Submissions**

Public consultation for this application closes 8 December 2009.

The adjoining landowners' comments so far received are summarised and responded to below:

Neighbours' Comments	Response
<i>First Respondent:</i>	
Some comments regarding 'orderly and proper' planning and Council's obligations to enforce relevant town planning regulations.	Comments acknowledged and noted.
Some notes on the history of issues between the respondent, the owners of the subject site, and the Town of East Fremantle.	Comments acknowledged and noted.
Council should not grant retrospective planning approval for the fence.	It is recommended that the portions of over height fence to the secondary street and rear boundaries be retrospectively approved as it is considered that these portions of fence do not impact on the amenity of adjoining properties.  It is recommended that the portions of over-height fence located forward of the subject house be reduced in height to 1.8m and the pier caps be removed.

<i>Second Respondent:</i>	
The four brick piers at the front corner of the property are more intrusive than first suggested on plans.	Comment acknowledged and noted.
Do not approve the brick pier within the subject property and to the front corner.	This pier (sans decorative capping) has been approved as part of a building licence.
Concerned that the four piers could be used for further intrusive uses or structures.	Any modifications to the fence that do not accord with the Fencing Policy will require planning approval.
The solid section of fence which has been built without approval does block views.	Noted. Please refer to the respondent's next comment
Propose the solid section of fence stay as it is if the number of piers could be reduced, particularly the one within the subject property and to the front corner	All fence piers (sans capping) have approval from the Town. The section of solid fence was approved, but not in its current location on the boundary (it was approved running parallel to the front of the lot. It is considered that the solid section of fence is better located on the boundary as it results in a slight increase to the fencing permeability when viewed from the front of the lot.
Any gate should be visually permeable.	Agreed. This accords with the provisions of the Fencing Policy.
The respondent be shown detailed drawings of the intended structure prior to Council's approval.	A southern elevation of the fence has been requested but as of 4 November 2009 has not been received. It is anticipated that it will be tabled at this meeting.

### Site Inspection

By Acting Town Planner on 23 November 2009

### REPORT

#### Considerations

##### Height and Visual Permeability of Fence

The portion of fence that is the subject of this application is the existing decorative pier capping that has been provided to fencing along the:

- primary street (south-west) boundary;
- secondary street (north-west) boundary;
- rear boundary (an existing single house adjoins the subject site at this boundary); and
- section of side boundary in the front setback area (an existing single house adjoins the subject site at this boundary).

of the subject property.

The existing fence comprises masonry piers to a height of 1.8m above the existing retaining walls as approved by the Town. Metal infill panels to the fence are included as part of the approval, but have yet to be installed. The retaining walls themselves were approved as part of the planning approval for the house

Decorative pier caps have been affixed to the fence. The pier capping results in the piers having a typical height of 2.1m. This height is greater than the 1.8m height limit set out in



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the Fencing Policy and accordingly the variation requires planning approval.

It is considered that the over height fence piers to the north-western (side) and north-eastern (rear) boundaries can be supported for the following reasons:

- the fence to the north-west (side) boundary abuts the secondary street and hence does not impact on the amenity of any adjoining property;
- the fence to the north-eastern (rear) boundary does abut a residential lot developed with a single house, but given that the fence is not located adjacent to any outdoor living areas or major openings on that site it is considered that the pier caps do not impact unduly on the amenity of that property (including its access to views) and hence can be supported; and
- the proposed 2.1m high fence piers are of a scale commensurate with the large two-storey dwelling with undercroft garage currently being constructed at the subject site

It is recommended that the remaining portions of fence, ie the portion of front fence located in the front setback area, namely the:

- section along the south-west, front boundary;
  - section along the 8.53m-long truncation at the western corner of the lot; and the
  - section on the south-eastern side boundary this is located in the front setback area;
- be modified to ensure that pier heights do not exceed 1.8m as per the requirements of the Fencing Policy.

The primary reason for enforcing the 1.8m height provision for these sections of fence is to allow for owners of the adjoining property to retain as much as possible of the ocean glimpses seen across the front yard of the subject site (please refer to the relevant section below).

Accordingly it is recommended that a condition accompany any retrospective planning approval requiring the piers located in the front setback area being reduced in height to no more than 1.8m.

Pursuant to Clauses 10.2(o) and 10.2(p) of the Scheme, it is further recommended the above be achieved by removing the pier caps to the front fence. If the pier caps to the front are retained (and the fence reduced in height to a compliant 1.8m), the capping will still contribute to the bulk and scale of the fence as viewed from the adjoining property to the east, and will still impede views of the ocean as seen from that property.

Accordingly it is recommended that a condition accompany any retrospective planning stating that the pier caps to the front fence are to be removed.

Finally, there is a 1.5m-long portion of solid fence along the side boundary in the front setback area (ie the portion of fence with the meter box). Although this section of fence does not meet the visual permeability requirements of the Fencing Policy, it was approved as part of the application previously considered by Council. The approval was for this portion of fence to form part of the pedestrian gate area and be parallel with the front boundary. The fence has since been constructed along the side boundary. It is considered that the provision of this fence along the side boundary instead of parallel with the front boundary allows for better views from the adjoining property and hence this aspect of the proposal is supported.

### RECOMMENDATION

Subject to consideration of any public submissions received on or between 4 and 8 December 2009, Council exercise its discretion in granting retrospective planning approval for:

- fence piers having typical heights of 2.1m in lieu of the 1.8m height limits as specified by the Local Laws Relating to Fencing (LPP143) for existing fencing at Lot 5049 (#18) Munro Street, East Fremantle, as shown on plans received 26 October 2009 and subject to the following conditions:
  1. The fence piers to the:



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- south-west, front boundary;
  - 8.53m-long truncation at the western corner of the subject lot; and the
  - south-eastern side boundary and within the subject lot's front setback area;
- are to be reduced in height to 1.8m and the decorative capping provided to these piers is to be removed within 42 days from the date of this approval in order to maintain ocean glimpses as viewed from the adjoining property to the east.
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
  3. The proposed works are not to be commenced until Council has received an application for a building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
  4. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
  5. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *This decision does not include acknowledgement or approval of any additional 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 to the approved plans unless otherwise approved by Council.*
- (c) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *In regard to the condition relating to the finish of the neighbour's side of the rear boundary wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

Correspondence and additional information including extract from 'draft' Town Planning Advisory Panel minutes of 24 November 2009 as referred from MB Ref. T110.3 were tabled.

The Chief Executive Officer advised that on Monday and today, three requests for this matter to be deferred had been received, which elected members had been provided copies of.

The CEO stated that it was his view that this matter should not be the subject of decision making tonight, rather that decision making should occur at next week's Council meeting. The CEO further noted that the applicants were not in attendance however would be encouraged to be in attendance at the Council meeting.

Ms Jennifer Byrne & Mr Denis Cullity (adjoining neighbours) addressed the meeting on a number of deemed contraventions by the owner/s of this property as detailed in their correspondence to Council.

**RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Wilson**

That the matter be held over for a decision at the Council meeting of 15 December 2009:

- to allow the applicants to respond to the neighbour objections, with such response to be received by 4pm Thursday 10 December 2009.
- to allow the applicants to clarify the issue of whether the pier caps, as constructed, on the south-east boundary intrude into the neighbouring property, with such clarification to be received by 4pm Thursday 10 December.
- to allow the Acting Town Planner to consider the objections received from Mr MacMillan of 27 Locke Crescent, and Ms Craig of 14 Munro Street, neither of which the Acting Town Planner had viewed at the time his report was completed, a further letter from Ms Byrne and the further representations of Mr Cullity & Ms Byrne made at this meeting. CARRIED

**T112.7**

**Staton Road No. 57 (Lot 2)**

**Application No. P91/09**

**Owner: W & C Zalewski**

**Applicant: Willcox & Associates Architects**

By Rohan Doust, Acting Town Planner, 2 December 2009

**BACKGROUND**

**Description of subject site**

The subject site is:

- zoned Residential R12.5;
- located in the Richmond Precinct;
- 794m<sup>2</sup> in area; and
- developed with a brick-and-tile single house that is not included on the Town's Municipal Inventory.

**Description of Proposal**

It's proposed to construct a two-storey addition to an existing single house. An extension to the side and a double garage and pool to the rear of the house and boundary fencing are also proposed.

The upper floor addition is proposed to:

- be 86.2m<sup>2</sup> in area (bedroom, bath and living area);
- include a 17.9m<sup>2</sup> terrace/balcony;
- be set back at least 6.2m from the side and at least 7.5m from the rear lot boundaries;
- be constructed from a combination of cedar cladding, Colorbond cladding, zinc panel cladding and batten screening; and
- provided with a roof that combines flat and skillion elements (the skillion sections being pitched at 14°).

The double garage is proposed to be:

- located at the rear of the property and accessed from the secondary street;
- set back 1.5m from the secondary street;
- 52.8m<sup>2</sup> in area and provided with 2.9m high walls and a flat roof; and
- finished in rendered masonry with a timber panel garage door.

The extension to the southern side of the existing house is proposed to be:

- a 12.5m<sup>2</sup> addition to bedroom 3;
- setback at least 5.0m from the side boundary; and
- finished in cedar cladding

1.8m high visually permeable fencing is proposed for the eastern (primary street) and southern (secondary street) boundaries.

A pool to the rear of the property is also proposed.

**Statutory Considerations**

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

**Relevant Council Policies**

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)
- Local Laws Relating to Fencing (LPP143) - It is noted that LPP143 replaces the provisions of the Residential Design Codes of WA with respect to front fences.
- Local Planning Policy – Rainwater Tanks (LPP144)

**Date Application Received**

2 October 2009

**Advertising**

Adjoining landowners

**Date Advertised**

28 October 2009

**Close of Comment Period**

11 November 2009

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

66 days

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

None

**CONSULTATION**

**Principal Building Surveyor's Comment**

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

**Town Planning Advisory Panel**

The proposal was forwarded by email to the Panel on 2 November 2009. Two email responses were received.

The comments are generally supportive of the proposal. It is noted that references made to a front garage are no longer applicable as this structure has been relocated. to the rear of the property.

**Public Submissions**

One public submission has been received from an adjoining landowner. The adjoining landowner's comments are addressed below.

Neighbour Comments

A submission has been received from the adjoining landowner to the north and is summarised as follows:

- temporary fencing should be provided to ensure the respondent's two dogs do not escape during construction;
- concern about loss of privacy from the proposed balcony and its clear balustrading;
- query whether privacy treatments are to be provided to four windows to the first floor north elevation.



The applicant has provided a statement addressing these concerns. It is considered that the applicant's statement has fully addressed and resolved the neighbour's concerns.

### **Site Inspection**

By Acting Town Planner on 1 December 2009

### **REPORT**

#### **Considerations**

The proposal meets the provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

#### Building Height

The northern facade of the upper floor addition has a wall height of 6.8m. The Residential Development Policy limits wall height to 6.0m in this instance.

It is considered that a variation to the policy provisions can be supported for the following reasons:

- the wall does not result in any overshadowing of adjoining lots as measured by the R-Codes
- the wall meets relevant setback provisions;
- the wall of increased height arises from the skillion roof form and assists in providing articulation and visual interest to the building; and
- the overall height of the dwelling is 1.7m less than that permitted.

#### Roof Pitch

The proposal features flat roof elements plus skillion elements pitched at 6°.

The Roofing Policy (LPP066) states that dominant elements of the roof are to be pitched at 28° or more. The proposal does not meet this provision of the policy.

It is considered that a variation can be supported as:

- the proposed roof pitch between 0° and 6° is considered to be well-matched to the design and form of the house;
- the proposed roof pitch is compatible with other development in the locality which is generally of the Interwar and post-WW2 periods.

#### Outbuilding Wall Height

The proposed garage has 2.9m-high walls. The R-Codes limit the wall height of an outbuilding to 2.4m.

It is considered that a variation can be supported in this case as:

- the garage does not result in any overshadowing of adjoining lots as measured by the R-Codes
- the garage meets relevant setback provisions;
- the walls of increased height are not located adjacent to any outdoor living areas on the adjoining properties; and
- the height of the garage matches the ground floor height of the existing dwelling and, resulting in consistent massing to the development when viewed from the secondary street.

#### Rainwater Tanks

Three 300L water tanks are proposed to be located adjacent to the northern property boundary.

The Rainwater Tanks Policy states that tanks are not to be located within 1.0m of a property boundary. It is considered that a variation can be supported as:

- the rainwater tanks otherwise meet the policy provisions with respect to volume and height; and
- the rainwater tanks are proposed to be 1.5m high and would not be visible from the adjoining lot as they are screened by the boundary fence.



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Crossover

The lot features an existing dual-width crossover to the secondary street. It is proposed to retain and upgrade this access point.

Since the crossover lies outside the subject site it does not form part of the conditional approval of this application.

It is intended correspondence will be forwarded to the applicant in due course advising that an upgraded, 5.5m-wide crossover (as proposed) is not objected to.

The extra width (which is existing) is considered justified because:

- it is to the secondary street;
- the vehicle manoeuvring distance to the garage is only 1.5m; and
- siting the garage further back into the lot to allow for the provision of a single-vehicle-width crossover would reduce the useable area and amenity of the rear yard.

**RECOMMENDATION**

Council exercise its discretion in granting approval for:

- the height of the northern wall to the upper floor addition being 6.8m in lieu of the 6.0m wall-height-limit as set out in the Residential Development Policy (LPP142);
- roof pitch being between 0° and 6° in lieu of the minimum 28° roof pitch as set out in the Roofing Policy (LPP066);
- outbuilding wall height being 2.9m in lieu of the 2.4m height-limit set out in the Acceptable Development provisions of Residential Design Codes of WA; and
- water tanks being located adjacent to the northern boundary in lieu of the 1.0m setback as set out in the Rainwater Tanks Policy (LPP144);

for a two storey addition and extension to an existing single house as well as a rear double garage, pool, and boundary fencing at No. 57 (Lot 2) Staton Road, East Fremantle as shown on plans received 26 November 2009 and subject to the following conditions:

1. Overflow from the rainwater tanks is to be directed to soak well(s) within the property.
2. All storm water resulting from the development is to be retained on site.
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 works 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 introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *The proposed crossover is not included as part of this approval (it lies outside the subject land). It is intended that correspondence will be forwarded in due course*

- stating that the proposed 5.5m wide crossover upgrade is supported.*
- (b) A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
  - (c) It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
  - (d) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
  - (e) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

#### **RECOMMENDATION TO COUNCIL**

##### **Cr de Jong – Cr Martin**

**Council exercise its discretion in granting approval for:**

- **the height of the northern wall to the upper floor addition being 6.8m in lieu of the 6.0m wall-height-limit as set out in the Residential Development Policy (LPP142);**
- **roof pitch being between 0° and 6° in lieu of the minimum 28° roof pitch as set out in the Roofing Policy (LPP066);**
- **outbuilding wall height being 2.9m in lieu of the 2.4m height-limit set out in the Acceptable Development provisions of Residential Design Codes of WA; and**
- **water tanks being located adjacent to the northern boundary in lieu of the 1.0m setback as set out in the Rainwater Tanks Policy (LPP144);**

**for a two storey addition and extension to an existing single house as well as a rear double garage, pool, and boundary fencing at No. 57 (Lot 2) Staton Road, East Fremantle as shown on plans received 26 November 2009 and subject to the following conditions:**

- 1. Overflow from the rainwater tanks is to be directed to soak well(s) within the property.**
- 2. All storm water resulting from the development is to be retained on site.**
- 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 works 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 introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 8. This planning approval to remain valid for a period of 24 months from date of this approval.**

That the applicant be advised of the following:

- (a) *The proposed crossover is not included as part of this approval (it lies outside the subject land). It is intended that correspondence will be forwarded in due course stating that the proposed 5.5m wide crossover upgrade is supported.*
- (b) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (d) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

**T112.8** ***Penshurst Street No. 12 (Lot 2 on Strata Plan 45836)***  
***Application No. P144/09***  
***Owners: D Bahemia & J Green***  
***Applicant: ADM Group***  
By Rohan Doust, Acting Town Planner, 3 December 2009

#### **BACKGROUND**

##### **Description of subject site**

The subject site is:

- 445m<sup>2</sup> in area;
- zoned Residential R12.5;
- located in the Richmond Hill Precinct;
- a vacant lot that is part of a two-lot survey strata subdivision (the other strata lot has recently been developed with a two-storey single house);
- developed with retaining walls to the southern side of the lot as a result of subdivision works (as a result the lot now has a consistent natural ground level); and
- adjacent to two vacant lots to the south.

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

It's proposed to construct a two-storey single house with an undercroft double garage.

The undercroft garage is proposed to:

- be situated underneath and aligned flush with the front of the proposed dwelling;
- have a finished floor level approximately 2.2m below the level of the front of the lot;
- be approximately 85m<sup>2</sup> in area with a 7.1m-wide frontage; and
- be provided with a sectional garage door.

The ground floor is proposed to:

- 204.8m<sup>2</sup> in area (including a 7.8m<sup>2</sup> front-facing balcony located above the undercroft);
- be set back 7.5 from the front of the lot;
- have a side setback of 2.5m to the south, a nil to 1.1m side setback to the north, and an 11m rear setback; and
- include a 28.7m<sup>2</sup> covered alfresco area at the rear.

The upper floor is proposed to be:

- 94.4m<sup>2</sup> in area (including a 14.1m<sup>2</sup> front-facing balcony);
- set back 9.1m from the front of the lot, with the balcony being set back at 6.2m;
- have side setbacks of 1.2m (to the north) and 2.5m (to the south), and a rear setback greater than 12m.

The proposed roof is of a hipped form and provided with Colorbond cladding (Surfmist or Shale Grey in colour). The walls are proposed to be rendered masonry and painted in a pale white with grey tint.

**Statutory Considerations**

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

**Relevant Council Policies**

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)

**Date Application Received**

6 October 2009

**Advertising**

Adjoining landowners

**Date Advertised**

16 November 2009

**Close of Comment Period**

1 December 2009 (no responses received)

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

62 days

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

28 July 1998	Council issues planning approval for a swimming pool;
18 February 2003	Council resolves to advise WAPC that the survey-strata subdivision of Lot 2 Peshurst Street is not supported;
11 March 2003	WAPC issues conditional approval to subdivide Lot 2 Peshurst Street into two survey strata lots (the subject lot being the southern-most one);
17 February 2004	Council issues planning approval for the demolition of an existing dwelling;
23 June 2004	ToEF issues a building licence for a limestone retaining wall;
4 April 2006	Council issues planning approval for a two-storey dwelling;
26 October 2009	ToEF issues Certificate for Acknowledgement of Existing Structures for limestone retaining walls (07/192; B07/252).

**CONSULTATION**

**Principal Building Surveyor's Comment**

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

**Town Planning Advisory Panel**

The Panel viewed the proposal on 24 November 2009. A copy of the draft meeting minutes is intended to be tabled at this Committee meeting, and a copy of the final minutes is intended to be provided as part of the Agenda for the December 15 2009 Council meeting.

The queries and comments raised by the Panel are considered to have been addressed via additional information from the applicant and modifications made to the proposal. Further clarification on this matter will be provided as part of the Agenda for the 15 December 2009 Council meeting.

**Public Submissions**

None

**Site Inspection**

By Acting Town Planner on 4 December 2009

**REPORT**

**Considerations**

The proposal meets the provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

Crossover

The crossover to the verge is not included as part of this approval as it lies outside the subject land. Nonetheless, it should be taken into account given its relationship to the proposed undercroft car parking arrangement.

The site plan proposes an arrangement where a 3.0m-wide crossover cuts down into the verge at the front boundary of the property. The driveway takes over from this point and continues to slope down to the finished floor level of the undercroft garage. The points where the crossover cuts into the verge are proposed to be retained with limestone. It is noted that there is a footpath to the front of the subject lot - it is located on the side of the verge abutting the road, and not adjacent to the front boundary of the lot.

The applicant has advised that the reason for the proposed crossover arrangement is to provide for safe vehicle access to the undercroft whilst still ensuring the ground floor of the dwelling remains at natural ground level.

The Town's Works Coordinator has viewed the proposal and advised that in principal the crossover arrangement can be supported, provided the applicant provides additional details (including sections) demonstrating that disruption to existing verge levels will be minimised and that stormwater will be effectively managed.

Given that the development is somewhat dependent on the proposed crossover, the Committee should consider its appropriateness as part of this application

If the crossover arrangement is supported, it is suggested that the applicant be advised that additional details of the crossover be provided to and endorsed by the CEO in consultation with relevant officers prior to issuance of a Building Licence.

If not, it is suggested the applicant be advised of such, and that any planning approval include a condition requiring additional information (demonstrating how vehicle access to the undercroft can be provided without raising the ground floor level of the dwelling and without requiring a driveway to be cut in at the subject lot's front boundary) be provided to and endorsed by the CEO prior to issuance of a Building Licence.

Two recommendations follow reflecting the two options above.

Wall Height

The upper floor portions of the proposed house have a wall height of 5.8m above natural ground level.

For sites where views are a consideration (this includes the subject lot), the Residential Development Policy limits wall height to 5.6m.

It is considered that a variation to the wall-height provisions can be supported for the following reasons:

- The height variation is minor at 0.2m.
- The 0.2m variation is not considered to impose a noticeable reduction in views from adjoining properties as the roof form of the dwelling would obscure such views irrespective of whether the wall height were reduced to a compliant 5.6m.



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- At 7.8m, the overall height (or ridge height) of the dwelling is lower than the 8.1m limit set out in the Residential Development Policy.

Visual Privacy

The following south-facing major openings to the upper floor:

- study window;
  - master bedroom windows; and the
  - southern side edge of the front-facing balcony
- are located at less than the specified privacy setback distances under the R-Codes and accordingly they have the potential to impact on the visual privacy of the adjoining lots to the south. Cones-of-vision on the site plan provided refer.

It is considered that privacy treatments to these opening are not required in this case for the following reasons:

- The lots overlooked by these openings are currently vacant and have not been the subject of any recent planning approval. Accordingly the proposed overlooking from these openings would not impact on the amenity of any current neighbours in the short term, and in the longer term future development on these sites can take into account the proposed overlooking.
- The windows that overlook the lots to the south offer the residents of the proposed dwelling significant views of locality. Given that there are no neighbours on the vacant lots to the south, it is considered that these opening can remain unscreened in order to allow for views from the upper floor.

Setbacks

The application proposes three setback variations:

- *Ground floor northern (side) elevation*  
A 12.7m-long section of wall is proposed to have a 1.1m setback to the northern side boundary. The R-Codes specify a 1.5m setback for this wall.

It is considered that this setback variation can be supported pursuant to the Performance Criteria of the R-Codes as:

- the setback allows for direct sun and ventilation to the subject building and to the adjoining house to the north;
- it does not result in any loss of visual privacy to the property to the north; and
- it does not result in any overshadowing of the adjoining property to the north as measured by the R-Codes.

It is noted that the planning approval dated 18 May 2004 for the adjoining two-storey dwelling to the north included a ground floor side setback variation of 1.0m in lieu of the required 1.5m for two portions of wall with an aggregate length of 9.4m).

- *Upper floor northern (side) elevation*  
A 16.5m-long section of wall is proposed to have a 1.1m setback to the northern side boundary. The R-Codes specify a 4.2m setback for this wall.
  - It is considered that this setback variation can be supported pursuant to the Performance Criteria of the R-Codes for the same reasons as set out above.
  - It is noted that if privacy screening were provided to the north-facing balcony opening the required setback for this wall would be reduced to 2.0m. Whilst such screening would technically make the setback calculations more compliant, it is considered that it would impact negatively on the design of the building by partially enclosing the front-facing balcony would do little to reduce overlooking (overlooking from this opening is relatively minor, see above).
  - It is also noted that the planning approval dated 18 May 2004 for the adjoining two-storey dwelling to the north included an upper floor side setback variation of 1.5m in lieu of the required 5.0m setback for two portions of wall with an aggregate length of 19.7m).



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- *Upper floor southern (side) elevation*  
A 16.5m-long section of wall is proposed to be set back between 2.4m and 4.0m. The R-Codes specify a 4.2m setback.
  - It is considered that this setback variation can be supported pursuant to the Performance Criteria of the R-Codes for the same reasons as set out above.
  - If privacy treatments were provided to the major openings in this wall its proposed setback would then comply. Whilst such treatments would technically make the setback calculations comply, it is considered that they would impact negatively on the design of the building and result in significant loss of views from the subject site (see above).
  - It is noted that the adjoining lots to the south, which are impacted on by the wall of reduced setback, are currently vacant and hence any loss of amenity to those lots as a result of the setback variation is greatly lessened.

Minor Incursion into Street Setback Area

The two front balconies project 0.9m into the front setback area for a width of 50% of the frontage of the dwelling.

The Acceptable Development provisions of the R-Codes limit the extent of minor incursions to a width of 20% of the width of the building frontage.

The relevant Performance Criteria of the R-Codes state that this provision may be varied where "minor incursions and projections [are] not to detract from the character of the streetscape".

It is considered that the proposed incursions are not incompatible with the character of the surrounding development. Accordingly it is considered that a variation to the relevant Acceptable Development provisions can be supported in this instance.

Width of Garage Doors

The R-Codes specify that the width of garage doors is not to be greater than 50% of the width of the lot frontage.

The proposed garage door is 5.8m wide and occupies 52% of the lot frontage.

It is considered that a variation to this provision can be supported as:

- the variation is relatively minor (2% or a 0.22m portion of the garage door); and
- the subject site has a relatively narrow frontage of 11.1m.

Materials and Finishes

It is recommended that any development approval include a condition requiring details of materials and finishes being provided to and endorsed by the CEO prior to issuance of a building licence.

**RECOMMENDATION (1)** (where the proposed crossover is supported)

Council exercise its discretion in granting approval for:

- wall heights being 5.8m above natural ground level in lieu of the 5.6m wall-height limit set out in the Residential Development Policy (LPP142);
- a 12.7m-long section of the ground floor northern side elevation being set back at 1.1m in lieu of the required 1.5m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;
- a 16.5m-long section of the upper-floor northern side elevation being set back at 1.1m in lieu of the required 4.2m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;
- a 16.5m-long section of the upper-floor southern side elevation being set back at 2.4-4.0m in lieu of the required 4.2m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;
- the following major openings being set back less than the privacy set back requirements of the R-Codes: the windows to the upper floor master bedroom, study and sitting area and also the side facing openings to the front balcony.





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for a two-storey single house with an undercroft double garage at Lot 2 on Strata Plan 45836 (No. 12) Penshurst Street, East Fremantle, as shown on plans received 3 December 2009 and subject to the following conditions:

1. Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
2. Details of materials and finishes are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
3. All storm water resulting from the development is to be retained on site.
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 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.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed works 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.
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. This planning approval to remain valid for a period of 24 months from date of this approval.

That the applicant be advised of the following:

- (a) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
- (b) *With respect to condition 2), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.*
- (c) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (d) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (e) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (f) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *Additional details demonstrating that crossover will result in minimal disruption to the existing verge levels and that storm water will be effectively managed are to be provided to and endorsed by the CEO in consultation with relevant officers prior to issuance of a Building Licence*

**RECOMMENDATION (2)** (where the proposed crossover is not supported)

Council exercise its discretion in granting approval for:

- wall heights being 5.8m above natural ground level in lieu of the 5.6m wall-height limit set out in the Residential Development Policy (LPP142);



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- a 12.7m-long section of the ground floor northern side elevation being set back at 1.1m in lieu of the required 1.5m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;
- a 16.5m-long section of the upper-floor northern side elevation being set back at 1.1m in lieu of the required 4.2m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;
- a 16.5m-long section of the upper-floor southern side elevation being set back at 2.4-4.0m in lieu of the required 4.2m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;
- the following major openings being set back less than the privacy set back requirements of the R-Codes: the windows to the upper floor master bedroom, study and sitting area and also the side facing openings to the front balcony.

for a two-storey single house with an undercroft double garage at Lot 2 on Strata Plan 45836 (No. 12) Peshurst Street, East Fremantle, as shown on plans received 3 December 2009 and subject to the following conditions:

1. Any air-conditioning plant is to be positioned so that it will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
2. Details of materials and finishes are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
3. All storm water resulting from the development is to be retained on site.
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 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.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed works 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.
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. This planning approval to remain valid for a period of 24 months from date of this approval.
10. Additional information demonstrating how vehicle access to the undercroft can be provided without raising the ground floor level of the dwelling and without requiring a driveway to be cut in at the subject lot's front boundary is to be provided to and endorsed by the CEO prior to issuance of a Building Licence.

That the applicant be advised of the following:

- (a) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
- (b) *With respect to condition 2), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.*
- (c) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (d) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites*

may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.

- (e) All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (f) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (g) The crossover shown on the approved plans is not supported.

Correspondence and extract from 'draft' Town Planning Advisory Panel minutes of 24 November 2009 as referred from MB Ref. T110.4 were tabled.

#### RECOMMENDATION TO COUNCIL

Cr Martin – Cr Lilleyman

That the development application for a two storey residence on Lot 2 (No. 12) Penshurst Street, East Fremantle be held over to the Council meeting to enable elected members to undertake a site visit and in the meantime further information be provided on:

- (a) current NGL's as opposed to the approved NGL's as part of the subdivision; and
- (b) the proposed excavation of the verge for the provision of a crossover and its impact on various underlying utilities.

CARRIED

### T113. BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

#### T113.1 *Pier Street No. 20 (Lot 232)*

*Application No. P129/09*

*Owner: P & M King*

*Applicant: Alexander Quinn*

By Rohan Doust, Acting Town Planner, 3 December 2009

#### BACKGROUND

##### Description of subject site

The subject site is:

- 880m<sup>2</sup> in area;
- zoned Residential R12.5;
- located in the Richmond Hill Precinct;
- a vacant lot;
- features a change in level of approximately four metres (the rear of the site being the high point)

##### Description of Proposal

It's proposed to construct a two-storey single house.

The ground floor is proposed to:

- be 208.7m<sup>2</sup> in size (including a double carport-like area);
- be set back 12.0m from the front of the lot;
- have a side setback of 1.5m to the west, a nil side-setback to the east, and a 16m rear setback;

The upper floor is proposed to be:

- 95.3m<sup>2</sup> in area (including a 16.9m<sup>2</sup> front-facing balcony);
- Located within the footprint of the ground floor and approximately half its area;

The proposed roof is a combination of skillion elements generally pitched at 10°. Roof cladding is proposed to be Colorbond and the walls are proposed to be a combination of concrete block and timber cladding.

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**Statutory Considerations**

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

**Relevant Council Policies**

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)

**Date Application Received**

17 September 2009

**Advertising**

Letters to adjoining landowners and sign on site.

**Date Advertised**

28 October 2009

**Close of Comment Period**

11 November 2009

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

81 days

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

- 18 February 2003 Planning application to demolish the then existing house refused by Council
- 30 June 2003 Planning application to demolish the then existing house approved by the Town Planning Appeals Tribunal
- 3 August 2004 Demolition Licence for the then existing single storey weatherboard house issued by the Town

**CONSULTATION**

**Principal Building Surveyor's Comment**

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

**Comments from adjoining landowners**

One adjoining landowner has commented on the proposal. Concerns raised by the neighbour are summarised and responded to below:

Comments	Response
Concerns regarding the height of the proposed boundary.	As stated below in the section on boundary walls, this wall would have a (compliant) height of approximately 2.2m when viewed from the adjoining property due to a change in level between the two sites, and on this basis the wall height is supported.
Concerns regarding the length of the proposed boundary (2.8m in excess of the permitted 9.0m)	It is considered that this variation may be supported given that the wall has a reduced height (2.2m) when viewed from the adjoining property and the wall does not result in any overshadowing of adjoining properties as determined by the R-Codes.

Concerns regarding loss of light to ground floor windows as a result of the proposed boundary wall.	The proposal does not result in any overshadowing of adjoining properties as determined by the R-Codes.
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#### **Town Planning Advisory Panel comments**

The Panel viewed the proposal on 27 October 2009 and was generally supportive.

The Panel requested a streetscape elevation and perspective drawing. A streetscape elevation has since been received and forwarded on to the Panel members. With respect to the perspective drawing, the applicant has preferred not to submit a perspective drawing at this stage. Whilst receipt of this information would be ideal, it is considered that the plans, elevations and streetscape elevation provide adequate detail to allow for the application to be determined.

It is anticipated that any additional comments by the Panel on the streetscape elevation and lack of a perspective drawing will be included in the Agenda for the Council meeting on 15 December 2009.

#### **Site Inspection**

By Acting Town Planner on 4 December 2009.

#### **REPORT**

##### **Considerations**

The proposal meets the provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

##### Wall Height

For sites where views are a consideration (this includes the subject lot), the Residential Development Policy limits wall height to 5.6m.

The proposal includes wall heights up to approximately 8.0m above natural ground level.

It is considered that a variation to the wall-height provisions can be supported for the following reasons:

- The walls of increased height arise from the use of a skillion roof form, and are considered to significantly less impactful on the streetscape and on views from adjoining properties than the 1.4m variation would indicate (as shown on drawings, in particular the streetscape elevation)
- Given that the upper level is relatively small in extent, the walls of increased height do not result in the development having undue bulk and scale when viewed from the public realm or adjoining lots.
- The wall height variation is exacerbated by the change in natural ground level at the site. The rest of the development generally follows the contours of the lot.
- The proposal does not exceed the 8.1m overall (or ridge) height limit set out in the Residential Development Policy.
- The proposal does not overshadow any adjoining properties as measured by the R-Codes.

##### Roof Pitch

The proposal features skillion roof elements pitched at approximately 15°.

The Roofing Policy (LPP066) states that dominant elements of the roof are to be pitched at 28° or more.

It is considered that the roof pitch variation can be supported given that:

- the proposed roof-form is integral to the building design and provision of a compliant roof pitch will likely result in a less cohesive architecture; and

- it assists in allowing for views from adjoining properties to the rear.

#### Setback

The proposal includes a wall 15m-long and 3.7-4.3m high set back 1.5m from the west side boundary.

The R-Codes specify a 1.5m setback for this wall.

It is considered that the minor 0.1m variation to the required setback can be supported as per the advice provided by the applicant.

#### Boundary Wall

An 11.9m long boundary wall with a height of 2.5-3.4m above natural ground level is proposed to be located abutting the western side boundary.

The Residential Height Policy limits the length and height of this wall to 9.0m and 3.0m respectively.

It is considered that a variation can be supported for the following reasons:

- The proposed boundary wall abuts a significance retaining wall and fence associated with the adjoining property. The finished ground level on the adjoining property at the location of the boundary wall is raised above that on the subject property. Accordingly the effective height of this wall when viewed from the neighbouring property is approximately 2.2m above its finished ground level. The height of this wall therefore complies with the provisions of the Residential Development Policy when viewed from the neighbouring property.
- The boundary wall does not overshadow any adjoining property as measured by the R-Codes.

#### Materials and Finishes

It is recommended that any development approval include a condition requiring details of materials and finishes being provided to and endorsed by the CEO prior to issuance of a building licence.

### **RECOMMENDATION**

Council exercise its discretion in granting approval for:

- wall heights to the upper floor being up to 8.0m above natural ground level in lieu of the 5.6m wall-height limit set out in the Residential Development Policy (LPP142);
- roof pitch being approximately 10° in lieu of the minimum 28° roof pitch set out in the Roofing Policy (LPP066);
- the western elevation being set back at 1.5m in lieu of the required 1.6m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;
- the eastern boundary wall being 2.5-3.4m high and 11.9m long in lieu of the 3.0m height limit and 9.0m length-limit set out in the Residential Development Policy (LPP142) ;

for a two-storey single house at Lot 232 (No. 20) Pier Street, East Fremantle, as shown on plans received on 17 September and 3 December 2009 and subject to the following conditions:

1. Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
2. Details of materials and finishes are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
3. All storm water resulting from the development is to be retained on site.
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 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.

6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed works 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.
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. This planning approval to remain valid for a period of 24 months from date of this approval.

*That the applicant be advised of the following:*

- (a) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
- (b) *With respect to condition 2), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.*
- (c) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (d) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (e) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (f) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

#### **RECOMMENDATION TO COUNCIL**

**Cr de Jong – Cr Lilleyman**

**Council exercise its discretion in granting approval for:**

- **wall heights to the upper floor being up to 8.0m above natural ground level in lieu of the 5.6m wall-height limit set out in the Residential Development Policy (LPP142);**
- **roof pitch being approximately 10° in lieu of the minimum 28° roof pitch set out in the Roofing Policy (LPP066);**
- **the western elevation being set back at 1.5m in lieu of the required 1.6m setback as per the Acceptable Development provisions of the Residential Design Codes of WA;**
- **the eastern boundary wall being 2.5-3.4m high and 11.9m long in lieu of the 3.0m height limit and 9.0m length-limit set out in the Residential Development Policy (LPP142) ;**

**for a two-storey single house at Lot 232 (No. 20) Pier Street, East Fremantle, as shown on plans received on 17 September and 3 December 2009 and subject to the following conditions:**

- 1. Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.**
- 2. Details of materials and finishes are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.**
- 3. All storm water resulting from the development is to be retained on site.**

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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 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.
6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. The proposed works 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.
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. This planning approval to remain valid for a period of 24 months from date of this approval.

*That the applicant be advised of the following:*

- (a) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
- (b) *With respect to condition 2), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.*
- (c) *A copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (d) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
- (e) *All noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (f) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED

*Cr Wilson having declared an interest in the following item as her property abuts the rear of the subject lot, left the meeting at 10.20pm.*

**Cr Nardi – Cr Collinson**

**That in the absence of Cr Wilson, Cr de Jong assume the chair.**

CARRIED

**T113.2 Preston Point Road No. 114 (Lot 4965)**

**Application No. P128/09**

**Owner: L Morris**

**Applicant: RCI Building Consultants**

**By Rohan Doust, Acting Town Planner, 3 December 2009**



## **BACKGROUND**

### **Description of subject site**

The subject site is:

- a 744m<sup>2</sup> vacant lot;
- zoned Residential R12.5; and
- located in the Richmond Hill Precinct and opposite Wauhop Park.

### **Description of Proposal**

It's proposed to construct a two-storey single house.

The ground floor proposed to be:

- 220.6m<sup>2</sup> in area (including the double garage and front alfresco area);
- set back 12.8m from the front of the lot, with a front alfresco area being set back at 9.8m;
- have side setbacks of 3.0m to the east and 1.5m-3.2m to the west, and a 6.0m rear setback

The upper floor is proposed to:

- be 170.7m<sup>2</sup> in area (including a 39.9m<sup>2</sup> front-facing balcony); and
- have side setbacks of 7.5m to the east and 1.5m-3.2m to the west, and a 6.0m rear setback

A 40.2m<sup>2</sup> double garage is proposed to be located to the side of the house. The front of the garage is located forward of the front of the house and adjacent to the front balcony.

The proposed roof is to be of a hipped form, clad in Colorbond and pitched at 25°. The house is intended to be finished in painted render.

### **Statutory Considerations**

- Town Planning Scheme No. 3 (TPS3)
- TPS3 Local Planning Strategy
- Residential Design Codes of WA (the R-Codes)

### **Relevant Council Policies**

- Council Policy on Roofing (LPP066)
- Local Planning Policy – Residential Development (LPP142)

### **Date Application Received**

16 September 2009

### **Advertising**

Letter to adjoining and nearby landowners and sign on site.

### **Date Advertised**

28 October 2009

### **Close of Comment Period**

11 November 2009

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

82 days

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

19 November 2002	Planning application to demolish the then existing house approved by Council.
17 December 2009	Planning application for a two-storey house approved by Council.
20 November 2007	Planning application for a two-storey house approved by Council.
19 August 2008	Planning application for a two-storey house approved by Council.
16 June 2009	Planning application for a two-storey house approved by Council.

## **CONSULTATION**

### **Principal Building Surveyor's Comment**

Preliminary assessment has not identified any building matters that may impact upon the outcome of the planning approval.

### **Town Planning Advisory Panel**

#### Town Planning Advisory Panel Comments

The Panel viewed the proposal on 27 October 2009.

The Panel expressed some concerns about the initial proposal, in particular the building design which was considered inappropriate to the site given its highly visible aspect.

The Panel viewed an amended proposal on 24 November 2009. The applicant had provided details of materials and finishes and also included a photograph of an unrelated development which give an indication of the quality of materials and finishes intended for the subject development (see Attachments 5 and 6). On the basis of this information the Panel supported the proposal, provided the building was finished to the same level of quality shown in the photograph. Accordingly it is recommended that materials and finishes be the subject of a condition of any approval. The Panel also suggested some further changes: provision of a solid masonry balustrading to the front balcony and heavier guttering. These changes have been reflected on the plans currently under consideration.

### **Public Submissions**

None

### **Site Inspection**

By Acting Town Planner on 11 November 2009

## **REPORT**

### **Considerations**

The proposal meets the provisions of TPS3, the R-Codes and applicable Local Planning Policies with the exception of the following:

#### Front setback

The front setback of the house (ignoring the front balcony) is generally between the front setback of the adjoining houses. However, the balcony itself has a front setback less than that of the adjoining houses (ie the front edge of the balcony is located forward of both adjoining houses).

The Residential Development Policy states that buildings are to be set back at a distance generally consistent with the building setbacks on adjoining land and in the locality.

It is considered that the proposed front-setback arrangement can be supported for the following reasons:

- The balcony is proposed to set back a significant distance from the street (between 9.8m and 11.3m) and on this basis does not result in the proposed house having undue bulk and scale when viewed from the public realm.
- The proposed balcony setback is consistent with the front setback of other nearby properties (namely numbers 108, 110, 118, 120 and 122 Preston Point Road). An aerial survey of the locality is provided.

It is noted that the balcony also results in a variation to the R-Codes provisions relating to minor incursions into the street setback area. It is considered that this variation can be supported for the same reasons set out above.

#### Wall Height

The upper floor portions of the proposed house have a wall height of 5.3-6.4m above natural ground level. The varying heights arise from a change in natural ground level



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across the site.

For sites where views are a consideration (this includes the subject lot), the Residential Development Policy limits wall height to 5.6m.

It is considered that a variation to the wall-height provisions can be supported for the following reasons:

- The proposal meets the overshadowing provisions of the R-Codes.
- The ground floor level of the house is, on average, generally at natural ground level.
- Views from the property to the rear are most impacted on by the proposed development. Rear walls which face this property are proposed to have a height of approximately 5.3-5.4m above natural ground level, which accords with the policy provisions.
- The development allows for views across the subject site via the eastern side of the lot.

Overall Height

The house is proposed to have a ridge-height between 7.7m and 8.4m.

The Residential Development Policy limits overall height to 8.1m in this instance (noting again the provisions for views).

It is considered that a variation to the wall-height provisions can be supported for the following reasons:

- The height variation is relatively minor at 0.3m.
- The portion of building over the 8.1m height limit is a section of the ridge line which, in of itself, has little impact on the views from and amenity of adjoining properties.

Location of Garage

The proposed double garage extends 1.6m forward of the frontage of the house.

The Residential Development Policy (LPP142) states that garages are not to extend forward of the primary building line.

It is considered that this aspect of the development can be supported for the following reasons:

- The proposed front balcony and alfresco area extend between 1.5m and 3.0m forward of the garage and help ensure that the garage is not the dominant built element when viewed from the street
- The garage is proposed to set back a significant distance from the street (12.8m) and on this basis does not result in it having undue bulk and scale when viewed from the public realm.
- The side setback of the garage is proposed to be 3.0m. This is 2.0m more than the minimum setback specified by the R-Codes and assists in reducing the proposed garage's apparent bulk and scale.

Setbacks

The western façade of the upper floor is proposed to be set back between 1.5-3.2m from the western side boundary.

The R-Codes state that this wall is to be set back 5.2m.

It is considered that a variation can be supported for the following reasons:

- It is noted that if privacy screening were provided to the north-facing balcony opening the required setback for this wall would be reduced to 2.3m. Whilst such screening would technically make the setback calculations more compliant, it is considered that it would impact negatively on the design of the building by partially enclosing the front-facing balcony which does not overlook the adjoining property (specifically the portion of that property behind its street setback line).

- Having regard to the above, the setback variation is considered to meet the Performance Criteria of the R-Codes as: the setback allows for direct sun and ventilation to the subject building and to the adjoining house to the west, it does not result in any loss of visual privacy to the property to the west, and does not result in any overshadowing of the adjoining property to the west as measured by the R-Codes.

#### Roof Pitch

The proposal features a roof pitch of 25°.

The Roofing Policy (LPP066) states that dominant elements of the roof are to be pitched at 28° or more.

It is considered that this minor variation can be supported as the proposed roof pitch is considered to be compatible with the scale and form of the proposed dwelling.

#### Materials and Finishes

It is considered that the success of this development is dependant on it being provided with high quality materials and finishes, given that the building is considered to be fairly basic in design and at the same time located in section of Preston Point Road that is relatively visible to the public realm (the site is located opposite the Wauhup reserve).

A schedule of the materials and finishes is provided. The applicant has also provided a photograph of an unrelated development which indicates the materials and finishes proposed for the subject development. This photograph shows: light-coloured painted render to the walls, stainless steel balcony columns and balustrading, a timber-lined ceiling to the balcony and a timber garage door.

On the basis of the information provided, it is considered that the proposed materials and finishes will assist providing a high-quality aspect to the development and they are therefore supported.

It is recommended that any development approval include a condition requiring details of materials and finishes being provided to and endorsed by the CEO prior to issuance of a building licence to ensure the proposed materials and finishes are reflected on the approved building licence plans.

#### Crossover

The crossover to the verge is not included as part of this approval as it lies outside the subject land. Nonetheless, it should be taken into account when considering the driveway arrangement.

The site plan shows that a 5.0m-wide crossover is intended. The Crossover Policy limits the width of crossovers to 3.0m.

In this case it is considered that a 5.0m-wide crossover may not be supportable (the main reason being that the driveway offers sufficient manoeuvring distance for vehicles to navigate a single-vehicle-width crossover). On this basis it is suggested that:

- a condition accompany any development approval requiring the proposed driveway be modified so that it will interface with a single-vehicle-width crossover; and
- the applicant be advised that any crossover greater than 3.0m in width requires the written endorsement of the CEO.

#### **RECOMMENDATION**

Council exercise its discretion in granting approval for:

- wall heights up to 6.4m above natural ground level in lieu of the 5.6m wall height limit set out in the Residential Development Policy (LPP142);
- overall height up to 8.4m above natural ground level in lieu of the 8.1m overall height wall height limit set out in the Residential Development Policy (LPP142);

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- garage being located 1.6m forward of the frontage of the house instead of at or behind the frontage of the house as set out in the Residential Development Policy (LPP142);
- the upper floor western facade being setback 1.5-3.2m from the western side boundary in lieu of the 5.2m setback set out in the Residential Design Codes of WA;
- roof pitch being between 25° in lieu of the minimum 28° roof pitch as set out in the Roofing Policy (LPP066);

for a two storey single house at Lot 4965 (#114) Preston Point Road, East Fremantle, as shown on plans received 3 and 7 December 2009 and subject to the following conditions:

1. Details of materials and finishes are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
2. The driveway is to be modified so that it will interface with a single-vehicle-width crossover, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
3. Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
4. All storm water resulting from the development is to be retained on site.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The proposed works are not to be commenced 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.
7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. The proposed works 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.
9. 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.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

*That the applicant be advised of the following:*

- (a) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
- (b) *The proposed crossover is not included as part of this approval (it lies outside the subject land). The Town's Crossover Policy (LPP123) limits the width of crossovers to 3.0m. Any crossover greater than this width will require written endorsement from the CEO.*
- (c) *With respect to condition 3), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.*
- (d) *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.*
- (e) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*

- (f) 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).
- (g) Matters relating to dividing fences are subject to the Dividing Fences Act 1961.

#### RECOMMENDATION TO COUNCIL

Cr Nardi – Cr Lilleyman

Council exercise its discretion in granting approval for:

- wall heights up to 6.4m above natural ground level in lieu of the 5.6m wall height limit set out in the Residential Development Policy (LPP142);
- overall height up to 8.4m above natural ground level in lieu of the 8.1m overall height wall height limit set out in the Residential Development Policy (LPP142);
- garage being located 1.6m forward of the frontage of the house instead of at or behind the frontage of the house as set out in the Residential Development Policy (LPP142);
- the upper floor western facade being setback 1.5-3.2m from the western side boundary in lieu of the 5.2m setback set out in the Residential Design Codes of WA;
- roof pitch being between 25° in lieu of the minimum 28° roof pitch as set out in the Roofing Policy (LPP066);

for a two storey single house at Lot 4965 (#114) Preston Point Road, East Fremantle, as shown on plans received 3 and 7 December 2009 and subject to the following conditions:

1. Details of materials and finishes are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
2. The driveway is to be modified so that it will interface with a single-vehicle-width crossover, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
3. Any air-conditioning plant is to be positioned so that it that will not result in an unreasonable loss of amenity to adjoining residents, details of which are to be provided to and endorsed by the CEO prior to issuance of a Building Licence.
4. All storm water resulting from the development is to be retained on site.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The proposed works are not to be commenced 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.
7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
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9. 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.
10. This planning approval to remain valid for a period of 24 months from date of this approval.

*That the applicant be advised of the following:*

- (a) *This approval does not cover the construction of a front fence or portions of side fence located forward of the subject house. Fencing in these locations may require further planning approval and/or a building licence.*
  - (b) *The proposed crossover is not included as part of this approval (it lies outside the subject land). The Town's Crossover Policy (LPP123) limits the width of crossovers to 3.0m. Any crossover greater than this width will require written endorsement from the CEO.*
  - (c) *With respect to condition 3), the installation of air-conditioning plant on the roof, or at a prominent position on the upper storey, is unlikely to be supported.*
  - (d) *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.*
  - (e) *It is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected owner.*
  - (f) *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).*
  - (g) *Matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- CARRIED

*Cr Wilson returned to the meeting at 10.29pm and assumed the chair. It should be noted that she neither spoke nor voted on the foregoing item.*

**T114. 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 **Town Planning & Building Committee (Private Domain)** of the Town of East Fremantle, held on **8 December 2009**, Minute Book reference **T105. to T114.** were confirmed at the meeting of the Committee on*

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*Presiding Member*