



Town Planning & Building Committee

4 June 2013
6.30pm

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 4 JUNE, 2013 COMMENCING AT 6.30PM.

T57. OPENING OF MEETING

T57.1 Present

T58. ACKNOWLEDGEMENT OF COUNTRY

T59. WELCOME TO GALLERY

T60. APOLOGIES

T61. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

T61.1 George Street Access and Parking Management Plan

T62. CONFIRMATION OF MINUTES

T62.1 Town Planning & Building Committee – 7 May 2013

T63. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T63.1 Philip Street No 12A (Lot 1))

T63.2 May Street No 19 (Lot 102)

T63.3 May Street No 19 (Lot 102)

T64. REPORTS OF COMMITTEES

T64.1 Town Planning Advisory Panel – 14 May 2013

T65. ORDER OF BUSINESS

T66. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL

T66.1 Receipt of Reports

*T66.2 Canning Highway No. 235 (Lot 1851)
Applicant: Paintessa Development Pty Ltd
Owner: Paintessa Development Pty Ltd
Application No. P47/13*

*Page 3
Agenda Item 9.2*

*T66.3 Philip Street No. 12A (Lot 1)
Applicant: Rachel Feldhusen
Owner: Anna Howard & Paul Criddle
Application No. P23/13*

*Page 6
Agenda Item 9.4*

*T66.4 May Street No. 19 (Lot 102)
Applicant: Olk & Associates
Owner: Racing & Wagering WA, B Moffitt
Application No. P36/13*

*Page 18
Agenda Item 9.5*

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 4 JUNE, 2013 COMMENCING AT 6.30PM.

T57. OPENING OF MEETING

The Presiding Member opened the meeting.

T57.1 Present

Cr Alex Wilson	Presiding Member
Cr Barry de Jong	
Cr Cliff Collinson	
Cr Siân Martin	
Cr Dean Nardi	
Mr Jamie Douglas	Manager – Planning Services
Mr Andrew Malone	Senior Town Planner
Ms Janine May	Minute Secretary

T58. ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member made the following acknowledgement:

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

T59. WELCOME TO GALLERY

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

T60. APOLOGIES

Mayor Alan Ferris
Cr Maria Rico

T61. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

T61.1 *George Street Access and Parking Management Plan*

Mr Richard Farmer of GHD provided an overview of the draft George Street Access and Parking Management Plan which had previously been circulated to all members.

Mr Farmer answered queries raised by elected members regarding traffic treatments, investigation of land acquisition for parking, resident parking permits and cycle parking facilities.

Cr Collinson voiced his strong preference for the removal of traffic treatments in Sewell and Hubble Streets to spread the traffic flow more evenly between those streets and King and Glyde Streets.

The Manager Planning Services advised that following tonight's discussion, he would prepare a report and recommendation regarding the Draft Report for the next Committee meeting.

Cr Martin requested that the report include method of communication of any outcomes to the community.

The Presiding Member thanked Mr Farmer for his attendance, following which he left the meeting.

T62. CONFIRMATION OF MINUTES**T62.1 Town Planning & Building Committee – 7 May 2013****Cr de Jong – Cr Nardi****That the Town Planning & Building Committee minutes dated 7 May 2013 as adopted at the Council meeting held on 21 May 2013 be confirmed. CARRIED****T63. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)****T63.1 Philip Street No 12A (Lot 1))**

Submission from neighbours at 11 Philip Street requiring the proposal at 12A Philip Street to comply, without exception, to the East Fremantle Town Planning Scheme planning regulations.

Cr Nardi – Cr de Jong**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T66.3). CARRIED****T63.2 May Street No 19 (Lot 102)**

Submission from owner at 34 May Street opposing the proposed development at 19 May Street on the grounds she considers the development to be out of character with the heritage of the neighbourhood and objecting to the fact she did not receive notification from Council but learnt of the development through a notice in the local paper.

Cr Nardi – Cr de Jong**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T66.4). CARRIED****T63.3 May Street No 19 (Lot 102)**

Submission from owner of 30 May Street expressing concern that she was not consulted in relation to the development at 19 May Street and wishing clarification on the following issues:

- Has proposal been independently assessed in relation to complementing and blending with existing heritage architecture of street and retaining and enhancing the town's unique character.
- Large scale development across the road has the potential to cause damage through earth disturbance to her residence. Seeking information on liability in case of damage.
- Impact of parking and street amenity during construction phase. What amenity protection will be provided during construction period and beyond?

Cr Nardi – Cr de Jong**That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T66.4). CARRIED****T64. REPORTS OF COMMITTEES****T64.1 Town Planning Advisory Panel – 14 May 2013****Cr Wilson – Cr de Jong****That the minutes of the Town Planning Advisory Panel meeting held on 14 May 2013 be received and each item considered when the relevant development application is being discussed. CARRIED**

T65. ORDER OF BUSINESS

Cr Martin – Cr Collinson

The order of business be altered to allow members of the public to speak to relevant statutory planning items. CARRIED

T66. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL**T66.1 Receipt of Reports**

Cr Nardi – Cr de Jong

That the Reports of Officers be received. CARRIED

T66.2 Canning Highway No. 235 (Lot 1851)**Applicant: Paintessa Development Pty Ltd****Owner: Paintessa Development Pty Ltd****Application No. P47/13**

By Jamie Douglas, Manager of Planning Services, 16 May 2013

PURPOSE OF THIS REPORT

This report recommends conditional approval of an application for the demolition of outbuilding, fences and walls at 235 Canning Highway which contains a shop and residence which is classified as B management category on the Municipal Inventory.

BACKGROUND

At its 16 April 2013 meeting Council refused an application for demolition of the shop and residence and development of three dwellings on the subject site. This determination has subsequently been appealed by the applicant. Notwithstanding the outcome of the appeal, the applicant has submitted a separate application for the demolition of only the outbuilding, shed, rear fences and retaining walls.

Statutory Considerations

Town Planning Scheme No. 3 (TPS3).

The existing buildings are listed on the Town's Municipal Heritage Inventory (MHI) – Management Category – B

Considerable heritage significance at a local level; places generally considered worthy of high level of protection, to be retained and appropriately conserved; provide strong encouragement to owners under the Town of East Fremantle Planning Scheme to conserve the significance of the place. A Heritage Assessment / Impact Statement to be required as corollary to any development application. Incentives to promote heritage conservation may be considered where desirable conservation outcomes may be otherwise difficult to achieve.

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : N/a

Light pole : N/a

Crossover : N/a

Streetscape : The removal of the outbuilding and fencing will impact the Irwin Street Streetscape.

Parking : N/a

Documentation

Plans, and relevant forms date stamp received on 18 April 2013.

Date Application Received

18 April 2013

CONSULTATION

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 14 May 2013.

The Panel made the following comments in regard to the application for the demolition of Outbuilding, Shed & Rear Fences.

- *Panel accepts the need for the demolition of the dilapidated outbuildings.*

Advertising

The application was not advertised due to its minor nature.

HERITAGE ASSESSMENTS

The previous application for demolition and redevelopment of the entire site was the subject of two independent Heritage Assessments – Phillip Griffiths Architects who was commissioned by Council and Stephen Carrick Architects commissioned by the applicant. The following extracts from these assessments are relevant to this consideration;

Council Heritage Consultant

Griffiths Architects report states:

Focusing on heritage values alone, we have formed the view that the place has some significance and should probably be re-allocated a Category C management level, rather than B where it currently resides. Category C states:

Some heritage significance at a local level; places to be ideally retained and conserved; endeavour to conserve the significance of the place through the standard provisions of the Town of East Fremantle Planning Scheme and associated design guidelines; a Heritage Assessment / Impact Statement may be required as corollary to a development application, particularly in considering demolition of the place. Full documented record of places to be demolished shall be required. Further development needs to be within recognised design guidelines. Incentives should be considered where the condition or relative significance of the individual place is marginal but where a collective significance is served through retention and conservation.

In practical terms, an effort should be made to allow a subdivision to occur and include the retention of the place. Presumably from an owner's point of view retaining a heritage place might form part of an argument against resumption for road widening.

Applicant's Heritage Consultant

Stephen Carrick Architects report states:

The backyard has a dilapidated corrugated iron and weatherboard clad outbuilding, a former garage, storage, laundry and external brick WC. The outbuildings are in very poor condition. There is a corrugated iron temporary fence (in disrepair) to Irwin Street...

235 Canning Highway, East Fremantle is a compromised building that is now located within a vastly altered streetscape. It is considered the heritage values of the place are lower than those recorded on the Place Record Form that forms part of the Town's Heritage Inventory...

CONSIDERATION

The two assessments confirm that the site retains heritage significance although there is agreement that in its present condition it may be more appropriately considered under a C management category rather than the current B management category in the Municipal Inventory.

Based on these assessments, it is considered that the dilapidated outbuildings, fencing and low brick wall to the west of the primary building could be removed without impacting upon the heritage significance of the site or the streetscape. However the stone retaining walls to the rear of the site appear to date from the original development and could be utilised in a contributory manner to the principal building in any future redevelopment of the site. The applicant has not submitted a landscape plan in support of the demolition application and it is therefore considered these elements should be retained pending the resolution of the site's future development. It is also considered the site's perimeter should be re-fenced once the existing fencing is demolished in order to protect the site from the impact of the surrounding grouped housing development which is under construction and to secure the site for purposes of public safety.

CONCLUSION

The application should be supported to allow the demolition of the outbuildings, fencing and low brick wall to the west of the primary building however it is considered that any approval should be conditioned to require the retention of the stone retaining walls to the rear of the site and the re-fencing of the lot perimeter.

RECOMMENDATION

It is recommended that the application for Planning Approval for the demolition of an outbuilding, fences and walls at 235 Canning Highway in accordance with date stamped plans received 17 April 2013 be approved subject to the following conditions:

1. The two 'brick and stone retaining walls' to the rear of the property are not to be demolished.
2. The Lot boundaries shall be re-fenced within 30 days of the demolition of the existing fences. New fencing shall be in accordance with the provisions of the Dividing Fences Act and the Local Planning Policy - Residential Design Guidelines.
3. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Demolition Permit is issued in compliance with the conditions of this Planning Approval unless otherwise amended by Council.
4. This Planning Approval to remain valid for a period of 24 months from the date of this approval.

Footnote:

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

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

Mr Paino (applicant) addressed the meeting in support of his proposal and sought the deletion of condition 1 of the officer's report and the amendment of condition 2 to require fencing immediately behind the shop.

RECOMMENDATION TO COUNCIL**Cr Martin – Cr Nardi**

That Council defer consideration of the item pending receipt of a landscape plan including fill and fencing requirements. CARRIED 4:1

- T66.3** **Philip Street No. 12A (Lot 1)**
Applicant: Rachel Feldhusen
Owner: Anna Howard & Paul Criddle
Application No. P23/13
 By Andrew Malone, Senior Town Planner on 11 April 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval for a two storey single dwelling at 12A (Lot 1) Philip Street, East Fremantle. The application is recommended for conditional approval.

BACKGROUND

Description of Site

The subject site is:

- a 557m² freehold lot
- zoned Residential 12.5
- vacant block
- located in the Richmond Hill Precinct

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Residential R12.5
 Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : Conditioned to be retained.
 Light pole : No impact
 Crossover : New crossover
 Footpath : No impact
 Streetscape : Proposed new dwelling.

Documentation

Plans and relevant forms date stamp received on 20 February 2013
 Plans date stamp received on 17 March 2013.
 Justification submission received on 17 April 2013.

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

04 October 2006 – Demolition Licence issued for demolition of dwelling.
 11 January 2007 – Subdivision approval by the Western Australian Planning Commission
 21 September 2010 – Council approve three storey dwelling.

Date Application Received

20 February 2013

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between 25 February and 5 March 2013. At the close of advertising one (1) submission had been received and is attached to this report. The issues raised in the submission is summarised in the following table alongside the applicant's response and officer's comment.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
JM & LL Chilli 10 Philip Street The height of the building exceeds the maximum allowable limit. I have	The proposed residence is a modest, two storey design that will	The proposed dwelling has been designed to be significantly closer to

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>an objection to the increase in height and strongly request that the Council does not allow a concession for this increase in height. The issue here is the projection to the roof line which exceeds the allowable height will adversely affect our views to the North East.</p>	<p>have little impact on the adjoining neighbours, in particular on No. 10. During the planning process for 12B, it was agreed to create parapet walls along the 12A/ 12B boundary to enable the proposed residence 12A, to move away from No. 10.</p> <p>Our understanding is also that the northern views (directly out) are the main ones to be considered in this regard and as such any concerns around this NE view is considered less of an encumbrance than say an obstruction of the northern view.</p> <p>We worked closely during the approval of 12B to design a house that was to be moved significantly closer to 12B and away from Mr & Mrs Chilli at No. 10 Philip Street. It was agreed between all parties that it would be a favourable result to push the two narrow houses together to enable relief to the neighbours on the other side I discussed this with Mr Chilli at the time and he seemed to be agreeable at the decision to move the house as far away from his property as was feasibly possible.</p>	<p>12B than that required under the Acceptable Development Criteria of the R-Codes. The proposed design and roof garden are considered to minimise any potential height impacts.</p> <p>The adjoining dwelling is constructed with a pitched roof and represent as a greater height than the proposed dwelling.</p> <p>The proposed roof design, height and pitch are considered appropriate and are not considered to significantly impact on the views enjoyed by the adjoining property at 10 Philip Street.</p> <p>The northern views (directly out) are the significant views from the dwelling. The impact to the views to the north east is considered of less significance and therefore the proposed impact to the views of the adjoining dwelling are considered acceptable and can be supported by Council.</p>

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel on 12 March 2013. The Panel supported the application.

Site Inspection

By Senior Town Planner on 3 May 2013.

ASSESSMENT

The proposed development incorporates a number of variations to the Town's Local Planning Policies and the Residential Design Codes, as detailed below.

Town Planning Scheme No. 3 Assessment

The proposal has been assessed against the provisions of Town Planning Scheme No. 3, the Residential Design Codes of Western Australia and the Town's Local Planning Policies. A summary of the assessment is provided in the following tables.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	55%	65%	A
6.4.2 Outdoor Living	30sqm	78sqm	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	N/A	A

Design Element	Required	Proposed	Status
6.9.2 Drainage	On-Site	On-Site	A

6.3 Boundary Setbacks							
Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Proposed Setback	Status
Front (south)							
Ground	Dwelling	3.0m	5.0m	Y	7.0m	5.7m	D
Ground	Carport	2.2m	3.9m	N	7.0m	7.6m	A
Upper	Guest/ Study	5.6m	6.0m	Y	7.0m	13.5m	A
Rear (north)							
Ground	Terrace	4.6	5.7	Y	2.3	9.5m	A
Ground	Pool	3.5	1.6m	N	1.1	2.5m	A
Upper	Deck	6.7m	6.0m	Y	3.3	10.5m	A
Side (east)							
Ground	Bed/ Kitchen	3.9m	21.5m	Y	4.5	1.2m	D
Ground	Lounge	4.5m	6.8m	N	1.1	Nil	A
Upper	Guest/ Pass	7.5m	17.8m	N	2.4	1.5m	D
Upper	Lounge	7.4m	6.8m	N	1.3	Nil	A
Side (west)							
Ground	Carport	3.0m	7.7m	N	1.0m	Nil	D
Ground	Dwelling	4.7	29.5m	N	2.3m	2.5m	A
Upper	Dwelling	7.6	31.0m	N	3.8m	2.5	D

6.8 Visual Privacy				
Wall Orientation	Major Opening Type	Required Setback	Proposed Setback	Status
Front (south)				
	Roof Garden	7.5	1.5	D
Rear (north)				
	Outdoor Terrace	7.5	3.5	D
	Deck	7.5	5.3	D
	Pool	7.5	3.7	D

In all other respects the proposed dwelling is considered to comply with the Acceptable Development Provisions (**ADP**) of the visual privacy requirements of Element 6.8 of the RDC.

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision.	Status
3.7.2 Additions and Alterations to Existing Buildings	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	A
3.7.14 Footpaths and Crossovers	A
3.7.15-20 Precinct Requirements	D

DISCUSSION

The proposed development incorporates a number of variations to the Town's Local Planning Policies and the Residential Design Codes, as detailed below.

Street Tree

There is an existing Peppermint verge tree to the front of the property. The tree is well formed, mature and forms an integral and integrated element to the character of the streetscape. The tree will limit the view of the dwelling from the street. It is considered the tree should be protected and retained. Appropriate conditions have been included in the Officer's Recommendation.

Residential Design Codes**6.2.1 Setbacks of the Building Generally**

A1.1 states buildings setback from street boundaries to be in accordance with Table 1 of the R-Codes. The subject site has a density of R12.5. Table 1 requires dwellings in areas zoned R12.5 to be setback a minimum of 7.0 metres from the primary street. The proposed minimum setback is 5.7 metres to the dwelling and 7.6 metres to the carport. The dwelling setback to the front boundary does not comply with the Acceptable Development Provisions (**ADP**) of the R-Codes.

The Performance Criteria (**PC**) for front setback requirements dwellings to:

- *Contribute to the desired streetscape.*
- *Provide appropriate privacy and open space for dwellings; and*
- *Allow safety clearances for easements for essential service corridors.*

The proposed dwelling is considered to contribute to the desired streetscape and the prevailing setback of the area. The setback variation is considered minor. The gradient of the land means the dwelling has been excavated approximately 1.2 metres into the subject lot. The dwelling represents as single storey from the streetscape. A roof garden is located to the front of the first floor (setback 14.5 metres to front boundary), thereby ameliorating any potential setback variations to the front setback.

The proposal has been carefully designed by the architect to address Philip Street in a sympathetic manner. The proposal design is considered to satisfactorily address the streetscape though the increased setback to the first floor, roof garden and overall design of the dwelling. The design outcome addresses the provisions of the RDG and it is considered an appropriate design.

The proposed dwelling is of a scale and bulk that is consistent with the streetscape and the recently approved dwelling on the adjoining lot at 12B Philip Street. The proposed design is 'slim' in nature and it is considered the bulk of the dwelling is not excessive. The articulated design and staggered incursion into the front setback area helps to ameliorate the impact of the dwelling upon the front elevation and streetscape.

It is considered both the open space provisions comply with the ADP of the R-Codes. The privacy issues with regard to the proposed dwelling will be addressed in greater detail later in the report. It is considered the privacy issues are acceptable, as assessed under the PC provisions of the R-Codes. Safety clearances for easements for essential service corridors are provided.

The proposed dwelling does not significantly impact on the streetscape or adjoining neighbours and therefore is considered it can be supported by Council.

Boundary Setback

- **6.3.1 Buildings setback from the Boundary (R-Codes)**
- **3.7.7 Building Setbacks and Orientation (RDG)**

For the purposes of this assessment the proposed Nil ground floor setbacks to the eastern boundary will be assessed as per A2 (i) of Element 6.3.2 Building on the boundary of the R-Codes, which states:

- *Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension.*

The parapet wall of the adjoining neighbour at 12B Philip Street was approved by Council. The applicant proposes a parapet wall simultaneously constructed abutting the approved wall, therefore the proposed Nil setback to the eastern boundary are considered to comply with A2 (i) of Element 6.3.2 Building on the boundary of the R-Codes.

Subsequently, the proposed development incorporates four (4) side setback variations to setback requirements. The LPP RDG Element 3.7.7 provides criteria by which to assess proposed variations to setback requirements. These are as summarised below.

P1.1 *The primary street setback of new developments or additions to non-contributory buildings is to match the traditional setback of the immediate locality.*

As previously stated the dwelling has a front setback variation of 1.3 metres to the front setback. It is considered the primary street setbacks have been designed to significantly match the traditional setback of the immediate locality. It is considered the proposed roof garden and dwelling make a positive contribution to the street. The design represents as single storey to the primary street due to the excavation of the lot and is sympathetic with adjoining dwellings. It is considered the proposed primary street setback can be supported by Council.

P1.2 *Additions to existing contributory buildings shall be setback so as to not adversely affect its visual presence.*

Not applicable. No additions are proposed. This is a new dwelling on a currently vacant lot. The proposed dwelling is considered to have no adverse impacts to the visual presence of the streetscape or of adjoining dwellings.

P1.3 *Developments are to have side setbacks complementary with the predominant streetscape.*

The proposed setbacks do not significantly impact on the streetscape. The width (10 metres), length and gradient change of the lot are considered constraints to the design of the dwelling. The side variations are considered minor, with no significant impact to surrounding neighbours. The dwelling has been design to be consistent with the previously approved development at 12B Philip Street and has been proposed to be situated on the lot closer to the boundary with 12B Philip Street, thereby minimising street impacts and the impact to the adjoining lot to the west. The proposed setbacks are considered appropriate considering the sympathetic and articulated design and the scale and bulk of the dwelling. The proposed setbacks are not considered to significantly impact adjoining neighbours.

Notwithstanding the above RDG requirements, it is further considered that the proposed building does not meet the ADP of element 6.3.1 Side and rear boundary setbacks and must therefore be assessed against the PC for this element with regard specifically to the following provisions:

- *Ensure adequate direct sun and ventilation to the building;*
- *Ensure adequate direct sun and ventilation being available to adjoining properties;*
- *Provide adequate direct sun to the building and appurtenant open spaces;*
- *Assist with protection of access to direct sun for adjoining properties;*

- *Assist in ameliorating the impacts of building bulk on adjoining properties;*
- *Assist with the protection of privacy between adjoining properties.*

The proposed development is considered to address the requirements of the PC as follows:

- *The proposed development has access to direct sun and ventilation from habitable areas and outdoor spaces. The design will maximise solar efficiency and energy efficiency, through the use of roof design and dwelling orientation.*
- *The adjoining properties have access to direct sun and ventilation. There is no impact with regard to overshadowing of adjoining lots.*
- *The subject lot is orientated north/ south. The dwelling is orientated to have the main living areas and alfresco area facing north, therefore there is adequate direct sun to the building and appurtenant open spaces and terraces. The proposed roof form to the rear of the dwelling maximises solar efficiency.*
- *It is considered there is adequate direct sun to the adjoining properties and open spaces.*
- *The scale and bulk of the dwelling is not considered to impact on the character of the area or on the streetscape. The dwelling represents as single storey to the street. The dwelling is not considered to impact on the locality. The proposed dwelling does not increase the impact on the bulk and built form as presented to the street.*
- *There are visual privacy issues. It is considered the proposed dwelling complies with the PC of the R-Codes. This will be discussed in greater detail later in the report.*

The proposed dwelling does not significantly impact the streetscape or adjoining neighbours and therefore is considered it can be supported by Council.

6.3.2 Building on the Boundary

The applicant is seeking Council discretion with regard to the ADP for the west elevation setback requirements of the R-Codes and the Town's RDG. As noted previously, the proposed eastern parapet wall complies with the ADP of A2 (i) of Element 6.3.2 Building on the boundary of the R-Codes.

The carport (for the purposes of this report, the carport has been assessed as a garage) parapet wall to the western boundary does not comply with the ADP of Element 6.3.2 Buildings on the boundary, therefore there is a requirement for the carport to be assessed as per the Performance Criteria of the R-Codes. P2 states:

Buildings built up to the boundaries other than the street boundary where it is desirable to do so in order to:

- *Make effective use of space; or*
- *Enhance privacy; or*
- *Otherwise enhance the amenity of the development;*
- *Not have any significant adverse effect on the amenity of the adjoining property; and ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The above points are addressed as follows:

- *The parapet wall is considered to make effective use of the 10 metre wide frontage of the lot. This lot is narrow. Only a single carport is proposed. The carport is excavated into the subject lot. The carport is located on the western boundary. There is no significant impact to adjoining neighbours. The proposed parapet wall enables a carport and suitably sized bedroom to be located to the front of the lot. The proposed carport primary street setback is setback a greater distance than the ADP of the R-Codes and therefore minimises the impact of the boundary wall.*

- *There are no privacy issues relating to the proposed parapet wall. Other privacy issues relating to the rear of the proposed development will be discussed further, later in the report.*
- *The proposed parapet wall facilitates the location of a carport to the front of the dwelling. The provision of a carport will improve the amenity of the dwelling by providing a covered car bay to the front of the property. The use of the parapet wall also maximises the development potential of the ground floor.*
- *The proposed parapet wall to the carport is considered minimal in height, as it is excavated into the lot and does not have an adverse effect on the adjoining neighbour. Direct sun is received to major openings to habitable rooms and outdoor living areas by the adjoining property. The adjoining neighbour has not raised any specific concerns with regard to the carport parapet wall.*

The proposed dwelling does not impact the streetscape or adjoining neighbours and therefore is considered can be supported by Council.

6.8.1 Visual Privacy

The ADP provisions for visual privacy require major openings which have their floor level more than 0.5 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its setback line, to comply with the following:

- *4.5 metres in the case of bedrooms;*
- *6.0 metres in the case of habitable rooms, other than bedrooms; and*
- *7.5 metres in the case of active habitable spaces.*

The proposed development does not comply with the ADP of the RDC.

The PC of 6.8.1 allows for:

“Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location, and the design of major openings and outdoor active habitable spaces, screening devices, and landscape, or remoteness.”

There are three areas that require variations to the ADP:

- *Outdoor Terrace;*
- *Deck; and*
- *Swimming Pool*

There is no direct overlooking of active habitable spaces and outdoor living areas of other adjoining dwellings. The proposed outdoor terrace and deck do have sight lines into adjoining properties to the east and west, however the view to the east is over the rear of the garden and similarly to the west over a landscaped rear garden. The primary outdoor areas and views of the subject lot and lots to the east and west are not impacted. These outdoor areas and views are considered the primary amenity feature of Philip Street. The swimming pool does have views into the adjoining rear property. These views are considered minimal and only from the pool deck. A condition has been included in the Officer's Recommendation to suitably screen the pool deck area.

The building layout, location, and the design of the outdoor terrace and deck have been designed to maximise river views. Side screening has been included to minimise overlooking. The applicant's statement:

The house has the same upper level deck setback and upper floor level as recently approved neighbour at 12B. The overlooking onto adjoining blocks is minor and overlooks into their side setback onto two vacant lots which if built on will block the views of the current neighbours. The house is designed to engage with gardens both front and rear. I have carefully designed this house to engage in a see through fashion with the front gardens and the rear view blocking out side views.

The applicant has designed the dwelling to minimise direct overlooking. It is considered the proposed minimal extent of overlooking and the dwelling design ameliorates overlooking issues and maintains significant river views, therefore it is considered the dwelling can be supported by Council.

Residential Design Guidelines

The proposed dwelling has also been assessed in accordance with the Town's Residential Design Guidelines. The following areas are considered the areas of non compliance with the Acceptable Development Provisions and have been assessed as per the Performance Criteria of the Guidelines:

Element 3.7.6 of the Residential Design Guidelines – Construction of New Building Acceptable Development Provisions states:

A1 Developments to comply with all design elements of this Local Planning Policy and are compatible with the context in terms of bulk, scale, materials and design.

The Performance Criteria states:

P1 New buildings are to be designed and constructed in a style compatible with, but which does not overtly mimic, the traditional building styles found in the Town.

The proposed dwelling has been designed to be compatible in style, scale and bulk with those in the adjoining locality, presenting as single storey to the streetscape, thereby minimising streetscape impact and protecting the views and vistas of adjoining neighbours. The proposed dwelling is considered to complement the adjoining dwellings and streetscape, respecting the new dwelling style and built form of the locality. The proposed dwelling, while modern in design, minimises the impact of the dwelling through sensitive use of roof gardens and a skillion formed roof. The design is considered compatible with modern styles found in the Town.

It is considered the dwelling can be supported by Council.

Element 3.7.8 of the Residential Design Guidelines – Roof Form

The Acceptable Development Provisions of the RDG for the Richmond Hill Precinct states:

A4.2 A contemporary roof form or roof pitch that is less than 28° or greater than 36° shall be approved where the applicant demonstrates compatibility with the immediate locality.

The proposed roof has a 3° and 8° roof pitch. This does not adhere to the ADP of the RDG. The PC requirements for the roof pitch allows for:

P4 Roof forms of new buildings complement the traditional form of surrounding development in the immediate locality.

The proposed roof has an approximate roof pitch of between 3° and 8°. The proposed dwelling has a skillion roof. The design of the roof minimises the impact to the streetscape and adjoining dwellings. The roof form is consistent with the previous approval for the adjoining lot (12B Philip Street). The proposed roof has a maximum height of 8.5 metres from the natural ground level. The proposed roof design/ eaves windows maximises internal light into the dwelling while minimising the building scale and bulk as presented to the street and adjoining properties. Philip Street is primarily a newer street character with only four (4) properties listed on the MHI. In the context of the existing streetscape and traditional built form of the area, it is considered the proposed roof form will not significantly impact on the streetscape or existing views in the area. The proposed plans provide an illustration of the scale, bulk and height of the built form as compared to adjoining dwellings. The proposed roof form is considered important to reducing the overall scale of the dwelling.

It is considered the roof form and pitch of the proposed dwelling, in the context of the overall design achieved can be supported by Council.

Element 3.7.17.4 of the Residential Design Guidelines – Building Design Requirement

The Acceptable Development Provisions of the RDG for the building height states:

A1.4 *In localities where views are an important part of the amenity of the area and neighbours existing views are to be affected, or the subject site is a 'battle axe' lot, then the maximum building heights are as follows:*

- 8.1m to the top of a pitched roof
- 6.5m to the top of an external wall (concealed roof)
- 5.6m to the top of an external wall; and where the following apply:
 - i. *The proposal demonstrates design, bulk and scale that responds to the established character or other site specific circumstances;*
 - ii. *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; and,*
 - iii. *Subject to the provisions of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

The proposed dwelling is two storey and has a maximum height of 8.5 to the top of the roof and 7.4 metres to the underside wall of the skillion roof. The roof form is distinct and is considered an integral part of the overall built form of the dwelling. The proposed development does not comply with the provisions of A1.4 building height of the R-Codes.

The proposed dwelling is required to be assessed as per the PC requirements of the RDG for the building height, which allows for:

P1 *New developments, additions and alterations to be of a compatible form, bulk and scale to traditional development in the immediate locality.*

The streetscape perspective clearly illustrates that the proposed dwelling is consistent with the prevailing built form, bulk and scale of the locality and of the traditional development in the area. The proposed dwelling is considered to have minimal impact to the streetscape when assessed as per the adjoining properties on the street. The roof form and dwelling design is sympathetic to the character of the area and has been designed to minimise potential impacts. The proposed roof garden will 'soften' the front of the dwelling. The built form in Philip Street is predominantly two storey. The proposed dwelling is stepped to suit the gradient of the subject site, minimising the scale and bulk of the dwelling. The dwelling is considered to be appropriately setback from the front, side and rear boundaries, considering the constraints of the lot width and lot gradients. The proposed roof form hides the rear of the dwelling and as such reduces the scale and bulk of the dwelling.

The dwelling will not significantly impact on the adjoining neighbours views. The proposed development complies with the PC of the R-Codes for Element 9 – Design for Climate and Element 8 – Privacy.

It is considered the proposed building height complies with the Performance Criteria of the R-Codes. Accordingly, the design of the dwelling and proposed height can be supported by Council.

CONCLUSION

It is considered the proposed dwelling is designed to be of a bulk and scale that is sympathetic to existing dwellings in the street. The design of the dwelling is considered innovative, modern and the design adds to the overall character of the area. The dwelling is to be excavated into the front of the lot, has a roof garden and has the first floor of the dwelling setback 13.5 metres from the front boundary. The dwelling is stepped to minimise impacts and the proposed roof form 'hides' the rear aspect of the dwelling.

As discussed, the above variations are offset by the design of the dwelling including building height, setbacks, privacy and roof form, thereby mitigating any potential impact to adjoining neighbours and the streetscape. The proposed development is considered to comply with the Performance Criteria of the R-Codes and RDG. Based on this it is considered the proposal merits approval subject to appropriate conditions.

RECOMMENDATION

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

- (a) variation to the primary street setback requirements (southern elevation) – required setback 7.0 metres (R-Codes). Proposed setback is 5.7 metres;
- (b) variation to the setback requirements of the side setback (eastern elevation) – required setback 4.5 metres (bed/ kitchen). Proposed setback is 1.2 metres;
- (c) variation to the setback requirements of the side setback (eastern elevation) – required setback 2.4 metres (guest/ pass). Proposed setback is 1.5 metres;
- (d) variation to the setback requirements of the side setback (Western elevation) – required setback 1.0 metres (carport). Proposed setback is Nil;
- (e) variation to the setback requirements of the side setback (western elevation) – required setback 3.8 metres (Dwelling). Proposed setback is 2.5 metres;
- (f) 6.8. Visual Privacy of the Residential Design Codes;
- (g) element 3.7.7 of the Residential Design Guidelines: Building Setbacks ;
- (h) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- (i) element 3.7.17 of the Residential Design Guidelines: Roof pitch;

for two storey dwelling at 12A (Lot 1) Philip Street, East Fremantle, in accordance with the plans date stamp received on 17 March 2013 subject to the following conditions:

1. Northern pool deck to be full screened (1.6 metre screen) to the northern elevation to comply with the Acceptable Development Provisions of element 6.8 Visual Privacy of the Residential Design Codes
2. Existing verge tree and canopy to be retained and protected. It is the owners' responsibility to ensure that at all stages during the construction of the dwelling the tree is protected from damage. If damage occurs Council is to be notified immediately.
3. Crossover width to be a maximum width of 3.0 metres.
4. All parapet walls 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.
5. Where this development requires that any facility or service within a street verge trees to be removed, modified or relocated then such works must be approved by Council and to the satisfaction of the Chief Executive Officer.
6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (i) below*)
7. 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.
8. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
9. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
10. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
11. 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.

12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
13. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
14. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

The letter from the owners of 11 Philip Street, referred from Correspondence (MB Ref T63.1) was tabled.

Ms Feldhusen (applicant) indicated that she supported the officer's recommendation.

Cr Nardi – Cr Martin

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

- (a) **variation to the primary street setback requirements (southern elevation) – required setback 7.0 metres (R-Codes). Proposed setback is 5.7 metres;**
- (b) **variation to the setback requirements of the side setback (eastern elevation) – required setback 4.5 metres (bed/ kitchen). Proposed setback is 1.2 metres;**
- (c) **variation to the setback requirements of the side setback (eastern elevation) – required setback 2.4 metres (guest/ pass). Proposed setback is 1.5 metres;**

- (d) variation to the setback requirements of the side setback (Western elevation) –required setback 1.0 metres (carport). Proposed setback is Nil;
- (e) variation to the setback requirements of the side setback (western elevation) – required setback 3.8 metres (Dwelling). Proposed setback is 2.5 metres;
- (f) 6.8.Visual Privacy of the Residential Design Codes;
- (g) element 3.7.7 of the Residential Design Guidelines: Building Setbacks ;
- (h) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- (i) element 3.7.17 of the Residential Design Guidelines: Roof pitch;
- for two storey dwelling at 12A (Lot 1) Philip Street, East Fremantle, in accordance with the plans date stamp received on 17 March 2013 subject to the following conditions:
1. Northern pool deck to be full screened (1.6 metre screen) to the northern elevation to comply with the Acceptable Development Provisions of element 6.8 Visual Privacy of the Residential Design Codes
 2. Existing verge tree and canopy to be retained and protected. It is the owners' responsibility to ensure that at all stages during the construction of the dwelling the tree is protected from damage. If damage occurs Council is to be notified immediately.
 3. Crossover width to be a maximum width of 3.0 metres.
 4. All parapet walls 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.
 5. Where this development requires that any facility or service within a street verge trees to be removed, modified or relocated then such works must be approved by Council and to the satisfaction of the Chief Executive Officer.
 6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (i) below*)
 7. 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.'
 8. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 9. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 10. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 11. 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.
 12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without

limitation any works associated with the proposal) which are required by another statutory or public authority.

13. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
14. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T66.4

May Street No. 19 (Lot 102)

Applicant: Olk & Associates

Owner: Racing & Wagering WA, B Moffitt

Application No. P36/13

By Andrew Malone, Senior Town Planner on 17 May 2013

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for the demolition of an existing single storey building and development of 5 storey multiple dwelling comprising ten apartments at 19 (Lot 102) May Street, East Fremantle. The application is recommended for conditional approval.

BACKGROUND**Description of Site**

The subject site is:

- a 465m² freehold lot
- zoned Town Centre
- improved with single storey commercial building (TAB building)
- located in the Town Centre Precinct

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Mixed Use
Residential Design Codes (RDC)

Relevant Council Policies

Local Planning Policy 145 – Town Centre Redevelopment Guidelines.

Impact on Public Domain

Tree in verge : No impact
Light pole : Existing light to be relocated
Crossover : New crossover
Footpath : No impact
Streetscape : Proposed new building. Visual impact to the streetscape.

Documentation

Plans and relevant forms date stamp received on 22 March 2013

Amended plans date stamp received 26 March 2013.

Amended plans date stamp received 5 April 2013.

Further information stamp received 20 April 2013.

Amended plans date stamp received 22 April 2013.

Response to submissions stamp received 14 May 2013.

Date Application Received

22 March 2013

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours and a sign located on site for a two week period between 13 April and 29 April 2013 as well as newspaper notice on 13 April 2013. At the close of advertising six (6) submissions have been received and are attached to this report. The issues raised in the submissions are summarised in the following table alongside the applicant's response and officer's comments.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>Only 1 x car bay for each 2 bedroom unit. Only 1 visitor car bay is provided.</p> <p><u>Parking Issues</u></p> <p>Parking allowance is inadequate for the number of apartments and would add to an area where parking is already a problem.</p> <p>Developer should allocate their own visitor parking spaces for their own development.</p> <p>The residents' car parking area should be carefully located for safe access.</p>	<p>We have sought a variation to the provision of visitor parking bays providing one bay instead of three bays, on the following basis:</p> <ul style="list-style-type: none"> - The site is located within close proximity to the city centre and is well served by public transport services on Canning Highway. - During the evening and outside business hours, there is ample on-street parking available. - There is provision of visitor bicycle bays onsite above what is required to encourage alternative modes of transport and sustainability. 	<p>The proposed development is located within 250 metres of a high frequency bus route. A condition has been included in the Officer's Recommendation to provide 10 car parking bays for the development and the remaining 3 spaces are to be provided for visitor bays.</p> <p>As conditioned, the proposed development complies with the Acceptable Development Provisions of the Residential Design Code requirements for car parking.</p> <p>The development also has provisions for resident and visitor bicycle parking.</p>

<p>No street activation suggested.</p> <p>The side that faces May Street could be marginally more inviting, but again there is no relation to the pedestrian other than a block-spanning metal grille.</p>	<p>Consideration was given to the narrow frontage ground floor street facade to ensure that it will relate to pedestrian on the street. A variety of high quality materials, visually interesting architectural elements and planting have been used to create a vibrant and attractive street front.</p> <p>The front facade is predominantly glazed to promote visual permeability and lightness. We proposed a lightweight decorative metal screen at ground level incorporating a historically relevant image (Figures 3 & 4). The decorative screen will be articulated with setback and landscaping. This will be a significant art contribution to the street. The main pedestrian access to the building is via an open landscaped path which will provide depth and variety to the facade.</p>	<p>The overall lot is 14.4 metres in width and 465m² in area.</p> <p>It is considered the articulation of the building to May Street and to the adjoining car park to the south, minimises the perceived height and scale of the building.</p> <p>The use of quality materials, the decorative front facade, articulation and the planting have been used to create a vibrant street.</p> <p>The proposed development is consistent with the previously approved Town Centre development and the envisaged built form of the LPP – Town Centre Redevelopment Guidelines.</p>
<p>No mixed use in application.</p>	<p>The proposed development is consistent with the emerging character of the Town Centre.</p>	<p>It is considered the proposed subject lot does not have sufficient area to provide mixed use, with associated car parking.</p>
<p>Height of development effecting the current streetscape</p> <p>Heritage Listing. We have some level of heritage listing on our property at 23 May Street East Fremantle. Allowing the development of a 5 Story Apartments would make a mockery of this and the future streetscape appearance.</p> <p>It will not complement it or any of the other listed properties at that end of May Street, but will instead dominate the skyline with its disproportionate height and bulk.</p> <p>The apartment building proposed for this site presents a most unattractive face to residents of the area and pedestrians who visit the town centre.</p> <p>The proposed development does not fit in with the scale, style or rhythm of the existing May Street streetscape.</p> <p>It concerns me that the Richmond Quarter development will open up the envelope for more high density multistory developments in the TOEF. A multistory development of 4 to 6 stories is not in keeping with the streetscape of the rest of May St which has many federation homes.</p> <p>I consider 4 stories facing onto May St to be too high, out of character with the streetscape of other residential properties in May St and not cohesive with residential buildings and the commercial</p>	<p>The proposed development will represent a significant improvement to the subject site and streetscape. The existing streetscape is generally occupied by large areas of car parking (refer to images-Figures 1 and 2 below), the general service area of supermarket and bin store. In contrast, the proposed multi-storey development will make a noteworthy contribution to the streetscape.</p> <p>The scale of the building is appropriate for a Town Centre. It is not a continuation of the surrounding domestic buildings; however the facade has been designed to be sympathetic to the existing streetscape.</p> <p>The high quality treatment of the facade reflects traditional building character with a robust base (in darker and strong colour) with lighter colours and materials above.</p> <p>Most of the materials used are not new to the street and include glass, light-weight metal wall cladding and textured paint finish to the solid walls. New materials such as decorative metal screen and movable shutters will create a dynamic facade and strong identity to the street.</p>	<p>The scale of the building is appropriate for a Town Centre.</p> <p>The building is considered to comply with the Acceptable Development Provisions and Performance Criteria of the LPP – Town Centre Redevelopment Guidelines. This will be addressed in detail later in the report.</p> <p>The use of quality materials, the decorative front facade, articulation and the planting have been used to create a vibrant street, that will be in keeping with the guidelines of the town centre and the redevelopment of the 'Richmond Quarter'.</p> <p>The scale, height and bulk of the building are considered appropriate for the area.</p>

<p>properties on the opposite side of May St.</p>		
<p>In winter its large bulk will overshadow the vet's house to the south as well as the adjacent car park.</p> <p>The shadow study appears to show the mid-winter shadow significantly over the Vet practice (approx 7m south of their North boundary). This is not shown clearly in the drawings, which only note the "adjacent car park", but the shadow line is clearly south of the boundary shown for the car park.</p>	<p>The proposed development will not overshadow any residential properties in midwinter.</p> <p>Overshadowing in mid-winter will occur on commercial lots to the south only and will not detrimentally impact the solar access of surrounding residential properties.</p>	<p>The scale, height and bulk of the building are considered appropriate for the area. The building is located in the town centre and does not impact on any residential property.</p> <p>The overshadowing is considered acceptable.</p>
<p>Their proposal suggests a solid monolithic block rising 13m straight up directly from the property boundary. The few small openings that pierce this solid concrete slab will not detract from the overwhelming feeling of height and mass.</p> <p>No amount of painting this concrete facade will reduce the visual effect, particularly from close up (i.e. walking along the street that it is supposed to relate to or down the lane to the supermarket).</p>	<p>The high quality treatment of the facade reflects traditional building character with a robust base (in darker and strong colour) with lighter colours and materials above.</p> <p>The deep shaded balconies are also in character with traditional aesthetic.</p> <p>Most of the materials used are not new to the street and include glass, light-weight metal wall cladding and textured paint finish to the solid walls. New materials such as decorative metal screen and movable shutters will create a dynamic facade and strong identity to the street.</p>	<p>The height, scale and bulk of the building are appropriate for a Town Centre.</p> <p>The building is considered to comply with the Acceptable Development Provisions and Performance Criteria of the LPP – Town Centre Redevelopment Guidelines. This will be addressed in detail later in the report.</p> <p>The proposed design and finish of the building is considered appropriate. The applicant has worked with the Planning Department at the Town to ensure a suitable and high quality building is achieved.</p>
<p>It will not be the walkable town if there are no access ways or attractive buildings that encourage people to walk by and around.</p> <p>The TOEF plan calls for greater pedestrian traffic through the town centre, and for greater engagement between the built environment and pedestrians. This sort of development is absolutely counter to that, with long, blank concrete walls to well over head height on two sides.</p> <p>The argument that the limited street frontage requires building up to the street boundary is a nonsense. It may necessitate having the car entrance in the main facade of the building, but there is no reason that facade could not be set back to relate to the adjacent streetscape.</p>	<p>It is expected that the large car parking areas on either side of the property will be developed in the near future and multi-storey buildings may be built up to the boundary. In order to present a high quality building to pedestrians and visitors to the area, visual considerations have been given to all exposed building facades facing undeveloped sites.</p> <p>Walls on the boundaries facing adjacent existing car parks will be visually broken up into a variety of grid patterns with painted finish in different colours (see example-Figure 5). This modulating effect will enhance the identity, variety and interest of the building from all sides. Large openings to light wells in the walls will create visual depth and solar access.</p>	<p>The lot is not of a sufficient size so as to provide vehicular and pedestrian thoroughfares.</p> <p>The proposed development is considered not to impact on the movement of individuals through the town centre.</p> <p>The proposed development, although designed to have ground level car parking cannot accommodate basement car parking. It is considered the treatment of the front facade will create a vibrant streetscape. A condition has been included in the Officer's Recommendation to ensure that within 24 hours any graffiti or vandalism is required to be remedied.</p>

<p>If there is going to be higher density in the town centre only, then the TOEF needs to consider the impact this will have on surrounding residents with regard to noise, increase in traffic, increase in business hours of commercial properties and lack of public open space in Plympton.</p> <p>A village atmosphere where the local residents can congregate and interact with each other would enhance the community spirit and living. It requires careful and thoughtful planning by all involved: The developers, Council staff, professionals and the residents.</p>	<p>N/A</p>	<p>The proposed development is consistent with the previously approved Richmond Quarter development. The redevelopment of the town centre will not be a catalyst for the loss of the village feel to the town centre. The proposed redevelopment of the town centre is considered on par with the likes of the Claremont town centre redevelopment, which is a new redesigned centre, that is considered to be designed as per best practice planning requirements. This will see adjoining properties being upgraded and a vibrant town centre continuing to evolve.</p> <p>The proposed development is considered to comply with the LPP – Town Centre Redevelopment Guidelines.</p>
<p>The supermarket loading zone area is just next to this proposed multi-storey apartment. Safety and traffic management is a major concern. Please ensure that it is safe for the residents and customers to visit the shopping centre and other businesses in the area during the development period and also after the project is completed.</p>	<p>During the construction of the building, traffic management will be implemented to ensure the safety of local residents and customers to the shopping centre.</p>	<p>A condition requires a site and traffic management plan which is to the Chief Executive Officers satisfaction to be undertaken and provided to the Town prior to the lodgement of a building licence.</p> <p>The proposed car parking is considered to provide safe access to the subject lot and adjoining lots.</p>

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 9 April 2013. The Panel made the following comments:

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>Panel has concerns about ground floor of May Street elevation</p> <p>Further detail to the May Street ground floor frontage</p> <p>Details of external materials and colours required.</p>	<p>The proposed development will represent a significant improvement to the subject site and streetscape. The existing streetscape is generally occupied by large areas of car parking (refer to images-Figures 1 and 2 below), the general service area of supermarket and bin store. In contrast, the proposed multi-storey development will make a noteworthy contribution to the streetscape.</p> <p>The high quality treatment of the facade reflects traditional building character with a robust base (in darker and strong colour) with lighter colours and materials above.</p> <p>Most of the materials used are not new to the street and include glass, light-weight metal wall cladding and textured paint finish to the solid walls. New materials such as decorative metal screen and movable shutters will create a dynamic facade and strong identity to the street.</p> <p>Walls on the boundaries facing adjacent existing car parks will be</p>	<p>The proposed design and finish of the building is considered appropriate. The applicant has worked with the Planning Department at the Town to ensure a suitable and high quality building is achieved.</p> <p>A condition is included in the Officer's Recommendation to ensure the proposed ground floor finish/ decorative design is subject to the Chief Executive Officer's approval.</p> <p>A further condition has been included in the Officer's Recommendation to ensure that within 24 hours any graffiti or vandalism on the façade of the building is required to be remedied.</p> <p>The design of the building is considered consistent with the Town's LPP Town Centre Redevelopment Guidelines and with the development of the Richmond Quarter.</p>

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
	visually broken up into a variety of grid patterns with painted finish in different colours (see example-Figure 5). This modulating effect will enhance the identity, variety and interest of the building from all sides. Large openings to light wells in the walls will create visual depth and solar access.	

Site Inspection

By Senior Town Planner on 1 May 2013 and 20 May 2013.

ASSESSMENT**COMPLIANCE WITH STATUTORY PLANNING PROVISIONS****Compliance with TPS No.3**

Council adopted the LPP Town Centre Redevelopment Guidelines to provide detailed guidance for development within the Town Centre Zone. This Policy varies the Scheme standards in respect to plot ratio, height, density and car parking. The LPP also contains additional design guidelines and requirements which complement the General Provisions of the Scheme. Where the LPP is at variance with the Scheme provisions, Council may apply the provisions of the LPP pursuant with the following clauses of TPS No 3.

5.3.5 Residential Development in the Town Centre Zone: Notwithstanding the provisions of clause 5.3.4, the local government may approve residential development at a density in excess of R40 in the Town Centre Zone, where it is satisfied that the resultant design and mix of development will be consistent with the planning proposals contained in the Local Planning Strategy and accord with any approved development plan for the Centre.

5.6.1 Except for development in respect of which the Residential Design Codes apply, if a development is the subject of an application for planning approval and does not comply with a standard or requirement prescribed under the Scheme, the local government may, despite the non-compliance, approve the application unconditionally or subject to such conditions as the local government thinks fit.

Zone Objectives

The subject site is contained within the Town Centre Zone which has the following objectives (clause 4.2):

- *To provide for a range of commercial shopping, civic and community facilities to meet the day to day needs of the community and which will contribute towards the vibrancy of the Town.*
- *To encourage the development of a consolidated Town Centre, which will provide a focus for the community and exhibit a high standard of urban design in keeping with the historical character of the Town.*
- *To enhance pedestrian connectivity to and within the Town Centre, so as to facilitate the safe and convenient movement of local residents, and enhance the viability of Town Centre businesses.*
- *To ensure the location and design of vehicular access and parking facilities do not detract from the character or integrity of the Town Centre or the streetscapes which define the centre.*

It is considered the proposal meets the above Zone Objectives of the Scheme. The applicant engaged through a lengthy design process and discussions with the Town to ensure compliance with the LPP and the Scheme.

Setbacks

Clause 5.8.1 *Building Setbacks* of TPS3 states:

Except as otherwise required or permitted by the local government, buildings in the Commercial Zones are to be aligned with the front property boundary, and are to be built up to any side boundary, other than a boundary which abuts the Residential Zone. In the case of a boundary which abuts land situated in the Residential Zone, the side setback standards applicable to the adjoining Residential Zoned land are to apply,

The proposed building has been designed to be aligned with a zero lot boundary wall to the front and side boundaries. This is considered appropriate as the proposed development is considered to minimise the impact to the adjoining building through building articulation. The lot is 465m². It is considered the proposed development has been designed to be significantly in accordance with the Town's LPP. The proposed building design, use and materials, and building articulation ameliorates issues relating to scale and bulk.

Building Height

Clause 5.8.2 *Building Height* of TPS3 states:

Except as otherwise permitted by the local government, the maximum height of buildings in the Commercial Zones are to be as follows:

- (a) Town Centre: Walls: 8.0 metres Overall: 10.5 metres*
- (b) Special Business: Walls: 8.0 metres Overall: 10.5 metres*
- (c) Mixed Use: Walls: 5.5 metres Overall: 8.0 metres*

Under TPS 3 except as otherwise permitted by Council the maximum overall building height in the Town Centre zone is 10.5 metres, with walls being 8 metres. The proposed development has a height of 14 metres to May Street and 18.6 metres to the rear of the lot for a concealed/ flat roof. The roof form and pitch minimises the overall height of the development.

Element 3 of the LPP for the Town Centre states:

- *In addition to the overall height limits shown on Plan 6, limit the street wall height to 5 storeys in the Town centre core precinct and 3 storeys in the Canning Highway precinct, except for buildings in the 'Town Hall Sensitivity Zone' shown on Plan 6, where the height shall be no greater than the height of the town hall parapet, with any further development above that height to be set back 3m and treated in a visually recessive manner to reduce the apparent scale of the building:*

The proposed development is 4 storeys to May Street and 5 storeys to the rear of the lot. The proposed development complies with the LPP. The proposed development is considered acceptable and can be supported.

Car Parking

The application is for ten residential units. Pursuant to TPS 3 and the car parking requirements of the R-Codes a total of thirteen (13) car parking bays are required, comprising 10 residential bays and 3 visitor bays. The proposed development provides 13 car parking spaces, 12 dedicated to the proposed dwellings and 1 for the purposes of visitor car parking.

Clause 5.8.5 *Car Parking and Vehicular Access* of TPS3 states:

Car parking in respect of development in the Commercial Zones is to be provided in accordance with the standards set out in Schedule 11 of the Scheme and the specifications in Schedule 4 of the scheme. Where there are no standards for a particular use or development, the local government is to determine what standards are to apply. In its determination of the requirements for a particular use or development which is not listed in Schedule 11 of the Scheme, the local government

is to take into consideration the likely demand for parking generated by the use or development.

Furthermore Clause 5.8.7 *On-Street Parking* states:

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

Based on 10 car parking bays being required for the residential units, the applicant has requested that an additional 2 bays be allocated for residential parking. Only 1 bay is proposed to have visitor car parking. The proposed development is located within 250 metres of a high frequency bus route and there are bicycle racks provided within the development. It is considered the provision of visitor car parking to the front of the lot is not appropriate due to the location of the access/ egress. A condition has been included in the Officer’s Recommendation to provide 10 car parking bays for the development and the remaining 3 spaces are to be provided for visitor bays. As such the proposed development complies with the R-Code requirements for car parking.

To facilitate the access and egress of visitors to the visitor car parking area of the proposed development, it is considered necessary to have appropriate signage indicating visitor car parking is available and the inclusion of an intercom system to ensure ease of access to the development. Appropriate conditions have been included in the Officer’s Recommendation.

A further condition has been included in the Officer’s Recommendation to ensure the visitor bays associated with the units are identified and are for the sole use of the visitors. The proposed car parking complies as conditioned with the R-Code requirements for car parking and can be supported by Council.

Plot Ratio

The plot ratio of the proposed development is 2.37:1.

The LPP states:

Limit the overall mass of new development to a plot ratio of 3.5 (for the Town Centre core Precinct), 3.0 (for the Canning Highway Precinct, and 2.0 (for the frame Precinct).

The proposed development complies with the LPP requirement and is not considered excessive in terms of plot ratio, scale or bulk.

Compliance with LPP- Town Centre Redevelopment Guidelines

The following is an assessment of the proposal against the various provisions of the Local Planning Policy – Town Centre Redevelopment Guidelines (LPP) which was adopted by Council at its meeting on 15 November 2011.

The following table provides a detailed description of how the proposal addresses the various Policy provisions.

LPP Town Centre Redevelopment Guidelines	Status
Element 1 Urban Structure	A
Element 2 Land Use	D
Element 3 Building Form, Scale and Height	A
Element 4 Occupant Amenity	A
Element 5 Street Interface	D
Element 6 Pedestrian Amenity	A
Element 7 Vehicle Movement and Access	A

Element 8 Vehicle Parking	A
Element 9 Landscape and Public Spaces	A
Element 10 Resource Conservation	A
Element 11 Signage and Services	N/A

Detailed Urban Design Guidelines

Element 1: Urban structure (Acceptable Development Standards)

- *Provide for the pedestrian connections identified in Plans 3 and 4:*

No pedestrian linkages are identified with regard to the subject site. The subject site is 465m² and cannot adequately facilitate pedestrian linkages though to the town centre.

Maintain, as a minimum, the current degree of permeability for vehicle movement on gazetted streets:

The proposed development makes no change to the existing permeability of the gazetted road network.

For all developments with a NLA equivalent floorspace of more than 5,000sqm, provide publicly accessible open spaces with a combined area of at least 150m². or at the rate of .03m². for each 1m². of NLA, whichever is the greater:

The proposed development has a net floor area of 1217.35m² which does not require the provision of accessible open space.

As well as meeting the Acceptable Development Standards Criteria, the proposed development is also considered to satisfy the relevant Performance Criteria.

Element 2: Land use (Performance Criteria)

The proposed development does not comply with the Acceptable Development Standards of the LPP, as the proposed development does not comply with the following provision:

In the Town Centre and Canning Highway Precincts, developments shall incorporate commercial uses consistent with those 'permitted' under the relevant TPS 3 zoning and shall incorporate a minimum of 40% of Net Lettable Area (NLA) floor space for multiple dwellings and/or short stay accommodation:

The proposed development does not provide for any commercial uses.

The proposed Land Use Performance Criteria is to:

Provide attractive locations for different but compatible types of land uses, which recognise the different spatial needs of different land uses and the appropriateness of the scale of the centre.

The proposed development is for 10 residential dwellings. Due to the constraints of the subject site, car parking is required to be provided at ground floor, therefore commercial units cannot be provided. It is considered the proposed development provides 10 large dwellings designed to ensure quality internal and external space is provided. The proposed residential units are considered appropriate for the town centre and will improve the current use of the subject lot. The existing dwelling is considered to negatively impact on the current streetscape and does not warrant retention. The proposed units are located on the outer boundary of the town centre and as such are considered an appropriate land use.

Provide a diverse range of complementary land uses within comfortable walking distance of each other to reduce car-dependence and the subsequent need for expensive and land consumptive road and parking infrastructure.

The residential dwellings are considered to support the zone objectives of the town centre and are considered ancillary to the main uses of the commercial area of the shopping precinct and of the Richmond Quarter. The proposed multiple dwellings are a 'discretionary' uses which Council may approve following advertising of the proposal.

Incorporate 'attractors' with high visitation rates that encourage people to an activity centre on a regular basis.

The proposed development is designed to a high standard. The proposed visuals/ public art in the form of the perforated vehicle access door will form an interesting vista to the town centre and will encourage street activation, through a style/ design suitable to the area and also its representation of the character of the Town of East Fremantle

Incorporate uses that will generate activity at different times of the day to establish a highly visible human presence in streets and other public places.

Dwellings by their nature will have activity at various times during the day and will have a highly visual street presence. The balconies adjoining May Street and the car park to the south will improve visual surveillance of the street and adjoining land, increasing security to the surrounding locality.

Enable a residential community to be established within an activity centre to engender a sense of community within the place; increase the number of people within the centre outside business hours; and provide the potential for 'eyes on the street'. Council may exercise discretion to increase the residential density by up to 50% where there is significant public benefit in the development, and where the residential mix includes short-term accommodation or smaller and more affordable apartments.

This development will undoubtedly provide the patronage to the shopping precinct and to adjoining areas such as George Street, within walking distance of the town centre.

The proposed units are developed to be quality residential units. The provision of 2 town house elements adds to the overall design and residential mix.

Incorporate land uses that create a higher density of jobs to help increase the number of people within the centre during business hours.

The overall lot is 14.4 metres in width and 465m² in area. It is not considered practical to provide for a suitable mix of uses, while providing sufficient car parking due to the constraints of the subject lot. The residential mix will increase the number of people within the centre. The proposed development will also provide an area where rental/ short term accommodation may be an option as a future point. The accommodation will also ensure street activity and engagements throughout the day, ensuring more people in the town centre during business hours. It is also noted that passive surveillance will be increased and the residents will also ensure a sustainable night economy.

Identify opportunities for affordable housing to ensure that urban living is an accessible choice for everyone, including those people who can least afford to live far away from jobs, service and public transport.

While the proposed units are all approximately similar in size, the units will provide urban living within a town centre environment, providing people with quality residential units that enable long term sustainable living for the town centre.

Identify opportunities to establish home-based business and live-work housing, where the premises can evolve in time to small office accommodation.

The proposed development does provide opportunities to establish home-based business and live-work housing. The proposed development could evolve in time to small office accommodation or home businesses, subject to appropriate Council approval.

The proposed development satisfies the Performance Criteria of this element, however, some aspects such as the provision of 'attractors' and the provision of night and day activity will be dependent on the eventual tenancy mix.

Element 3: Building form, scale and height (Acceptable Development Standards)

Limit the overall mass of new development to a plot ratio of 3.5 (for the Town Centre core Precinct), 3.0 (for the Canning Highway Precinct, and 2.0 (for the frame Precinct):

The plot ratio of the proposed development, at 2.37:1, is well within the maximum plot ratio.

Limit the overall height of new development to the heights as indicated in Plan 6, except where the development provides significant public benefit (such as publicly accessible spaces, public car-parking, or activities that are deemed to be advantageous to the community or the town centre as a whole), and where the additional height is set back to avoid excessive overshadowing of adjacent properties, or treated in a visually recessive manner to reduce its visual impact on the street:

The proposed development is within the maximum allowable height limits. The proposed 5 storey element is located to the rear of the lot. This is considered to have minimal impact to the streetscape and surrounding locality.

In addition to the overall height limits shown on Plan 6, limit the street wall height to 5 storeys in the Town centre core precinct and 3 storeys in the Canning Highway precinct, except for buildings in the 'Town Hall Sensitivity Zone' shown on Plan 6, where the height shall be no greater than the height of the town hall parapet, with any further development above that height to be set back 3m and treated in a visually recessive manner to reduce the apparent scale of the building:

As above. The proposed development is within the maximum allowable height limits.

As indicated on Plan 6, limit the overall height of buildings in the Frame Precinct to 3 storeys:

Not applicable to the proposed development.

Limit the height of new development to 3 storeys within 12m of adjacent existing residences beyond the Town Centre policy area:

Not applicable to the proposed development.

As well as meeting the Acceptable Development Standards Criteria, the proposed development is also considered to satisfy the relevant Performance Criteria.

Element 4: Occupant Amenity (Acceptable Development Standards)

Development shall be consistent with the relevant standards in the Residential Design Codes of WA for R-AC (Town Centre core precinct), R160 (Canning Highway precinct), and R100 (Frame precinct):

The R-Codes were amended in November 2010 and contain Part 7- *Design Elements for multiple dwellings in areas with a coding of R30 or greater and within mixed use development and activity centres.*

Design Element	Required	Proposed	Status
Plot Ratio	2.5	2.37	A
Open Space	N/A	N/A	A
Primary Street Setback	2m	Nil	D
Height: Concealed	21m	18.6m	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	N/A	N/A	A
Drainage	On-site	On-site	A

Consistent with the approach applied in Part 7 – Council's LPP Town Centre Redevelopment Guidelines provides variations and elaborations to the majority of the design elements contained in Part 7 of the R-Codes. Accordingly the LPP provisions are applied in the place of the following elements;

Design Element 7.1 Context

- 7.1.1 Building size
- 7.1.2 Building height
- 7.1.3 Street setback
- 7.1.4 Side and rear boundary setback
- 7.1.5 Open Space

Design Element 7.2 Streetscape

- 7.2.1 Surveillance of the street
- 7.2.2 Street walls and fences
- 7.2.3 Building appearance

Design Element 7.3

- 7.3.2 Landscaping
- 7.3.3 On-site parking provision
- 7.3.4 Design of parking spaces
- 7.3.5 Vehicular access
- 7.3.6 Sight lines at vehicle access points and street corners
- 7.3.7 Site works

The following R-Code design elements are not specifically addressed within the LPP and are therefore assessed as follows:

7.3.1 Outdoor Living Areas

Each dwelling is provided with a balcony capable of use in conjunction with a habitable room of a minimum of 13.65m² or greater with a minimum dimension of 2.6 metres in accordance with the requirements of this clause.

7.4.1 Visual Privacy

Units 1, 4, 7 and 8 all have overlooking into the adjoining car park, considered as a non sensitive and non habitable area. As a consequence of discussions with the planning department, it is considered that these dwellings should face/ front the car park to ensure there is passive surveillance of the car park, therefore minimising the potential for antisocial behaviour. The proposed balconies fronting the car park are seen as integral to the overall design being articulated and providing a suitable design for the town centre.

No areas of a sensitive or habitable area are overlooked. It is considered the proposed development sufficiently addresses May Street and the car park. It is considered the application can be supported.

7.4.3 Dwelling Size

The design element requires that all dwellings have a minimum floor area of 40m² and there be a range of dwelling sizes. All dwelling Stratas are over 40m² as required by R Codes cl. 7.4. The minimum dwelling size is 82m² with the maximum being 93.9m².

The proposed development is considered acceptable.

7.4.5 External Fixtures

No solar collectors are proposed at this stage. Solar collectors and or other external fixtures are conditioned to be located so as not to detract from the streetscape or the visual amenity of residents of neighbouring properties and in accordance with Councils LPP – Guidelines for Solar Collectors.

7.4.6 Stormwater Disposal

The final details of storm waste disposal are subject to hydraulic engineer's final verification. However the following is proposed to be incorporated as a condition of any approval;

- *The development's rain water drainage is to be retained on site.*

7.4.7 Essential facilities

Provision has been made for external storage, rubbish collection/storage areas and clothes drying areas sufficient to meet the needs of residents.

Element 5: Street Interface (Performance Criteria)

The proposed development does not comply with the Acceptable Development Standards of the LPP. With regard to this the Performance Criteria requires:

In regard to the street interface of buildings within the East Fremantle town centre, development should:

- *Establish building frontages with glazed openings and doors at street level to encourage human activity on the adjacent street and optimise interaction between people inside and outside buildings.*

The entrance lobby does provide an open and glazed lobby, however the proposed development does not provide significant glazed openings at street level. The main bulk of the building is ameliorated through the articulation of the balconies, the ground floor landscaped and the decorative perforated screen to the car parking area. The perforated screen does provide partial interaction between people inside and outside buildings. This screen does encourage human activity through the art work of the screen.

- *Maximise continuity of the building frontage with the street reserve, particularly where there are commercial activities at ground floor level, to provide a strong definition to streets and other public urban space.*

The proposed development is the first to be proposed along May Street, since the adoption of the Town Centre Design Guidelines. This section of the street has not developed as yet according to the vision as detailed in the Policy. The building is proposed with a nil setback, in accordance with the Town Centre Design Guidelines. It is considered the building design and proposed artwork provides a strong definition to streets and the public urban space.

- *Avoid ambiguity by clearly defining the difference between spaces that are publicly accessible and those that are for private use only.*

As noted it is considered the building design and proposed artwork provides a strong definition to streets and the public urban space. The building design is proposed with a nil setback. There will be no ambiguity with regard to public and private area.

- *Provide architectural richness using articulation of buildings and window displays to create interest, particularly at the street level.*

The proposed building is articulated both horizontally and vertically. The proposed development has a decorative perforated screen to the car parking area adding visual interest to May Street. There are a variety of materials proposed on May Street and adjoining the car park. It is considered the proposed development is well designed and has been designed to significantly comply with the provisions of the Policy.

- *Provide openings at all building levels to enable passive surveillance of adjacent publicly accessible areas.*

The proposed building has openings to May Street and the adjoining car park. The applicant has worked closely with the Planning Department to ensure the development addresses the passive surveillance of the street and adjoining car park.

- *Create interstitial or 'inside-outside' spaces through the use of canopies, arcades and other shade structures, to provide shade to window displays, shelter to pedestrians, and to create a softer transition between the inside and outside.*

Not applicable. The proposed development is not mixed use. The subject site is small in nature considering the overall redevelopment of the town centre and the Richmond Quarter.

- *Utilise building scale and design to create an identifiable scale and character for adjacent streets and publicly accessible spaces.*

The proposed development has been designed to significantly comply with the provisions of the Policy. The height, scale and bulk of the building are considered consistent with the Richmond Quarter development.

- *Locate service areas behind buildings, or screened from view, to avoid the intrusion of noise, odour, or visual pollution on publicly accessible areas.*

All service areas proposed to be screened from view, so as to avoid the intrusion of noise, odour, or visual pollution on publicly accessible areas. The proposed development has also been conditioned to ensure all service areas are screened.

- *Enable the opportunity for temporary overspill activities, such as al fresco dining and external displays, that provide additional interest to the street.*

Not applicable. The proposed development is not mixed use. The proposed building art and design increases the visual interest of the street.

It is considered the proposed development complies with the provisions of the Performance Criteria of the Policy.

Element 6: Pedestrian amenity (Acceptable Development Standards)

- *Buildings with a commercial ground floor adjacent to footpaths shall incorporate a canopy or awning that extends at least 2.4m over the footpath, but not within 0.3m of the kerb, and with a minimum height of 2.7m above the footpath:*

The proposed development does not incorporate any commercial element. The overall lot is 14.4 metres in width and 465m² in area. The proposed cannot adequately accommodate ground floor car parking and commercial activity. Consequently no canopy/awning has been included in the development. The overall design of the building is considered to comply with the provisions and design requirements of the town centre. Subject to this, the proposed design is considered satisfactory.

- *Development shall be consistent with the WAPC document “Designing Out Crime”:*

Whilst a detailed assessment against *Designing Out Crime* has not been undertaken, the design approach adopted is highly consistent with CPTED best practice and is, therefore, likely to be consistent with the WAPC document *Designing Out Crime*. The rear units have been designed to front the adjoining car park. All the front balconies present to May Street. The overall development has been designed to maximise passive surveillance of adjoining areas.

- *Development shall meet all relevant BCA requirements for universal access:*

Detailed compliance with the Building Code of Australia will be determined following application for a Building Licence subsequent to any Planning Approval.

- *Provide for the pedestrian connections identified in Plans 3 and 4:*

No pedestrian connections can be utilised though the subject site.

Notwithstanding the above degree of conformity with the Acceptable Development Standards, the proposed development also satisfies the Performance Criteria.

Element 7: Vehicle Movement and Access (Acceptable Development Standards)

- *Utilise shared surfaces, raised plateaus and other traffic management design devices to reduce traffic speeds and raise driver awareness of pedestrians:*

The overall lot is 14.4 metres in width and 465m² in area. No shared spaces raised plateaus or traffic management design devices have been incorporated into the proposed design. The proposed lot is considered too small to adequately address vehicular or pedestrian public access movements. A condition has been included to ensure sufficient off-street visitor car parking is provided.

- *New development shall be limited to one crossover per street, excluding Rights of Way:*

The proposed development has one crossover to May Street, directly into the ground level car parking. The proposed crossover is 4.8 metres in width. Whilst this exceeds Council requirements with regard to crossover width, the proposed access/ egress is required to sufficiently accommodate dual vehicular movements, therefore the proposed crossover at 4.8 metres is considered appropriate. The proposed planting to the front and decorative semi-permeable screen will minimise the overall impact of the crossover.

- *Development adjacent to Canning Highway shall comply with any MRWA requirements, which may restrict direct vehicle access where there is an alternative means of access:*

The proposal does not adjoin Canning Highway.

Notwithstanding the above degree of conformity with the Acceptable Development Standards, the proposed development also satisfies the Performance Criteria.

Element 8: Vehicle parking (Acceptable Development Standards)

- *On-site car parking shall be located out of sight from the adjacent public domain (except for Rights of Way):*

The proposed development locates new car parking at ground level, situated behind a decorative semi-permeable screen, thereby hiding vehicles from street view. Access to the proposed development is via May Street.

- *New development shall incorporate bicycle storage at a minimum rate of 1 per 40sqm of floor space or 1 per dwelling:*

7 bicycle racks are provided within the garage and located at the front lobby. 10 spaces are available for residents of the development to the rear of the car parking. An additional 4 bays are provided at the entrance for visitor bicycles. The bike parking will be adequate for the residents and visitor parking.

- *Development with an office floor space of greater than 250sqm shall provide appropriate end-of-trip facilities for cyclists:*

There is no commercial units within the proposed development.

- *Car parking shall be provided at a rate consistent with the TPS No. 3 minimum requirements, but with a discount of 20% in the case of mixed-use buildings where the residential component accounts for at least 40% of the total plot-ratio area:*

Under the Scheme provisions car parking provisions for residential uses are to accord with the R-Code requirements which for a site within 250 metres of a high frequency bus route are as follows;

Dwelling Type	R- Code Car Space Requirement	No Of Dwellings Proposed	No. Of Spaces Required	No. Of Spaces Provided
Small (<75m ² or 1 bed)	0.75 per dwell	0	0	0
Medium(75-110m ²)	1 per dwell.	10	10	10
Large (>110m ²)	1.25 per dwell	0	0	0
Visitors	0.25/dwell.		2.5	3
TOTAL			12.5	13

Based on 10 car parking bays being required for the residential units and 3 bays for visitor car parking, the applicant has requested that an additional 2 bays be allocated for residential parking. The applicant only proposes 1 bay for visitor car parking. The proposed development is located within 250 metres of a high frequency bus route and there are bicycle racks provided within the development. Clause 5.8.7 *On-Street Parking* states:

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

It is considered the provision of visitor car parking to the front of the lot is not appropriate due to the location of the access/ egress and the overall width of the lot.

Appropriate conditions have been included in the Officer's Recommendation to provide 10 car parking bays for the development and the remaining 3 spaces are to be provided for visitor bays and provide acceptable provisions to facilitate visitor access to the car parking. As such the proposed development complies with the R-Code requirements for car parking.

A further condition has been included in the Officer's Recommendation to ensure the visitor bays associated with the units are identified and are for the sole use of the visitors. The proposed car parking can be supported by Council.

It is recommended Council do not provide discretion with regard to the car parking in this instance. As noted appropriate conditions have been included in the Officer's Recommendation.

The proposal as conditioned is deemed to comply with the conformity with the Acceptable Development Standards, and also satisfies the Performance Criteria.

Element 9: Landscape and Public Spaces (Acceptable Development Standards)

- *Landscape and street furnishings in the public domain shall use materials and plants, and street furniture that have been agreed as acceptable by the Town of East Fremantle:*

It is considered the proposal will incorporate high quality landscaping and public art to the front and side (southern) elevation. The proposed public art and landscaping will add character to the streetscape, assisting in establishing a vibrant town centre.

- *Public art shall be incorporated into external façade of new development or the adjacent streetscape, to the value of 0.5% of the construction value, up to a maximum of \$150,000 per development. Development less than \$2M in value is excluded from the requirement for public art:*

The proposed development is valued at less than \$2 million and therefore is exempt from the requirement of providing public art. The owner has indicated that public art will be provided to May Street to ameliorate that impact of the car park to ground level. This public art has not been finalised but will form a decorative semi-permeable perforated metal screen. The decorative element has been conditioned to be finalised prior to a building licence being lodged and it to form a style/ design suitable to the area and be characteristic / representative to the Town of East Fremantle.

- *Developments with a commercial component of more than 1000sqm shall incorporate toilet facilities that are publicly-accessible during operating hours:*

This is not applicable.

- *Street trees shall be planted at a rate of not less than one per 15m of linear street length, subject to verge width and underground service constraints:*

The overall lot is 14.4 metres in width and 465m² in area. It is considered a verge tree is not appropriate at this location considering the location of the crossover and providing sufficient and adequate sightlines. Suitable verge trees are located to the north and south of the subject lot.

Notwithstanding the above degree of conformity with the Acceptable Development Criteria, the proposed development also satisfies the Performance Criteria.

Element 10: Resource conservation (Acceptable Development Standards)

- *All development shall exceed the prevailing requirements of the BCA in respect to energy efficiency:*

Detailed compliance with the Building Code of Australia will be determined following application for a Building Licence subsequent to any Planning Approval. A further condition has been included in the Officer's Recommendation for the new development to meet the relevant built form requirements of the LPP for an development in Area 2 of the Fremantle Port Buffer.

- *Residential components of new development shall achieve a NatHers rating of at least 6 stars:*

Detailed compliance with the Building Code of Australia and compliance with the Fremantle Port Buffer Area 2 development requirements will be determined following application for a Building Licence subsequent to any Planning Approval.

- *Commercial components of new development shall achieve a NABERS rating of at least 3.5 stars:*

Detailed compliance with the Building Code of Australia will be determined following application for a Building Licence subsequent to any Planning Approval.

On the assumption that there will be conformity with the Acceptable Development Criteria, the proposed development would also satisfy the Performance Criteria.

Element 11: Signage and Services (Acceptable Development Standards)

- *Signage shall comply with the Town of East Fremantle's Planning Policy – Signage Guidelines:*

The proposal does not incorporate signage. Any signage will therefore be the subject of a future application for planning approval.

- *Solar Panels and Solar Hot Water Heaters shall comply with the Town of East Fremantle's Planning Policy - Guidelines for Solar Collectors:*

No solar panels or solar hot water heaters are visible from the prime street frontages. The proposal therefore complies with the LPP for solar collectors.

- *Other mechanical equipment (and associated pipes, conduits and ducting) shall be located in basements, in screened enclosures, on roofs, or at the rear of buildings:*

A condition has been included in the Officer's Recommendation to ensure all plant equipment such as exhaust fans, air conditioners etc. to be screened from view where it is located on balconies or the external walls of buildings adjacent to any public road or public space.

Subject to the above, the proposed development would also satisfy the Performance Criteria.

Compliance with Local Planning Policy No. 140 – Port Buffer Development Guidelines

The subject site is located in Area 2 of the Fremantle Port Buffer, accordingly any new works will need to meet the relevant built form requirements of the LPP. These requirements generally relate to noise and to a lesser degree, hazard exposure from the Port.

As the proposed development is within Area 2 of the Fremantle Port Buffer a standard notification and memorial wording is conditioned to be placed on new titles advising of potential impacts from the Port's operations. This wording is as follows and will be applied as a condition of any approval:

The subject lot (strata) is located within proximity to the Fremantle Port. From time to time the location may experience noise, odour, light spill and other factors that arise from the normal operations of a 24 hour working port.

The proposed development has been conditioned to comply with LPP 140 – Port Buffer Development Guidelines.

CONCLUSION

The proposed development is generally a satisfactory response with regard to the size of the subject lot. The proposed development has been designed to conform to the requirements of the LPP and the R-Codes. It is considered the design displays a degree

of sensitivity in its urban design response, and architectural treatment, and is largely consistent with the provisions of the LPP – Town Centre Redevelopment Guidelines.

The proposal fits comfortably within the maximum height, plot ratio and car parking provisions of the LPP indicating that it does not constitute over development of the subject site. Whilst there are some departures to the Acceptable Development Criteria in the policy, the proposal nevertheless complies to the Performance Criteria of each Element of the guidelines in the LPP.

A number of public submissions have been received. These are acknowledged and the concerns have been considered, however the proposed development has been designed so as to comply with the TPS, LPP and relevant R-Codes. This development is considered ancillary to the overall redevelopment of the town centre, providing residential development in what is considered a quality designed development.

Subject to conditions as addressed above, the application is considered to meet all relevant statutory planning provisions and will create the opportunity to maintain and increase this vibrant Activity Centre. The application is recommended for approval.

RECOMMENDATION

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

- (a) element 2 Land Use of the LPP – Town Centre Redevelopment Guidelines;
 - (b) element 5 Street Interface of the LPP – Town Centre Redevelopment Guidelines;
- for a five storey multi dwelling comprising of 10 units at 19 (Lot 102) May Street, East Fremantle, in accordance with the plans date stamp received on Plans and relevant forms date stamp received on 22 March 2013, 26 March 2013, 5 April 2013 and 22 April 2013 subject to the following conditions:

1. The landowner shall lodge a section 70A notification pursuant to the transfer of Land Act on the Certificate of Title(s) of the development site, prior to the issue of a Building Permit. This notification shall be sufficient to alert prospective landowners that the dwellings are located within Area 2 of the Fremantle Port Buffer and the proposed built form of the development within the precinct is to be adhered to. The wording of the memorial shall be placed on all strata titles as follows:

The subject lot (strata) is located within proximity to the Fremantle Port. From time to time the location may experience noise, odour, light spill and other factors that arise from the normal operations of a 24 hour working Port.

2. The landowner shall lodge a section 70A notification pursuant to the transfer of Land Act on the Certificate of Title(s) of the development site, prior to the issue of a Building Permit. This notification shall be sufficient to alert prospective landowners that the dwellings are located within the commercial zone of East Fremantle Town Centre. The wording of the memorial shall be placed on all strata titles as follows;

The subject lot (strata) is located within proximity to East Fremantle Town Centre commercial zone. From time to time the location may experience noise, odour, light spill and other factors that arise from the normal operations of a commercial area.

3. All plant such as exhaust fans, air conditioners etc. shall be screened from view where it is located on balconies or the external walls of buildings adjacent to any public road or public space to the satisfaction of the Chief Executive Officer.
4. Prior to the installation of any externally mounted air conditioning plant, a development application which is to be lodged and approved by the Chief Executive Officer which demonstrates that noise from the air conditioner will comply with the Environmental (Noise) Regulations 1997.
5. All dwellings shall have outdoor living areas of minimum 10m² and a minimum width dimension of 2.4 metres which are capable of use in conjunction with a habitable room and otherwise conform to R-Codes clause 7.3.1.
6. Public art/ ground floor facade shall be provided in accordance with the minimum requirements of the LPP – Town Centre Redevelopment Guidelines and shall be approved to the satisfaction of the Chief Executive Officer prior to an application for a building Licence being submitted to Council. The facade to be designed to a style/

- design suitable to the area and be characteristic / representative to the Town of East Fremantle
7. The building shall be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours to the satisfaction of the Chief Executive Officer.
 8. Ten (10) residential car parking bays to be provided and clearly marked.
 9. Three (3) visitor car parking bays to be provided within the car parking area. These bays to be located to the front of the development and clearly marked as visitor car parking.
 10. Appropriate signage to be provided to the front entrance to indicate visitor car parking is available within the development. The signage to be clearly visible and shall be approved to the satisfaction of the Chief Executive Officer prior to an application for a building Licence being submitted to Council.
 11. Intercom system for development to be provided at vehicular access to enable visitors to access to the visitor car parking. Intercom system shall be approved to the satisfaction of the Chief Executive Officer prior to an application for a building Licence being submitted to Council.
 12. A Site and Traffic Management Plans for trades persons and delivery vehicles to be approved by the Chief Executive Officer in consultation with relevant officers, prior to the issue of a Building Licence.
 13. The works are to be constructed in conformity with the drawings and amended drawings date stamped 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.
 14. 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.
 15. 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.
 16. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 17. All storm water is to be retained on site. A drainage plan shall be submitted to the satisfaction of the Chief Executive Officer in consultation with the Principal Building Surveyor.
 18. 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.
 19. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant.
 20. Any new crossovers which are constructed under this approval are to be a constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
 21. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
 22. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)

23. The development is to meet the built form requirements for Area 2 of the Fremantle Port Buffer as detailed in the Local Planning Policy - 'Fremantle Port Buffer Area Development Guidelines'.
24. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

The emails from the owners of 30 & 34 May Street, referred from Correspondence (MB Ref T63.2 & T63.3) were tabled.

Further to her email, Ms England (34 May Street) addressed the meeting opposing the proposal on the following grounds:

- Aesthetics of the building
- Building materials
- Height of building
- No regard to heritage residences in the street
- Side wall is considered ugly
- Lack of parking
- Increased noise of ten additional units in street
- Potential air conditioning noise
- Surrounding residents will be affected by the development received no written advice

Ms England queried:

- the mixed use and residential use references contained in the officer's report
- whether residents would be given warning of the demolition of the TAB building given its asbestos content
- whether the height of the building would be measured from the ground level of the existing TAB building or the street footpath level.

Ms Nairn (owner of 26 May) advised the meeting that she had moved from her May Street property because of the constant noise and traffic generated by the East Fremantle Shopping Centre with deliveries commencing in the early hours of the morning

with no regard for surrounding residents. This development would obviously generate more traffic. Ms Nairn stated her following concerns:

- The confronting height of the proposed building
- The development does not blend with the heritage character of the street
- The use of concrete which is not a quality material
- The use of tin which is not a traditional material in the area
- The building of residential units directly adjacent to a commercial loading zone which is used from 3am in the morning.
- Had the shading analysis been checked by Council officers? She believed the residences across the road would be shaded in the afternoon.
- No affordable housing component?
- The walkway would be a concrete tube.
- The impact of the development on local roads and urged Council to review the previous Traffic Study prepared for the redevelopment of the East Fremantle Shopping Centre.

Mr Ham (architect) addressed the meeting in support of the proposal and answered queries raised by elected members.

Elected members raised concerns regarding:

- Recessing the upper levels of the building to provide better articulation
- Colour scheme
- Noise attenuation
- The white strip along the top of the building
- Landscaping to soften the building
- Parking

In response to a query regarding the advertising of the proposal, the Manager Planning Services advised that the proposal had been advertised in the local paper with a sign erected on the site, and provided a list of residents who had been advised of the development by letter.

Cr Wilson – Cr Martin

That the application be deferred to allow the applicants to submit revised plans which:

- (i) **provide better articulation to the upper levels fronting May Street, with consideration for staggering or recessing of balconies**
- (ii) **provide better street level interface that acknowledges the existing scale and architecture of the residential heritage buildings opposite the site**
- (iii) **address Council's Noise Attenuation Policy.**

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

Cr Wilson made the following impartiality declaration in the matter of 69 Pier Street: "As a consequence of the owners being known to me, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

- T66.5** **Pier Street No. 69 (Lot 113)**
Applicant: Jeremy Falcke Design
Owner: H Sheil & E Bradley
Application No. P14/13
By Andrew Malone, Senior Town Planner, 7 May 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval for additions and alterations comprising of new deck and alterations to alfresco area to the rear of an existing dwelling at 69 (Lot 113) Pier Street, East Fremantle. The proposal is recommended for conditional approval subject to appropriate conditions.

BACKGROUND

Description of Site

The subject site is:

- a 931m².
- zoned R12.5
- located in the Preston Point Precinct.

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – R12.5
Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 1 February 2013.
Letter of justification date stamped received on 22 April 2013.

Date Application Received

1 February 2013

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a 2 week period between 8 February 2013 and 25 February 2013. No submission was received during this period.

Town Planning Advisory Panel Comments

The application was not referred to the Town Planning Advisory Panel as the application is considered minor in nature and the proposed additions do not impact on the streetscape or significantly impact on the built form of the dwelling.

Site Inspection

By Senior Town Planner on 8 May 2013.

ASSESSMENT

The proposed development incorporates a number of minor variations to the Town's Local Planning Policies and the Residential Design Codes, as detailed below.

Town Planning Scheme No. 3 Assessment

The proposal has been assessed against the provisions of Town Planning Scheme No. 3, the Residential Design Codes of Western Australia and the Town's Local Planning Policies. A summary of the assessment is provided in the following tables.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	55%	N/A	A
6.4.2 Outdoor Living	30sqm	N/A	A
6.5 Car Parking	2	N/A	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	N/A	A
6.9.2 Drainage	On-Site	On-Site	A

6.8 Visual Privacy

Wall Orientation	Major Opening Type	Required Setback	Proposed Setback	Status
Rear (south)				
	Alfresco	7.5	3.3m	D
	Deck	7.5	3.2m	D

In all other respects the proposed dwelling is considered to comply with the Acceptable Development Provisions (ADP) of the visual privacy requirements of Element 6.8 of the RDC.

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision.	Status
3.7.2 Additions And Alterations To Existing Buildings	A
3.7.3 Development Of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction Of New Buildings	N/A
3.7.7 Building Setbacks And Orientation	A
3.7.8 Roof Form And Pitch	D
3.7.9 Materials And Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths And Crossovers	N/A
3.7.15-20 Precinct Requirements	A

DISCUSSION

The proposed development incorporates a number of variations to the Town's Local Planning Policies and the Residential Design Codes, as detailed below.

Residential Design Codes**6.8.1 Visual Privacy**

The Acceptable Development Provisions (ADP) for visual privacy require major openings which have their floor level more than 0.5 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its setback line, to comply with the following:

- 4.5 metres in the case of bedrooms;
- 6.0 metres in the case of habitable rooms, other than bedrooms; and
- 7.5 metres in the case of active habitable spaces.

The proposed development does not comply with the ADP of the RDC.

The Performance Criteria (PC) of 6.8.1 allows for:

“Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location, and the design of major openings and outdoor active habitable spaces, screening devices, and landscape, or remoteness.”

The existing alfresco area is proposed to be roofed and partially screened with louvres. These louvres are adjustable to enable ventilation and light to flow through to the dwelling. The alfresco area has been assessed as per the PC of the R-Codes. The deck area is screened to the west elevation. The southern elevation of the deck has been assessed as per the privacy requirements of Element 6.8.1 of the R-Codes and is considered to require assessment under the PC provisions of the R-Codes.

Alfresco Area There is existing direct overlooking of active habitable space (rear garden) of 71B Pier Street. The proposed roof and louvres to the alfresco area will improve the current overlooking. The louvres are not considered to provide adequate screening to ensure compliance with the APD of Element 6.8.1 of the R-Codes. The alfresco area will have sight lines into adjoining properties to the east, however it is considered the proposed alterations to the alfresco area do provide for increased privacy. Through the use of the adjustable louvres, it is considered that screening is provided to an extent where it is considered to provide privacy to active habitable spaces and outdoor living areas. The use of the louvres improve the amenity for the adjoining property owner, therefore the proposed outcome is considered can be supported by Council.

Deck The proposed deck is screened to the western elevation. A condition has been included in the Officer's Recommendation to ensure that this screening is designed to comply with the ADP of the R-Codes. It is noted that the adjoining neighbour to the west has significant mature vegetation located on the boundary so as to provide additional screening. There is overlooking from the south western corner to the deck into the western neighbour. A condition has been included in the Officer's Recommendation to provide a 1.5 metre return on the western screen to include the southern elevation. This will improve the potential overlooking to ensure further protection. While the southern elevation will not comply with the ADP of the R-Codes even after the condition is applied, it is considered the extent of overlooking to the south eastern portion of the adjoining lot does not overlook active habitable spaces and outdoor living areas. It is considered the proposed deck as conditioned can be supported by Council.

Both the deck and alterations to the existing alfresco area are considered to comply with the PC of the R-Codes. The proposed development will overlook the adjoining properties to the east and west, however it is considered the extent of overlooking will not significantly impact on the active habitable spaces and outdoor living areas of other dwellings.

Residential Design Guidelines

The proposed dwelling has also been assessed in accordance with the Town's Residential Design Guidelines. The following areas are considered the areas of non

compliance with the Acceptable Development Provisions and the Performance Criteria of the Guidelines:

Element 3.7.8 of the Residential Design Guidelines – Roof Form

The Acceptable Development Provisions of the RDG for the Richmond Hill Precinct states:

A4.2 *A contemporary roof form or roof pitch that is less than 28° or greater than 36° shall be approved where the applicant demonstrates compatibility with the immediate locality.*

The proposed roof has a 25° roof pitch. This does not adhere to the ADP of the RDG. The PC requirements for the roof pitch allows for:

P4 *Roof forms of new buildings complement the traditional form of surrounding development in the immediate locality.*

The proposed roof has a 3° variation to the ADP of the R-Codes. The roof has been designed to match the existing roof with regard to pitch and materials. The roof form is to the rear of the dwelling and will not be visible from the street. The roof form of the proposed addition does complement the traditional form of the existing dwelling and of surrounding dwellings. In this context, it is considered the proposed roof form will not significantly impact on the streetscape or the surrounding locality.

It is considered the roof form and pitch of the proposed dwelling, in the context of the overall design achieved can be supported by Council.

CONCLUSION

It is considered the proposed additions and alterations are designed to be of a bulk, scale and design that complement the existing dwellings. There will be no impact on the streetscape, as the proposed works are to the rear of the dwelling. The proposed overlooking is considered to conform to the PC of the R-Codes. The alterations to the alfresco area will improve the existing overlooking, therefore improving the amenity the adjoining neighbour to the east enjoys.

Based on this it is considered the proposal merits approval subject to the following conditions.

RECOMMENDATION

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

- (a) 6.8.1 Visual Privacy for adjoining sites of the Residential Design Codes;
 - (b) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- for alterations and additions at 69 (Lot 113) Pier Street, East Fremantle, in accordance with the plans date stamp received on 1 February 2013 subject to the following conditions:
1. The proposed 1.6 metre screen to the western elevation to be designed to comply with the Acceptable Development Provisions and Explanatory Guidelines Element 6.8.1 of the Residential Design Codes.
 2. Southern elevation of the proposed deck to be screen to a height of 1.6 metres for a length of 1.5 metres on the south western section and to adjoin with western elevation screening. The proposed 1.6 metre screen to the southern elevation to be designed to comply with the Acceptable Development Provisions and Explanatory Guidelines Element 6.8.1 of the Residential Design Codes.
 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 Permit and a Building Permit and the Building Permit

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 Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

Cr Martin – Cr Nardi

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

- (a) **6.8.1 Visual Privacy for adjoining sites of the Residential Design Codes;**
 - (b) **element 3.7.8 of the Residential Design Guidelines: Roof pitch;**
- for alterations and additions at 69 (Lot 113) Pier Street, East Fremantle, in accordance with the plans date stamp received on 1 February 2013 subject to the following conditions:**

1. The proposed 1.6 metre screen to the western elevation to be designed to comply with the Acceptable Development Provisions and Explanatory Guidelines Element 6.8.1 of the Residential Design Codes.
2. Southern elevation of the proposed deck to be screen to a height of 1.6 metres for a length of 1.5 metres on the south western section and to adjoin with western elevation screening. The proposed 1.6 metre screen to the southern elevation to be designed to comply with the Acceptable Development Provisions and Explanatory Guidelines Element 6.8.1 of the Residential Design Codes.
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 Permit and a Building Permit and the Building Permit 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 Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*

- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air Conditioner Noise”.*
- CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T66.6

Fortescue Street No. 85 (Lot 89)

Applicant / Owner: A Monk & F Cahill

Application No. P42/13

By Andrew Malone, Senior Town Planner on 8 May 2013

PURPOSE OF THIS REPORT

This report considers an application for planning approval additions and alterations comprising a second storey over the existing living and dining room at 85 (Lot 89) Fortescue Street, East Fremantle. The proposal is recommended for conditional approval.

BACKGROUND

Description of Site

The subject site is:

- a 103m² block. Survey strata lot.
- zoned Residential R12.5.
- developed with a two storey dwelling.
- located in the Woodside Precinct.

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – R12.5
Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Second storey addition over the existing living and dining room.

Documentation

Plans and relevant forms date stamp received on 10 April 2013.

Date Application Received

10 April 2013

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

Nil

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 16 and the 30 April 2013. At the close of advertising no submissions were received.

Town Planning Advisory Panel Comments

This application was considered by the Town Planning Advisory Panel at its meeting held on 14 May 2013 and the following comments were made:

- *Panel supports the application.*
- *Panel commends quality of the application.*

Site Inspection

By Senior Town Planner on 8 May 2013.

ASSESSMENT

The proposed development incorporates a number of variations to the Town's Local Planning Policies and the Residential Design Codes, as detailed below.

Town Planning Scheme No. 3 Assessment

The proposal has been assessed against the provisions of Town Planning Scheme No. 3, the Residential Design Codes of Western Australia and the Town's Local Planning Policies. A summary of the assessment is provided in the following tables.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	55%	N/A	A
6.4.2 Outdoor Living	30sqm	N/A	A
6.5 Car Parking	2	N/A	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	13.7%	A
6.9.2 Drainage	On-Site	On-Site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision.	Status
3.7.2 Additions and Alterations to Existing Buildings	D
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	A
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15-20 Precinct Requirements	A

DISCUSSION

The proposed development incorporates a number of variations to the Town's Local Planning Policies and the Residential Design Codes, as detailed below.

Residential Design Codes

The proposed development is considered to comply with the Acceptable Development Provisions (**ADP**) of the R-Codes.

Residential Design Guidelines

The proposed additions and alterations have also been assessed in accordance with the Town's Residential Design Guidelines. The following areas are considered the areas of non compliance with the Acceptable Development Provisions and have been assessed under the provisions of the Performance Criteria (**PC**) of the Guidelines:

Element 3.7.2 of the Residential Design Guidelines

The proposed additions and alterations are accommodated to the side of the existing second storey and are visible from Fortescue Street. The proposed second storey additions are set back approximately 6.5 metres from Fortescue Street, located behind the building line of the ground floor. The additions are proposed to continue the prevailing built and roof form of the existing dwelling. The second storey additions comply with the Town's RDG requirements for building height. The proposed development does not adhere to Clause A1.2 ii of Element 3.7.2 of the RDG. The ADP of Element 3.7.2 of the RDG requires:

- A1.2** *Second storey additions that are:*
- i. Accommodated within the existing roof (without changes to the roof geometry); and,*
 - ii. Built behind the existing building and not visible from the opposite side of the street. A minor variation to this may be permitted on the basis of its impact on the streetscape*

It is noted that the proposed development presents as a semi detached dwelling to Fortescue Street. The proposed addition will be visible from a side street, however the proposed additions are considered sympathetic to the area and are appropriate to the built form of the dwelling. It is not suitable or desirable to provide for additions that are built behind the existing building and not visible from the opposite side of the street in this circumstance. The proposed additions and alterations are required to be assessed as per the PC of the RDG. This requires:

- P1.1** *Additions and alterations to contributory buildings are designed to ensure that the existing building remains the dominant element when viewed from the primary street and to ensure that the existing buildings contribution to the streetscape is maintained. The council shall allow additions to be located in the front setback zone where there is no other option and the addition is demonstrably compatible with the existing streetscape character and not impact on the heritage value of a particular place. All applications to include site plans, plans and street elevations.*
- P1.2** *Replacement of, or construction of, elements such as carports shall not obscure the original dwelling.*

The proposed addition does not impact on the dominance of the dwelling as viewed from the primary street. The proposed addition is consistent with the scale, form and bulk of the existing dwelling. The proposed addition is compatible with the existing streetscape character and does not impact on the heritage value of the locality.

The proposed additions and alterations are appropriate to the area and are considered can be supported by Council.

Element 3.7.8 of the Residential Design Guidelines – Roof Form

The Acceptable Development Provisions of the RDG for the Richmond Hill Precinct states:

- A4.2** *A contemporary roof form or roof pitch that is less than 28° or greater than 36° shall be approved where the applicant demonstrates compatibility with the immediate locality.*

The proposed roof has a 26° roof pitch. This does not adhere to the ADP of the RDG. The PC requirements for the roof pitch allows for:

- P4** *Roof forms of new buildings complement the traditional form of surrounding development in the immediate locality.*

The proposed roof has a 2° variation to the ADP of the R-Codes. The roof has been designed to match the existing roof with regard to pitch and materials. The roof form of the proposed addition is consistent with the existing dwelling and does complement the traditional form of the existing dwelling and surrounding dwellings. In this context, it is considered the proposed roof form will not significantly impact on the streetscape or the surrounding locality.

It is considered the roof form and pitch of the proposed dwelling, in the context of the overall design achieved can be supported by Council.

CONCLUSION

It is considered the proposed additions and alterations are designed to be compatible with the existing dwelling and are consistent with the adjoining development. The proposed additions and alterations are fully compliant with the Acceptable Development Provisions of the R-Codes. The two variations to the ADP of the RDG, as noted above, are considered minor in nature and are considered to comply with the PC of the RDG. The proposed additions and alterations are sympathetic to the streetscape and are deemed appropriate for the area.

Based on this it is considered the proposal merits approval subject to appropriate conditions.

RECOMMENDATION

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

- (a) element 3.7.2 of the Residential Design Guidelines: Additions and Alteration to Existing Buildings; and
 - (b) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
- for second storey additions and alterations to an existing dwelling at 85 (Lot 89) Fortescue Street, East Fremantle, in accordance with the plans date stamp received on 10 April 2013, subject to the following conditions:
1. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (Refer footnote (i) below)
 2. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 5. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) with regard to construction of the crossover the applicant/builders is to contact Council's Works Supervisor.
- (g) the patio may not be enclosed without the prior written consent of Council.
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (i) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".

Cr de Jong – Cr Martin

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

- (a) element 3.7.2 of the Residential Design Guidelines: Additions and Alteration to Existing Buildings; and
- (b) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
for second storey additions and alterations to an existing dwelling at 85 (Lot 89) Fortescue Street, East Fremantle, in accordance with the plans date stamp received on 10 April 2013, subject to the following conditions:
 1. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (Refer footnote (i) below)
 2. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 5. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 6. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) the patio may not be enclosed without the prior written consent of Council.*
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) Under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T66.7

Submission to City of Fremantle: Planning Scheme Amendment No. 57

By Andrew Malone, Senior Town Planner on 20 May 2013

BACKGROUND

This report responds to the City of Fremantle's amendment to the City of Fremantle Local Planning Scheme No.4 (Scheme Amendment No. 54) as proposed by the Department of Housing (DoH) and applies to a 13,742m² portion of land, located between Burt Street, Skinner Street, Vale Street and East Street, Fremantle.

The Town was invited by the City of Fremantle to comment on the proposed amendment, as part of the proposed development fronts East Street and will have a significant impact on some East Fremantle East Street residents.

Amendment No. 54 proposes to increase the density coding of the Residential zoned properties from R60 to R160. This is to provide the DoH an opportunity to redevelop the site at a higher density.

While the need to develop the site is recognised and the provision of a mix of suitable social, affordable and private housing supported, it is considered an integrated and sustainable redevelopment is required. The Scheme Amendment, as proposed with associated legal agreement, is considered inadequate to effect the orderly and proper

planning of the existing locality. It is accordingly recommended the Town of East Fremantle opposes the Scheme amendment in its current form.

REPORT

The subject area is divided into two separate lots, with a combined total land area of approximately 13,738m². The subject sites are located in the City of Fremantle, located at 19-21 (Lot 1907) and 23-25 (Lot 1873) Burt Street, Fremantle. The subject lots are wholly bound by Burt, East, Vale, Skinner, and East Streets.



The subject sites are adjoined by John Curtin College of the Arts to the south, the Fremantle Arts Centre to the south-west, and low/ medium density residential development to the north and east. To the east is the Town of East Fremantle Municipal Government boundary with the City of Fremantle.

The Scheme Amendment Report states:

The subject lots have historically been developed and used for the purposes of medium density multiple dwelling residential buildings (up to three (3) stories) and associated community buildings within landscaped grounds. The subject land now represents a large expanse of well drained predominantly vacant land suitable for redevelopment.

The Amendment proposes to re-code Lot 1873 (19-21) & Lot 1907 (23-25) Burt Street from R60 to R160 to enable the DoH redevelop of the subject lots, comprising a mixture of social rental housing, affordable housing, subsidised private rental housing, and market housing for sale. The City of Fremantle contends the redevelopment and density are for the:

achievement of affordable housing outcomes consistent with government policy and the strategic vision for Fremantle as a strategic metropolitan centre.... It is considered that a density of up to R160 is necessary to enable redevelopment to achieve a yield that would render the project financially viable.

It is considered the subject sites are well located within close proximity to the Fremantle city centre, essential services, public recreation facilities and transport, and the

redevelopment of the subject site does represent a substantial opportunity for the City to adhere to the objectives of the Directions 2031 and Beyond and subsequent draft Central Metropolitan Sub-Regional Strategy. The sub-regional strategy identifies Fremantle as being a major growth area with an anticipated additional dwelling yield of 3500 or more. However, it is considered however that the proposed R160 density, which represents a significant increase on the current zoning of R60, is not appropriate for the location.

The proposed redevelopment of this currently underutilised area is complementary to the overall planning strategy development within the City, however the proposed density is considered excessive, especially considering the lack of specific design outcomes or built form criteria that are being proposed by the City.

A Deed of Covenant between the City of Fremantle and the Department of Housing sets out the Departments commitment to deliver diverse and affordable housing consistent with the City's local planning policy and strategic intent. While it is acknowledged the City's efforts have resulted in a Deed with the DoH to secure desired outcomes, the Deed is considered to be too loose and does not adequately specify planning and design outcomes to protect the surrounding locality and amenity of surrounding residents.

It is understood there are many difficulties in progressing a redevelopment of a site such as this, especially considering the various state and local government agencies involved and the Town commends the City of Fremantle's endeavours. However the Town requests that further investigation is undertaken into the redevelopment of this site and would suggest more detailed and specific outcomes are outlined in the Deed to ensure best practice and proper planning is maintained.

Amendment Context

The redevelopment of the Claremont Football Oval is a State Government-led urban infill development project based on 9.4 ha of land. Known as Claremont on the Park, the development is expected to result in more than 500 residential units when complete. The development comprises of a mix of uses and a residential mix of dwellings. The development is located within 250 metres of a train station, high frequency bus route and the Claremont Town centre. It is thus in many respects comparable with this proposed development. Significantly however, a detailed Structure Plan was produced with respect to this development.

The subject site is located approximately 1.2 kilometres from the Fremantle Train Station and 500 metres from the outskirts of the Fremantle City centre. The subject site has access to public transport including the provision of two bus stops within 200 metres of the subject site which provide high frequency services (every 10 to 15 minutes) during peak times. It is noted by the City that the Deed has requirements for a development of 180 dwellings or less and a development in excess of 180 dwellings. At an R160 coding, the subject lot can accommodate a maximum of approximately 275 units. While it is expected the subject site will not develop at a density of 275 units, it is nevertheless a possible outcome. Therefore with such a possibility of housing density, it is considered appropriate to undertake a detailed area plan prior to the progression of the rezoning to ensure the proper and orderly planning of the area.

Decision Making Authority

It is understood that the DoH, as a public authority is permitted to undertake public works without obtaining development approval from the relevant local government. Notwithstanding this, as the development contains a private element, it is understood by the Town that the City of Fremantle believe a planning approval by the City of Fremantle will be required. In that event this would raise the issue as to whether the matter would in fact be dealt with by the Development Assessment Panel (**DAP**) and be determined by the Western Australian Planning Commission (**WAPC**). In that instance the City would only be a referral body, providing a recommendation. If that is so, the City will not have the statutory control of the redevelopment of the subject site after the Scheme Amendment is approved. Therefore if that is to be the case, it is recommended the City have a clear and

concise understanding of what is to be developed on the lots prior to the finalisation of the Scheme Amendment.

It is noted the Deed of Covenant between the City of Fremantle and the Department of Housing requires a commitment to engage with the City's Design Advisory Committee and the local community in developing the design of a future redevelopment of the subject site prior to lodgement of a development application. This is to be commended and supported, however the City's Design Advisory Committee and the local community obviously have no statutory powers and thus the concern remains that once approval of the Scheme Amendment is granted, the City will lose any future control or involvement with the further redevelopment of the sites.

It is thus suggested the City require a detailed area plan to be undertaken prior to the determination of the Scheme Amendment.

Alternatively, the Deed of Covenant should be amended such as to ensure that the City of Fremantle is the approving authority for the entire development.

Guaranteed Minimum Percentages Dwelling Yield

As the land at 19 – 25 Burt Street has a total area of 13,742 sq m or 1.374 hectares, based on a R160 density, approximately 219 units (based on 160 units per hectare) or 275 units (based on a plot ratio of 2 (Residential Design Codes) with a unit size of 100sqm) can be accommodated on the subject site. It is noted in the Scheme Amendment report that the DoH is required to comply with the requirements of the Deed where development in excess of 180 dwellings are proposed. According to census data the average number of inhabitants per dwelling is 2.6 people. Based on this between 468 and 715 people will occupy the site.

Based on the variation between the achievable number of dwellings at a R160 density (approximately between 219 and 275 dwellings), it is considered the City should provide a detailed area plan or include the maximum number of dwellings permitted within the Deed.

Segmentation of the Public/ Affordable/ Private Housing

It is commended that the City is working to assist the DoH to provide public housing, affordable housing in addition to private housing within the subject sites. It is requested the City include greater quantitative planning constraints in the Deed, including the provision of an integration plan illustrating how public, affordable and private housing will be clustered. There has been much planning and sociological research findings which would justify a requirement that DoH and any private developer disperse housing mix and affordability throughout the whole development, thereby integrating the public, affordable and private housing. This is seen as proper planning. It would be adverse to cluster the private, public and affordable so as to deem them readily distinguishable.

It is stated the DoH propose:

to deliver this project through a joint venture arrangement with a private sector developer, secured through a tender process. DoH is therefore seeking an amendment to the scheme to allow for development at a higher density, prior to engaging in the tender process as this approach provides greater certainty to the potential developer.

To ensure certainty of the redevelopment of the subject sites, the City proposes:

To address this issue and attempt to provide some level of certainty to the City and the local community about future development outcomes, and in exchange for allowing a significant increase in the residential density of the subject sites, the Department proposes that concurrent to commencement of this Scheme amendment process a Deed of Covenant is entered into between the City of Fremantle and the DoH.

The proposed Deed of Covenant is considered too loose and does not provide the City with any security with regard to design outcomes, built form, integration plan or traffic management.

It is requested the City investigate further, in conjunction with the DoH, a long term redevelopment plan for the subject sites. A detailed area plan should be undertaken identifying housing mix and housing integration prior to the Scheme Amendment being progressed.

Impact to East Street

Area C of the plan (abutting East Street) has a height variation of 28.5 metres AHD at the south western corner to 35 metres AHD located adjoining East Street. The proposed Scheme Amendment and Deed requires Area C to have a maximum building height of 45m AHD. If future development was to take place from current natural ground level, then potentially a building of between 10-16.5 metres maximum building height could be possible (dependent on design). The predominant built form within the area is 2 storey with pitched roof to an approximate 9.0m maximum height. This is out of context with the prevailing built form of the area. It is considered the proposed building heights may have an impact with regard to bulk, scale, built form and on amenity issues such as significant views and vistas.

While it is considered the proposed maximum heights in the Amendment are not considered significantly disproportionate as located on the higher AHD level surrounding dwellings on East Street (10 metres), the further east on the subject site, the greater the height provisions. These height variations across the site may have a negative impact on the residents at East Street. The built form and massing of a proposed development fundamental to ensure potential impacts are minimised. The built form and massing of a development, including required setbacks, may have significant impacts to the existing character of the area, the streetscape and the existing views and vistas currently enjoyed by the residents in the area. The 'stepped' scale of the proposed heights (dependent on design) may eliminate all existing significant views of the surrounding locality.

It is considered the residents of East Fremantle should be included in any design process and the a detailed area plan outlining appropriate built forms, potential views and vistas should be undertaken in conjunction with this Amendment.

Traffic Management/ Public Transport

The site is located with two public bus routes, however is 1.2 kilometres from the Fremantle Train Station.

Development Control Policy 1.6 Planning to Support Transit Use and Transit Oriented Development is of relevance to the proposed Amendment. DC 1.6 seeks to maximise the benefits to the community of an effective and well used public transport system by promoting planning and development outcomes that will sustain public transport use and achieve a more effective integration of land use and public transport infrastructure.

A key objective of DC 1.6 relevant to the Amendment is that higher density residential development should be encouraged close to transit services. The subject site while in close proximity to bus transport, it is not considered within sufficiently close proximity to adequate public transport to warrant a R160 density. The density is considered excessive considering the surrounding infrastructure and services.

It is expected that suitable Acceptable Development Provisions car parking requirements of the Residential Design Codes are adhered to and that no variations are granted. It is also recommended that additional visitor car parking is provided above the requirements of the Residential Design Codes.

Furthermore, vehicle access controls to the subject site are dependent on site specific design, car parking and number of units. The City has not undertaken any recent traffic studies within the area. A traffic count was undertaken between Burt and Vale Streets in

2004, with an average weekday traffic count of 5044. This road is a Local Distributor of which under the Main Roads WA road hierarchy should have a maximum desirable volume of 6000 vehicles per day. This study is almost 9 years old and is considered significantly outdated. It is recommended a Traffic Management Plan is undertaken based on appropriate development scenarios and proposed densities.

Mixed Use

The noted previously the Scheme Amendment Report states:

The subject lots have historically been developed and used for the purposes of medium density multiple dwelling residential buildings (up to three (3) stories) and associated community buildings within landscaped grounds. The subject land now represents a large expanse of well drained predominantly vacant land suitable for redevelopment.

It is noted a community building was previously located in the subject sites. Based on a R160 Density Code, it is considered a mixed use development would be suitable, either in the form of commercial activity or public/ community buildings. It is considered suitable provisions should be made to ensure a development of different but compatible types of land uses, which recognise the different social/ community needs. The proposed Scheme amendment should provide for a diverse range of complementary land uses within comfortable walking distance of each other to reduce car-dependence for the area. The development is currently not zoned to provide commercial activity or mixed use development, therefore it is recommended the land be zoned to include small commercial/ community opportunities.

A detailed area plan should be carried identifying areas of commercial/ community potential so as to ensure a proper and sustainable development is established.

Public Art

The Deed of Covenant between the City of Fremantle and the Department of Housing sets out a requirement for public art to the value of 1%. This is commendable and supported.

Landscaping/ Open Space

High quality landscaping / open space treatment should be incorporated into the development. The proposed Deed with the DoH should set out specific requirements for open space. It is noted the subject lot adjoins John Curtin College to the south, however in the event this is intended, the proposed redevelopment of the lot should not rely on adjoining school lands to meet this requirement.

Development Requirements

Development requirements relating to the Residential Design Codes are to be assessed at the proposed development application stage of the development. The Residential Design Codes Guidelines state:

The acceptable development provisions illustrate one way of satisfactorily meeting the corresponding performance criterion, and are provided as examples of acceptable design outcomes. Acceptable development provisions are intended to provide a straightforward pathway to assessment and approval; compliance with an acceptable development provision automatically means compliance with the corresponding performance criterion, and thus fulfilment of the objective.

The development requirements for an R160 density are considered not to be in keeping with the locality. The requirement of a 2 metre setback is considered unacceptable, considering the average setback for the area is approximately 6 metres. It is recommended that a detailed area plan set out specific development standards and requirements be undertaken prior to the Scheme Amendment progressing. This will enable greater certainty with regard to location of heights, open space, dwelling / unit numbers, unit mix, setbacks etc. This would ensure the Council does not have to rely on

the development requirements of the Residential Design Codes, so as to ensure a development that will stand the test of time.

Conclusion

As previously noted the proposed Deed of Covenant is considered vague and does not provide the City with any security with regard to design outcomes, built form, housing integration or traffic management. It is noted that residential mix and building height is addressed by the Deed and it is further acknowledged the City cannot reasonably request a clear design proposal be undertaken without the security of the rezoning and a private developer being secured prior to commencement of design.

It can however be reasonably requested to require the DoH to undertaken a detailed area plan with the inclusion of a housing integration plan and a traffic management plan to guide the future development of the subject site in conjunction with the City of Fremantle Planning Department detailing such requirements as housing numbers, design outcomes, open space, minimum setback requirements and built form prior to the Scheme Amendment being progressed. It is considered in-appropriate to progress of a density up-coding without greater detail being provided.

The City is to be commended for its approach to public housing, however the proper and orderly planning of the subject site is required. In the current format of the proposed R160 up-coding, based on a Deed of Covenant with the DoH, the redevelopment of the subject site is not acceptable.

It is requested the City considered the comments within this report and undertake further research/ investigation and complete a detailed area plan, housing integration plan and a traffic management plan for the subject site prior to the Scheme Amendment being progressed.

Recommendation

It is recommended Council provides this report as a formal response to the City of Fremantle in relation to the City of Fremantle Scheme Amendment No. 57 in accordance with the information provided and advise the City of Fremantle that it does not support the approval of the Scheme Amendment in its current form.

Cr de Jong – Cr Nardi

That Council provides this report as a formal response to the City of Fremantle in relation to the City of Fremantle Scheme Amendment No. 57 in accordance with the information provided and advise the City of Fremantle that it does not support the approval of the Scheme Amendment in its current form. CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 21 May 2013, this application is deemed determined, on behalf of Council, under delegated authority.

T67. CONFIDENTIAL BUSINESS

Nil.

T68. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

Nil.



T69. CLOSURE OF MEETING

There being no further business the meeting closed at 8.45pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **4 June 2013**, Minute Book reference **T57. to T69.** were confirmed at the meeting of the Committee on*

.....

Presiding Member