



# MINUTES

## Town Planning & Building Committee

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Tuesday, 6 December 2016 at 6.31pm

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**7.2 Deputations**

Nil.

**7.3 Petitions**

Nil.

**8. DISCLOSURES OF INTEREST BY MEMBERS**

Nil.

**9. LATE ITEMS NOTED**

Nil.

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**10. REPORTS OF COMMITTEES**

**10.1 Community Design Advisory Committee**

<b>Prepared by:</b>	Andrew Malone Executive Manager Regulatory Services
<b>Supervised by:</b>	Gary Tuffin, Chief Executive Officer
<b>Authority/Discretion:</b>	Town Planning & Building Committee
<b>Attachments:</b>	1. Minutes of Community Design Advisory Committee Meeting

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**PURPOSE**

To submit the minutes of the Community Design Advisory Committee meeting for receipt by the Town Planning & Building Committee.

**EXECUTIVE SUMMARY**

The Committee, at its meeting on 28 November 2016, provided comment on planning applications listed for consideration at the December Town Planning Committee meeting and other applications to be considered in the future. Comments relating to applications contained within the December agenda have been replicated and addressed in the individual reports.

There is no further action other than to receive the minute.

**10.1 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP 011216**

**Cr Nardi moved, seconded Cr White**

**That the Minutes of the Community Design Advisory Committee meeting held on 28 November 2016 be received.**

**(CARRIED 6:0)**

**Cr White moved, seconded Cr McPhail**

**That the order of business be changed to allow members of the gallery to speak to specific planning applications.**

**(CARRIED 6:0)**

## **11. REPORTS OF OFFICERS (COMMITTEE DELEGATION)**

### **11.1 Silas Street, Unit 2, No. 8 (Strata Plan 43673) – Change of Use: Consulting Rooms to Training Facility**

<b>Applicant</b>	S Michael
<b>Landowner</b>	T Gartner – Rembridge Holdings Pty Ltd
<b>File ref</b>	P/SIL8U2
<b>Prepared by</b>	Christine Catchpole, Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 December 2016
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Location plan</li><li>2. Accompanying documentation in support of application dated 7 November 2016</li><li>3. Photograph</li><li>4. Plans dated 9 November 2016</li></ol>

#### **Purpose**

This report considers a change of use from consulting room with additional coffee kiosk to a training facility for beauty, health and wellness at Unit 2, No.8 (Strata Plan 43673) Silas Street, East Fremantle.

#### **Executive Summary**

The subject commercial tenancy is zoned 'Town Centre'. The applicant is requesting a change of use from the last planning approval for a consulting room with additional coffee kiosk to approval for a training facility for people working in the health, beauty and wellness industry which is a use not listed under the Planning Scheme Zoning Table.

The site has an overall car parking shortfall so the proposal raises the following issues which influence the determination of the application:

- Land use; and
- Car parking.

It is considered the land use is appropriate for the Town Centre and the parking shortfall can be supported. This is on the basis that the use is considered less intensive than the previous consulting room/coffee kiosk use because the parking demand for the proposed use will most likely be reduced and on-street parking can be considered to partly address the shortfall. Cash in lieu of parking is not considered an appropriate mechanism to address the parking shortfall in regard to this application.

The recommendation for approval, however, is subject to no more than four clients and two staff being in attendance at the site at any one time and the retail/wholesale component of the business only being an incidental use to the training facility. It is also recommended that any signage requirements be subject to a further planning application for Council's consideration.

#### **Background**

Zoning: Town Centre

Site area: Unit 2 tenancy - 132m<sup>2</sup>  
Date application received: 7 November 2016

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

**16 July 2002** – Council granted approval for two upper level residential units with a four bay parking shortfall.

**11 July 2003** – Survey strata plan approved by the WAPC. Parking bays were allocated to specific tenancies under the Strata Plan.

**16 March 2004** – Approval granted for a medical clinic – physiotherapist for Unit 2. A shortfall of four car bays was approved by Council. As there were only seven car parking spaces approved for the site and the floor space of the existing pharmacy required seven bays, the consulting room use added to the overall shortfall of bays on the site.

**2 December 2014** – A planning application for Unit 2 to include an additional use of a coffee kiosk to the principal use of consulting room was approved. The consulting room use applied to a business called “The Nest on Silas” and acted as a pregnancy, childbirth and postnatal resource centre. The services provided through the Nest included midwifery led care, counselling, naturopathy, lactation consulting and hypnotherapy.

**Consultation**

Advertising

The application for a change of use was advertised to surrounding landowners for a period from 9 to 30 November 2016. One submission from a nearby business owner was received.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>I would like to express my concerns regarding the increased demand in parking that a change like this will bring with it, especially the “Training Rooms” part.</p> <p>a) I hope “Wellness Training Rooms” is not a euphemism for ‘gym’ or something similar, perhaps?</p> <p>b) Any training rooms will – of necessity – mean an extra demand for parking spaces for the ‘trainees’ as well as staff parking for the ‘trainers’. Where exactly do they expect them all to park?</p> <p>c) I believe there are just 2 allocated car bays for staff members at the rear.</p> <p>d) Is it possible to convert a portion of the unkempt parkland on the corner of St Peters Rd and Silas Street into extra parking, perhaps?</p> <p>There is already great demand for parking in the area, especially since the development of Richmond</p>	<p>The applicant has provided the following response in respect to points a) to d).</p> <p>a) It is not a gym it is a beauty and holistic health training centre no exercise classes or gyms will be operating.</p> <p>b) The majority is one on one training and there are two trainers both whom will be parking down the road at the residence of one of the trainers.</p> <p>c) There are two car bays to the rear and they are not allocated to staff as pointed out above.</p> <p>d) The last point is a matter for Council but I have never had any trouble obtaining parking in the area.</p>	<p>The use proposed is not a ‘gym’ as outlined in the applicant’s response and a condition of planning approval is recommended which would not permit the use of the tenancy for a gym, fitness centre or exercise classes.</p> <p>The parking considerations in relation to the proposed use are discussed in the ‘Comment’ section of the report.</p> <p>It is not possible to use the land on the south west corner of St Peters Road and Silas Street for parking because this land is classified as road reservation (Stirling Hwy) under the Metropolitan Region Scheme.</p> <p>The parking demand in the</p>

<p>Quarter. We have many elderly patients who now arrive stressed and late for appointments due to having to walk a long distance after trawling the car park for ages.</p> <p>Additional comments were provided as outlined below: The 4-5 bays directly out front of the property on Silas Street can only mean the 5 (restricted 15min) parking bays directly outside that property which will be of no use to them as “training purposes” requires a lot longer stay than 15 mins. .</p> <p>There are 6 bays directly out the front of the 3 commercial units opposite (who all see patients every day and are <i>always full</i>) plus the one parallel parking down from the property seeking a change of use, outside a really busy doctors’ surgery.</p> <p>I doubt a survey has been done to accurately record the usage of the above-mentioned car park, as in my opinion and the opinion of our patients, that car park is almost always full.</p> <p>How long will a “group training session” last as all the parking (barring the 6 outside our three commercial units opposite) are limited to 15 minutes or 3 hours. How can it be possible that there will be “very little to no extra pressure on the current parking within the area” if they are training groups of people for many hours at a time?</p> <p>The owners’ promise to park off-site cannot be considered by Council as it could be nothing more than good intentions, and intentions are nothing but words – there is no way to enforce them if the approval they seek is granted, and they could be easily forgotten.</p>	<p>The car bays out front have not been factored into being required for the use proposed. It is considered these bays are there for use for all visitors to the area. If someone that is going to train for 1 or more hours parks in a 15 minute bay they will receive a violation for doing so. The application makes no mention of the parking bays in front of 7 Silas Street as these should be for the use of those units. If patients are complaining maybe parking requirements for those uses and that site need to be examined and the impact this has on the area in general.</p> <p>This property has been developed some time now and does not appear to cause the problems as raised in the submission. A timeline of development would highlight the changes in the area that have occurred, that have created today’s problem. The operation of other businesses in the area may be the cause of parking issues identified in the submission rather than other tenancies in the area creating problems.</p>	<p>area will continue to be in a state of fluctuation until the tenancies in the Richmond Quarter become established and tenancy fit-out work on the site ceases. The parking issues experienced by some businesses in the area are not necessarily a result of the Richmond Quarter development, but rather parking issues on private property that must be resolved between landowners as the Town does not have the authority to intervene in those matters, or possibly as a result of existing parking shortfalls.</p>
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Community Design Advisory Committee

This application was not referred to the Committee as the application is for a change of use within an existing commercial tenancy.



### Statutory Environment

*Planning and Development Act 2005*

*Town of East Fremantle Town Planning Scheme No. 3 (TPS 3)*

### Policy Implications

*Town Centre Redevelopment Guidelines 2011*

*Fremantle Port Buffer Zone – Area 2*

### Financial Implications

Nil

### Strategic Implications

Nil

### Site Inspection

November 2016

### Triple Bottom Line Assessment

#### Economic implications

There are no known significant economic implications associated with this proposal.

#### Social implications

There are no known significant social implications associated with this proposal.

#### Environmental implications

There are no known significant environmental implications associated with this proposal.

### Comment

#### Statutory Assessment

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

Legend <i>(refer to tables below)</i>	
A	Acceptable
D	Discretionary
N/A	Not Applicable

#### Town Planning Scheme No. 3 – Commercial Zones (Town Centre) – Development Standards

General Development Standards	Required	Proposed	Status
<b>Land Use - Zoning Table</b>	<b>Not listed</b> <b>Incidental retail/wholesale</b>	<b>Training Facility</b> <b>Incidental retail/wholesale</b>	<b>D</b> <b>A</b>
Building setbacks	Aligned with front property boundary	Existing	N/A
Building height	Overall: 8m Walls: 5.5m	Existing	N/A
Plot ratio	0.5:1.0	Existing	N/A
Design and landscaping	Landscaping plan	N/A	N/A
<b>Car parking and vehicular access (Schedule 4 and 11 of TPS 3)</b>	<b>Ratio not listed for this use</b> <b>Rate for consulting rooms used as a guide on the basis that trainees will be required to make appointments</b>		<b>D</b>

	<b>4 bays required for the consulting room use</b>	<b>2 bays officially allocated to tenancy under strata plan</b>	
Location of car parking	On-site at rear	2 bays allocated to Unit 2 on-site	A
<b>On-street parking</b>	<b>On-street may be acceptable</b>	<b>Use of on-street bays proposed</b>	<b>D</b>

The fit-out of the tenancy will comprise a reception area/retail area (4.2m x 5m), three small offices (~3m x ~3m) and an open space area of 5.4m x 5.6m. The fit-out does not appear to have been altered from the previous use.

The applicant has provided the following comments in a letter in support of the application dated 7 November 2016:

- *The business will be consulting and training of clients in the specific field of health, beauty and wellness which will complement other services that are located within the area.*
- *The training will form about 85% of the business with the remaining 15% being retailing/wholesaling. The retailing/wholesaling will be primarily for clients.*
- *The training and consulting is mainly one on one with the occasional smaller training groups of 2 to 4 for group bookings. The only people employed at the property and at the site on a permanent basis will be the two trainers.*
- *If the application is successful the owners will be relocating to live in a nearby property and both the staff members will be parking at this location and walking to Silas Street. The two business owners have the ability to park at another property, also close by and any extra people that may require parking, when there are the larger training groups, will be able to access this parking.*
- *Whilst there are two allocated bays at the rear of the property there is also street and Council owned parking in close proximity of the complex. There are 4 to 5 bays directly in front of the property on Silas Street as well as other street parking along Silas Street either side of No. 8. Whilst it is understood this is not parking that can be allocated to the use. This parking has been sufficient to satisfy Council's parking requirements in the past.*
- *The Council owned car park is very rarely full and 90% of the time offers bays to the general public using the facilities and businesses in Silas Street. There are also facilities for parking provided by other businesses like FoodWorks and whilst allocation of these bays is not possible they may be available for client use.*
- *The applicants envisage very little to no extra pressure on the current parking within the area. As stated previously they will not be using the allocated bays at the rear for their own parking; they will use the parking at a nearby residential property. If successful they will also endeavour to seek approval to use an on-site bay that has been allocated to a resident and not used during the day.*
- *Not allowing the use of the tenancy for this purpose will render the property worthless and at risk of remaining vacant for a long period, something that is not a desired outcome for the area particularly as the proposed use would probably have the least impact on the surrounding area.*

The subject site is zoned 'Town Centre'. Approval is sought for a change of use to a use 'not listed' within the Zoning Table of TPS 3. The proposed additional use has been assessed as per the relevant Council planning requirements. No additional car parking other than that allocated to the commercial

tenancy (under the Strata Plan) is being provided on-site. The parking allocation will be addressed below, along with the proposed land use.

#### **Land Use – Training Facility**

The proposed use of a training facility is not mentioned in the Zoning Table of the Planning Scheme. If a proposed use is considered a use 'not listed' under the Town's Planning Scheme then clause 4.4.2 as outlined below applies.

*4.4.2 If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within any use class in the Table, the local government may:*

- (a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or*
- (b) determine that the use may be consistent with the objectives and purpose of the zone and thereafter follow the advertising procedures of clause 7.5 in considering an application for planning approval; or*
- (c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.*

The application was therefore advertised to surrounding property owners within the immediate area. One submission was received and as discussed above raised parking and the use of the tenancy for a gym as an issue.

The proposed use is considered to meet the Town Centre objective "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". Whilst the use is supported it is considered important that the street frontage of the tenancy remain open to the street and that no screening or advertising be applied to the front entry glazing or doorway.

The retail/wholesale component relates to the beauty products that will be used in the training sessions. The products will be made available to the trainees and possibly other shoppers. The latter are likely to be passing by on other business rather than specifically seeking out the products for sale at this location. It is, however, recommended that a condition of approval state that this is an incidental component of the training facility and that the retail component is not to become the sole function of the business or the approved use of the tenancy should the training facility cease to operate. This condition preventing use of the site for retail purposes only is considered essential given the current parking shortfall.

#### **Car Parking**

The following provision of the TPS 3 applies to the use of land in the Town Centre in respect to car parking.

##### Clause 5.8.5 Car Parking and Vehicular Access

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.

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Clause 5.8.6 Location of Car Parking

Required car parking is to be provided on the site of the development for which it is required, or subject to the local government's approval, off-site in the immediate vicinity of the development site. In considering a proposal for off-site parking, applicants will need to demonstrate to the satisfaction of the local government that any off-site parking areas will continue to be available for use in conjunction with the development at such times as it might reasonably be required.

Clause 5.8.7 On-Street Parking

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

5.8.8 Cash-in-lieu of Parking

The local government may accept or require cash-in-lieu of all or a proportion of required car parking, based on the estimated cost of providing the requisite parking, including any associated access and manoeuvre facilities. Cash-in-lieu of parking shall be paid into a trust fund and used to provide public parking in the vicinity of the development site(s) in relation to which any cash-in-lieu contributions have been received.

Car parking shortfall

Under Schedule 10 of TPS 3 the parking requirement for a 'training facility' is not listed. No additional on-site car parking is being provided other than the two bays allocated to the tenancy. The subject site has seven car parking bays for two commercial tenancies and two dwellings. Under the strata plan five car parking bays are associated with the commercial units and two with the residential units. Unit 2 has an allocation of two bays. The Town, however, considers there is an overall on-site parking shortfall as outlined above in the 'Background' section of the report, primarily to do with the originally approved uses. The pharmacy (retail floor space) alone generates a demand for seven bays, so in theory while the pharmacy use remains there will be a parking shortfall equivalent to the parking required by the other uses. This has resulted because of the previous approvals with parking shortfalls.

In this circumstance to assess the parking requirement for Unit 2 it is considered reasonable to use the consulting room rate as a guide based on the 'appointment required' nature of the business. Therefore, if four bays are required for one consulting room (previously permitted shortfall based on last approval) and two are provided (as allocated under the strata plan) then Council will be considering a two bay shortfall with respect to this application.

Council must therefore first decide whether it is to relax the parking requirements or not. Under Clause 5.6.1, Council may approve the application even if it does not meet Scheme requirements, however, it can only do so if the following criteria are considered to be met.

For Council to consider varying the parking requirements it is required to be satisfied that the proposed development complies firstly with the provisions of clause 5.6.2 of the Scheme which states as follows:

*In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —*

- (a) consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and*
- (b) have regard to any expressed views prior to making its determination to grant the variation,*

and clause 5.6.3(b) which states:

*The power conferred by this clause may only be exercised if the local government is satisfied that:*

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 (Deemed Provisions); and*
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.*

Secondly the relevant matters pertaining to clause 67 (Deemed Provisions – matters to be considered by local government) of TPS 3, which are listed below, must also be taken into account:

- (a) the aims, objectives and provisions of the Scheme;*
- (c) the requirements of orderly and proper planning;*
- (o) the preservation of the amenity of the locality;*
- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles; and*
- (r) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*

In response to the above matters, the comments in support of the application and the submission from a nearby landowner the following remarks are made. It is agreed the proposed use is not considered an intensive use and as the training is to be carried out on an appointment basis the use is likely to operate in a similar fashion to the previous consulting room but more than likely with fewer clients, or with clients attending at the one time and staying longer resulting in a lesser demand for bays in the short term. As stated in the letter in support of the application most training sessions are on a one to one basis, or with slightly larger groups of two to four people. It is therefore recommended that a condition be applied which restricts the number of staff and employees on site at any one time so parking demand is not increased.

Although the car park referred to by the applicant is not a Council car park but a privately owned car park associated with the Richmond Quarter, the parking bays are available to the general public as are the on-street bays on Silas Street. These bays were potentially available for use by the previous consulting room clients. This parking area along with other public parking in Silas Street is available to the public at any time, albeit some of it is time restricted and patrolled by the Town. Also, the Richmond Quarter parking is available to the public with some of the area restricted to a 3 hour parking limit. This private parking area is patrolled by a private parking company and parking signs in the area advise that registration identification technology has been installed, which should encourage a turnover of parking bays thus increasing availability. The continued use of these public bays by business patrons to the area is considered acceptable. The proposed use is considered to have less of a turnover of clients than the physiotherapy practice (which may have had appointments scheduled as frequently as every 20 - 30 minutes) it is considered there will be a lesser need for parking with the use proposed.

Given the parking shortfall that has eventuated on this site over past years it is highly likely that uses suited to the building will be unable to meet the parking requirements under the Scheme, particularly as under current parking standards the floor space of just one of the tenancies equates to a requirement equal to the total number of bays on the site. A use that has a lesser demand for parking than for

example, a fast food outlet or shop and one that is less intensive than the previous use is considered the best possible outcome in regard to the parking situation and occupancy of the tenancy. Given the location of the site within a business area, proximity to public transport and the modest nature of the proposed business, the existing on-site parking and that currently available in the Town Centre is considered sufficient for the proposed use. The submission received commented that there is a great demand for parking in the area and that this use will result in greater parking pressures for existing businesses. It is the Town's view that this is not likely to be the case and that parking is available in the area, however, it is acknowledged it may not always be available within a very short walking distance and that it is unrealistic for businesses in the area to have the expectation that off-street public parking will always be available at the doorstep for exclusive use.

### **Conclusion**

The parking likely to be generated by the proposal is considered less than the previous use. The number of clients is considered to be fewer and less frequent than the consulting room use as discussed above and therefore the proposed use is not believed to result in any greater demand on public parking as a result. In conclusion it is considered that use of on-street and parking areas nearby will not negatively impact the orderly and proper planning of the area, provided that the number of people expected to attend the training facility is not exceeded.

Notwithstanding the applicant stating that the two bays at the rear of the site will be available for use by clients, as the business owners will park elsewhere, it is not possible to ensure this will be the case because the Town does not patrol private parking areas. If the two bays at the rear are used by either staff or clients the situation will remain the same as per the previous consulting room use, so irrespective of who uses the bays the application is supported. If the business owners are able to walk to work as suggested then the parking shortfall will in theory be further reduced.

If Council was not of the view that the parking shortfall should be supported for the above reasons then a contribution of cash in lieu of parking is an option for Council to consider for the applicant to address the shortfall. However, this is not considered an appropriate mechanism to address the parking shortfall in regard to this application and would be an unviable option for the business operators in this circumstance due to the nature and scale of the business.

In light of the above, the proposal for a training facility (for up to four clients and two staff/employees) at any one time) with incidental retail/wholesale is considered acceptable and is recommended to be supported subject to the conditions outlined below. It is also recommended that a condition be imposed to require a separate application for any signage on the site for Council's consideration.

- Mr Steve Michael (applicant) addressed the meeting and raised concerns about the officer's recommendation which limits the number of staff and clients and felt that the restrictions do not allow for the business to expand into the future. Mr Michael felt that the proposal compliments the area and refusal will be detrimental to the property.

### **Officer Recommendation**

That Council exercise its discretion in granting approval to vary:

- (i) Clause 5.8.1 – Car parking of Town Planning Scheme No. 3 to allow an on-site car parking shortfall of two bays in respect to the proposed use of Unit 2,

for a change of use from consulting room with additional coffee kiosk to training facility with incidental retail/wholesale at Unit 2/No. 8 (Strata Plan 43673) Silas Street, East Fremantle, as indicated on the plans date stamped received 9 November 2016 subject to the following conditions:

- (1) No more than four (4) clients to attend a training session at any one time and no more than two (2) staff/employees to be in attendance at the site at any one time.

- (2) The retail/wholesale component to be an incidental use to the training facility and not the sole function of the business or the approved use for the tenancy should the training facility cease to operate (see Footnote (i) below).
- (3) The tenancy is not to be used for the purpose of a gymnasium, fitness centre or exercises classes.
- (4) No screening or advertising to be applied to the glazed entry and frontage to Silas Street.
- (5) No signage is approved under this change of use application. A separate planning application is required for any proposed signage. All signage to comply with the Town's Local Planning Policy Design Guidelines – Signage.
- (6) The commercial building to 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.
- (7) The works are to be constructed in conformity with the drawings and written information in relation to use 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) 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.
- (9) The proposed use is not to be commenced until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

Footnote:

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

- (i) *In regard to condition 2 should the training facility cease to operate the applicant is required to seek Council approval for any other proposed use of Unit 2 through the submission of a development approval application for Council's consideration.*
- (ii) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iii) *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.*
- (iv) *the approval does not include approval of any advertising signage. A separate development application for Council's consideration is required for any signage proposal.*

**11.1 ALTERNATE MOTION/COMMITTEE RESOLUTION TP021216**

**Cr M McPhail moved, seconded Cr Nicholson**

- (i) **Clause 5.8.1 – Car parking of Town Planning Scheme No. 3 to allow an on-site car parking shortfall of two bays in respect to the proposed use of Unit 2,**

**for a change of use from consulting room with additional coffee kiosk to training facility with incidental retail/wholesale at Unit 2/No. 8 (Strata Plan 43673) Silas Street, East Fremantle, as indicated on the plans date stamped received 9 November 2016 subject to the following conditions:**

- (1) No more than four (4) clients to attend a training session at any one time at the site.**
- (2) The retail/wholesale component to be an incidental use to the training facility and not the sole function of the business or the approved use for the tenancy should the training facility cease to operate (see Footnote (i) below).**
- (3) The tenancy is not to be used for the purpose of a gymnasium, fitness centre or exercises classes.**
- (4) No screening or advertising to be applied to the glazed entry and frontage to Silas Street.**

- (5) No signage is approved under this change of use application. A separate planning application is required for any proposed signage. All signage to comply with the Town's Local Planning Policy Design Guidelines – Signage.
- (6) The commercial building to 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.
- (7) The works are to be constructed in conformity with the drawings and written information in relation to use 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) 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.
- (9) The proposed use is not to be commenced until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.

**Footnote:**

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

- (i) *In regard to condition 2 should the training facility cease to operate the applicant is required to seek Council approval for any other proposed use of Unit 2 through the submission of a development approval application for Council's consideration.*
- (ii) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iii) *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.*
- (iv) *the approval does not include approval of any advertising signage. A separate development application for Council's consideration is required for any signage proposal.*

**(CARRIED 6:0)**

**Note:**

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 June 2015 this application deemed determined, on behalf of Council, under delegated authority.



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#### 11.4 Pier Street, No. 19 (Lot 2) – Solar Collectors (16 panels) on Heritage Listed Dwelling

<b>Applicant/Owner</b>	M & J Neville
<b>File ref</b>	P/PIE19
<b>Prepared by</b>	Christine Catchpole, Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting date</b>	6 December 2016
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Location Plan 2. Photograph 3. Roof plan indicating solar collectors date stamped received 28 October 2016

#### **Purpose**

This report considers a development application for 16 solar collectors (panels) on the north facing roof section of a heritage listed dwelling at No. 19 (Lot 2) Pier Street, East Fremantle.

#### **Executive Summary**

The issues relevant to the determination of the application are as follows:

- Streetscape impact - the protection of residential amenity with respect to the existing character and appearance of streets within the Town; and
- Heritage impact - the protection of the heritage significance of the dwelling – category B on Town Planning Scheme No. 3 Heritage List.

The application for solar collectors can only be supported subject to the placement of the panels not being on the street front facing section of the roof.

#### **Background**

Nil in relation to this application.

#### **Consultation**

##### Advertising

Applications for solar collectors are not generally advertised.

##### Community Design Advisory Committee (CDAC)

This application was considered by the CDAC at its meeting on 28 November 2016. The Committee's comments were recorded as follows:

- The Committee does not support the location of the solar panels.
- Committee would support the solar panels located on the side and rear roof profiles.

#### **Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

*Town of East Fremantle Town Planning Scheme No. 3 (TPS 3)*

*TPS 3 – Heritage List – Category B*

#### **Policy Implications**

*Town of East Fremantle Residential Design Guidelines 2016 (as amended)*

*Municipal Heritage Inventory – Category B*

### Financial Implications

Nil.

### Strategic Implications

Nil.

### Site Inspection

November 2016

### Triple Bottom Line Assessment

#### Economic implications

There are no known significant economic implications associated with this proposal.

#### Social implications

There are no known significant social implications associated with this proposal.

#### Environmental implications

There are no known significant environmental implications associated with this proposal.

### Comment

TPS 3 Zoning: Residential R12.5

MRS: Urban

Site area: 986m<sup>2</sup>

### Statutory Assessment

The proposal has been assessed against the provisions of Town Planning Scheme No. 3 and the Town's Residential Design Guidelines.

The orientation of the subject site is north-south with the northern elevation fronting Pier Street and the lot is mostly level with the street. The house is setback between 5 and 6 metres from the Pier Street lot boundary.

The Council has determined that due regard should be given to the aims and general provisions of Town Planning Scheme No. 3 in respect to streetscape impact, the protection of heritage significance and the existing town character and this has been implemented in the requirements of the Residential Design Guidelines (Clause 3.7.13.3 – Acceptable Development Provisions) which states:

- A1.1 *Solar collectors, satellite dishes, microwave masts, radio masts and antennae are not to be visible from the primary street.*
- A2.1 *Solar collectors shall not be located on the primary roof façade.*
- A4 *Incidental developments (e.g. solar collectors) are to be erected on the back façade and not project above the ridgeline.*

The principal objective in the consideration of solar collectors is to ensure they are located so as to be unobtrusive, functional and to ensure there is no permanent alteration to significant heritage properties or streetscape values. Where practical, the Residential Design Guidelines require that solar panels should not be visible from the street.

If an application does not comply with the Acceptable Development Provisions then the proposal is to be assessed under the Performance Criteria of the Residential Design Guidelines which states as follows:

*Incidental development such as solar collectors are located to minimise their impact on the character of the building and the immediate locality. Wherever practical, opportunities for concealment of incidental developments shall be utilised – such as ‘hiding’ them in roof valleys, or on rear roof planes behind parapet walls.*

The applicant proposes to install 16 solar panels on the northern elevation of the roof at the same pitch as the roof. The panels are indicated as being fixed flat, directly onto the existing Zincalume roof. It is estimated from the roof plan submitted that sixteen panels will effectively cover approximately two thirds of this section of the roof.

It is unfortunate the orientation of the dwelling to the street is northwards as 16 panels on this surface of the roof are considered to have a significant impact on the streetscape and the heritage value of the property. For the most part throughout the Town solar panels are not installed on roof surfaces that face the street. In the circumstances where the street front is to the north of the lot it is preferred that panels be installed on the east and west facing surfaces. Most available information on solar collectors states that the efficiency of panels is reduced by approximately 15% if they are installed on the east and west roof planes. There are, however, sometimes means by which this inefficiency can be overcome, for example by titling the panels or increasing the number of panels on other surfaces.

As noted No. 19 Pier Street is listed on the Town’s Heritage List. The applicant is seeking a variation to Policy provisions with regard to the location of solar collectors. For Council to consider such a variation, it is required to be satisfied that the proposed development complies with clause 67 (Deemed Provisions – see below) and the provisions of Clause 5.6.3 (b) of the Scheme Text which states as follows:

***Variations to site and development standards and requirements***

*“5.6.3 The power conferred by this clause may only be exercised if the local government is satisfied that:*

- (a) approval of the proposed development would be appropriate having regard to the criteria set out in clause 67 (Deemed Provisions); and*
- (b) the non-compliance will not have an adverse effect upon the occupiers or users of the development, the inhabitants of the locality or the likely future development of the locality.”*

*Clause 67 states as follows:*

*Matters to be considered by local government In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —*

*The following sub-clauses to clause 67 of TPS No. 3 (Deemed Provisions) are considered of particular relevance:*

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;*
- (k) the built heritage conservation of any place that is of cultural significance;*

- 
- (l) *the effect of the proposal on the cultural significance of the area in which the development is located;*
  - (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development; and*
  - (n) *the amenity of the locality.*

In respect to the above matters that local government must consider the consideration at hand is whether the energy efficiency from solar power should outweigh or prevail over the heritage, streetscape and amenity considerations for the residential environment and ultimately the character and amenity of the Town. This consideration is likely to occur frequently into the future given the installation of solar panels appears to be something that is increasing in popularity and affordability. The Council has previously determined that energy efficiency/savings should not be the foremost consideration, particularly in the case of heritage buildings and that consideration should be given to preserving their character, appeal and authenticity. If more solar panels are gradually installed on the street facing roof sections of houses there is no doubt it would become noticeably more detracting from the character and streetscape appeal of the Town.

Sixteen panels on the northern frontage will result in most of the roof section being covered with panels and this is considered to have a significantly unfavourable impact on the heritage status of the property. There are only five properties in Pier Street which are listed in the Municipal Inventory (four of these are Category C rated) and 19 Pier Street is the only property in this street which is recorded in the Heritage List of the Planning Scheme. In this instance and because of its rarity in the area it is considered this property should be afforded consideration in respect to its appearance and heritage status.

In conclusion it is recommended the solar panels not be permitted on the northern face of the roof and that Council restrict the installation to other sections of the roof only. However, if the Committee feel inclined to support the proposal it is requested to consider approving a much lesser number of panels on the northern aspect and for at least a greater number of panels to be located on the western and/or eastern sections of the roof. In this instance it is recommended that all panels be installed on the east and west facades.

Given the age and heritage status of the dwelling the applicant should be advised that an opinion be sought from a Registered Building Surveyor/Structural Engineer to ascertain whether the existing roof structure can accommodate the additional load incurred by the installation of solar collectors. Also, should further solar collectors be required the submission of another application for Council's consideration will be required.

- Mr Mark Nevill (owner) addressed the meeting and advised that he considered putting the panels on the east or west side of the building however this will reduce the efficiency of the panels. Mr Nevill also noted that Pier Street has a number of residences with solar panels on the street frontage and therefore his proposal should be approved with the Panels on the northern façade. Mr Nevill noted that he had put a lot of work into the heritage property and he felt he was being penalised for the property being heritage listed.

#### **Officer Recommendation**

Cr Collinson moved,

That Council grant approval for the installation of sixteen (16) roof mounted solar collectors at No. 19 (Lot 2) Pier Street, East Fremantle, subject to the following conditions:

- (1) The installation of sixteen (16) solar collectors only.
- (2) No solar collectors being installed on the northern roof aspect (Pier Street frontage).
- (3) The solar collectors are not to display any form of advertising or branding visible from the street.
- (4) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
- (5) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (6) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (7) This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (i) *it is advisable that an opinion be sought from a Registered Building Surveyor / Structural Engineer that the existing roof structure can accommodate the additional load incurred by the installation of solar collectors.*
- (ii) *should further solar collectors be required the submission of another application for Council's consideration should be made.*
- (iii) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (iv) *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).*

*Lapsed for want of a seconded*

**Procedural Motion**

Cr McPhail moved, seconded Cr Collinson

To defer the item to the next Town Planning and Building Committee meeting in February 2017.

(LOST 2:4)

- Mayor O'Neill moved that condition (2) of the officer's recommendation be deleted.

**11.4 ALTERNATE MOTION/COMMITTEE RESOLUTION 031216**

**Mayor O'Neill moved, seconded Cr Nardi**

**That Council grant approval for the installation of sixteen (16) roof mounted solar collectors at No. 19 (Lot 2) Pier Street, East Fremantle subject to the following conditions:**

- (1) The installation of sixteen (16) solar collectors only.**
- (2) The solar collectors are not to display any form of advertising or branding visible from the street.**
- (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) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (5) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (6) This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (i) *it is advisable that an opinion be sought from a Registered Building Surveyor / Structural Engineer that the existing roof structure can accommodate the additional load incurred by the installation of solar collectors.*
- (ii) *should further solar collectors be required the submission of another application for Council's consideration should be made.*
- (iii) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (v) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

(CARRIED 5:1)

Reason for Change

Committee is of the opinion that the application does not negatively impact the heritage value of the building and Council is to review their policy on solar panels.

- Executive Manager of Regulatory Services supported the Committee's decision and advised that the report was written to comply with the provisions of the policy.

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 June 2015 this application deemed determined, on behalf of Council, under delegated authority.

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## 11.2 Duke Street No. 19 (Lot 52) – Construction of a Two Storey Dwelling

<b>Applicant</b>	John Chisholm Design
<b>Owner</b>	P Galipo
<b>File ref</b>	P/DUK19; P102/16
<b>Prepared by</b>	Christine Catchpole, Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Location Plan 2. Photograph 3. Plans date stamped received 28 September 2016

### Purpose

This report considers a planning application for the construction of a two storey dwelling on vacant land at No. 19 (Lot 52) Duke Street, East Fremantle.

### Executive Summary

The following issues are relevant to the determination of this application:

- Street front setback reduced;
- Lot boundary setbacks: parapet wall (garage) to the southern boundary and reduced setback to the northern boundary;
- Site works: excavation behind a street setback line and within 1 metre of a lot boundary that is greater than 0.5 metres below natural ground level at the boundary;
- Vehicular access – a driveway closer than 0.5 metres from a side lot boundary; and
- Crossover exceeding 5 metres.

It is considered the street front boundary, lot boundary setbacks, site works and vehicular access variations can be supported subject to conditions of planning approval being imposed to ensure the residential amenity for adjoining properties is maintained, however, it is recommended the crossover width is not exceeded.

### Background

**24 April 2015** – Freehold subdivision application approved:

- Lot 51 (No. 21) – 577m<sup>2</sup>; and
- Lot 52 (No 19) – 432m<sup>2</sup>.

At present the land is vacant and a retaining wall has recently been constructed on a portion of the western boundary.

### Consultation

#### Advertising

The application was advertised by a sign being placed on the site for two weeks and letters sent to surrounding land owners from 6 to 24 October 2016 during which time two submissions were received.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p><b>Submission 1:</b> Windows on west side, first floor are high, but will still look straight into our backyard pool area. Can the windows be either frosted, or altered to ensure privacy is maintained.</p> <p><b>Submission 2:</b> Full support for the proposed development adjoining our property. The architect has done an excellent job in maintaining privacy, limiting overshadowing and producing an excellent plan for a 'tight' site. I hope the proposed development proceeds as planned.</p>	<p>No response received.</p>	<p>The bedroom and nook windows proposed are highlight windows with a sill height of ~1.7m above floor level.</p> <p>Sill heights above 1.6m are required to meet the visual privacy provision of the R-Codes for bedroom windows greater than 0.5m above natural ground level.</p> <p>The highlight windows are the only light source to the bedrooms so given the R-Code visual privacy standards have been satisfied it is considered unreasonable to impose frosting or obscure glass be installed. This would limit light to the rooms particularly as the windows are only ~1m<sup>2</sup> and less in area.</p> <p>Comment noted.</p>

Community Design Advisory Committee (CDAC)

This application was considered by the CDAC at its meeting on 24 October 2016. The Committee's comments were recorded as follows:

- The proposal is supported by the Committee; and
- The Committee recommend the Theatre and Bed 1 be "squared off" to ensure a consistent roof and built form to Duke Street.

With respect to the CDAC viewpoint that a portion of the front façade should be "squared off" the following comments are made. In this instance this element of the design is not considered significant in respect to the built form presentation to Duke Street. The current design is considered to add interest to the façade and the bull nose verandah, as well as reducing building bulk on the street front. The architectural feature itself does not have any heritage or streetscape relevance. It is accordingly arguable whether Council should have regard for differing tastes regarding the aesthetics of new buildings and as such it is not considered necessary that the plans be amended in this respect.

The applicant did not respond to the Committee's comments.

**Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

*Town of East Fremantle Town Planning Scheme No. 3*



### Policy Implications

*Town of East Fremantle Residential Design Guidelines 2016 (as amended)*  
*Fremantle Port Buffer Zone – Area 2*

### Financial Implications

Nil.

### Strategic Implications

Nil.

### Site Inspection

October 2016

### Triple Bottom Line Assessment

#### Economic implications

There are no known significant economic implications associated with this proposal.

#### Social implications

There are no known significant social implications associated with this proposal.

#### Environmental implications

There are no known significant environmental implications associated with this proposal.

### Comment

TPS 3 Zoning: Residential R20

MRS: adjacent to an Important Regional Road Reservation (Stirling Highway)

Site area: 432m<sup>2</sup>

### Statutory Assessment

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

Legend (refer to tables below)	
A	Acceptable
D	Discretionary
N/A	Not Applicable

### Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	6.0m	Nil – 4.8m	D
Lot Boundary Setback	Southern – 1.0m	Nil	D
	Northern – 3.3m	2.8m – 11.2m	D
Open Space	50%	54.7%	A
Outdoor Living	30m <sup>2</sup>	52m <sup>2</sup>	A
Car Parking	1	2	A
Site Works	Less than 500mm	Excavation greater than 500mm	D
Retaining Walls	Greater than 500mm and closer than 1m from lot boundary	Development approval previously issued for retaining walls on adjoining lots	A

Overshadowing	25%	10%	A
Drainage	On-site	On-site	A

Local Planning Policy 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
<b>3.7.4 Site Works</b>	<b>D</b>
3.7.5 Demolition	N/A
<b>3.7.6 Construction of New Buildings</b>	<b>D</b>
<b>3.7.7 Building Setbacks and Orientation</b>	<b>D</b>
3.7.8 Roof Form and Pitch	A
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
<b>3.7.14 Footpaths and Crossovers</b>	<b>D</b>
3.7.18.3 Garages, Carports and Outbuildings	A
3.7.15-20 Precinct Requirements	A

Building Height Requirement	Required	Proposed	Status
Building Height (wall) (R-Codes)	6.0m	5.8m	A
Building Height (roof) (R-Codes)	9.0m	8.2m	A

The lot to be developed is the northern half of a subdivision approved by the WAPC in 2015. A lot of 432m<sup>2</sup> was subdivided from the parent lot with the other half of the land becoming Lot 51 (No. 21) Duke Street. Lot 51 to the south has been developed with a large two storey dwelling with a combined retaining wall and high dividing brick fence on its northern boundary.

Lot 52 (No. 19) is an unusual triangular shaped lot with a 40 metre curved frontage to Duke Street. The proposed dwelling is a two storey house that comprises a ground floor level consisting of a kitchen, living, dining, laundry, study, theatre and bedroom with ensuite bathroom; and a first floor level consisting of one bathroom, three bedrooms, a nook and a sitting room. A double garage under the main roof of the house is proposed along the southern boundary. The front of the house will be orientated to the street along the southernmost section of the frontage and the living area and patio will face the northernmost section of the lot. This section of Duke Street runs alongside Stirling Highway so the outlook from the lot is to the Stirling Highway embankment.

There are a small number of variations to the R- Codes and the Residential Design Guidelines that are mostly due to the odd shape and smallish lot size, plus the desire to construct a family home of a reasonable size on the site. These matters are discussed below.

Street setback

The R-Codes specify a 6.0 metre street setback in a R20 coded residential zone, however, the proposed setback ranges from nil for the verandah corner of the building to 4.8 metres to the front façade. The R-Codes and the Residential Design Guidelines Element 3.7.7 provide performance criteria by which to assess proposed variations to setback requirements. This is summarised below.

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R-Codes

*P2.1 Building setback from street boundaries an appropriate distance to ensure buildings:*

- *contribute to and are consistent with, established streetscape;*
- *provide adequate privacy and open space for dwellings;*
- *accommodate site planning requirements such as parking, landscape and utilities; and*
- *allow safety clearances for easements for essential service corridors.*

Residential Design Guidelines (RDG)

*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.*

*P2 Developments to be oriented to address the street.*

*P3 Wall heights to reflect the immediate locality.*

The street front setback is very difficult to achieve given the site circumstances and lot dimensions. Because of the lot's location at the northernmost end of Duke Street the reduced setback has no bearing on the streetscape of either Duke or King Street. The lot has no abutting property for the remainder of Duke Street and the property on the corner faces King Street. The applicant has ensured the front façade and entry addresses the street alongside the adjoining house on Duke Street which also has a reduced setback due to its curved lot frontage. The street setback aligns with the front setbacks of the remainder of the heritage dwellings in the street and meets all other performance criteria so is therefore supported.

Lot boundary setbacks

The lot boundary setbacks of the dwelling do not comply in respect to the parapet wall of the garage and the northern boundary setbacks for the patio which is attached to the house and an integral aspect of the dwelling's design.

The garage wall is setback 10 metres from the street front and will abut a high boundary retaining wall, behind this wall is the pool and outdoor area of the recently constructed house on the other subdivided lot. This creates some privacy screening for this outdoor area and the adjoining neighbour is satisfied with the design of the proposed dwelling.

The patio faces the northern side of the longest boundary of the triangular shaped lot and therefore fronts a portion of road verge adjacent to the St Peters Road underpass to Stirling Highway. The street front boundary of the lot traverses the entire curve of Duke Street for approximately 40 metres so there are no adjoining properties along this section of the street and so no impact on the amenity of the area or the streetscape.

Site works and retaining walls

The proposed excavation is in excess of that permitted under the 'Deemed to Comply' provisions of the R-Codes for the site works. The site will be excavated to a finished floor level for the dwelling of RL 11.0 which is between 680mm and 710mm below natural ground level over the site. Retaining walls along the shared boundary with three other lots have been mostly constructed through development approvals for the lots to the rear or are currently under construction.

The site works proposed therefore require assessment under the 'Design Principles' of the R-Codes which states as follows.

*P7.1 Development that considers and responds to the natural features of the site and requires minimal excavation/fill.*

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*P7.2 Where excavation/fill is necessary, all finished levels respecting the natural ground level at the boundary of the site and the adjoining properties and as viewed from the street.*

The excavation proposed does not impact the amenity of the adjoining lots which are on higher ground. Excavation will lower the overall height of the dwelling in respect to the surrounding houses and given the small size of the lot and the proposal to build two storeys, this reduces the bulk and the potential for overlooking. Also, all adjoining ground levels are retained. The site works are therefore supported.

#### Visual privacy

The 'Deemed to Comply' provisions for Element 5.4.1 Visual Privacy of the R-Codes requires major openings which have their floor level more than 0.5 metres 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 and studies;
- 6.0 metres in the case of habitable rooms, other than bedrooms and studies; and
- 7.5 metres in the case of unenclosed outdoor active habitable spaces.

Although the bedroom and nook windows are closer than 4.5 metres to the boundary (i.e. 2 metres) the proposed development complies with the 'Deemed to Comply' provisions of the R-Codes for the lower and upper levels because clause 5.4.1 'Deemed to Comply' provision C1.2 states as follows:

*Screening devices such as obscure glazing, timber screens, external blinds, window hoods and shutters are to be at least 1.6 metres in height, at least 75% obscure, permanently fixed, made of durable material and restrict view in the direction of overlooking into the adjoining property.*

Given the sill height of the windows is greater than 1.6 metres (~1.7 metres) the 'Deemed to Comply' provision has been satisfied and no further screening is required.

#### Vehicular access

The R-Codes specify that driveways shall be no closer than 0.5 metres from a side lot boundary. This is a 'Deemed to Comply' provision in order that the impact of accessways on the streetscape is reduced and safety standards are maintained. In this situation the unusual curved lot frontage to Duke Street has required the driveway be positioned as close to the lot boundary as possible. In this case it is proposed the front setback area will be landscaped as much as possible and the crossover width minimised so non-compliance with this provision is therefore considered acceptable.

#### Crossover width

The driveway width indicated on the plans is greater than 5 metres so a condition is recommended which will ensure compliance with Council's crossover provisions as outlined in the Residential Design Guidelines. A provision of the Guidelines is that for lots of 12 metres or more in width that crossovers not exceed 5 metres. This is important so hardstand in setback areas and on the verge is minimised wherever possible.

#### Front fence

A condition to ensure front fencing is compliant with the Residential Design Guidelines is also recommended. Although not shown on the plans it is highly likely a front fence will be required for a good proportion of the Duke Street frontage. However, whilst the need to create some privacy for the rear garden is appreciated, it is important that an appropriate length of fencing along Duke Street remains 'open' so that the dwelling's front façade and landscaping is visible.

Fremantle Port Buffer Zone

The recommended condition in relation to the buffer zone built form requirements is a standard condition required under the Residential Design Guidelines and reiterated from the *Fremantle Inner Harbour Buffer Definition Study*. The condition only applies to new housing and deals with matters such as glazing and air conditioning systems for sites in proximity to the Port.

Following the above comments the application is recommended for approval subject to the conditions listed below. The submission received in respect to visual privacy has been addressed and is not considered a valid reason for the plans to be amended as discussed above. The development proposed is considered to be appropriate for the locality and is not considered to impact on the amenity of the adjoining residential properties or the heritage values of the Precinct.

**11.2 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP041216**

**Cr White moved, seconded Mayor O'Neill**

**That Council exercise its discretion in granting planning approval to vary:**

- (i) Clause 5.1.2 – Street Setback of the Residential Design Codes of WA to permit a street setback of less than 6.0 metres;**
- (ii) Clause 5.1.3 - Lot Boundary Setback of the Residential Design Codes of WA to permit a lot boundary setback of less than 1.0 metre on the southern boundary and 3.3 metres on the northern boundary;**
- (iii) Clause 5.3.5 – Vehicular Access of the Residential Design Codes of WA to allow a setback of less than 0.5 metres from a side lot boundary;**
- (iv) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to permit excavation behind a street setback line and within 1.0 metre of a lot boundary that is greater than 0.5 metres below natural ground level at the boundary,**

**for a two storey single dwelling at No. 19 (Lot 52) Duke Street, East Fremantle, in accordance with the plans date stamped received on 28 September 2016, subject to the following conditions:**

- (1) Full compliance with the Fremantle Port Buffer Zone Area 2 built form requirements as stated in the Residential Design Guidelines 2016 (Clause 3.7.16.4.3.3 – Acceptable Development Provisions).**
- (2) All fencing along the street front and within the street setback area to be in compliance with the Residential Design Guidelines 2016 and in compliance with the Australian Standards in respect to sight lines where boundary fencing meets the street front property boundary.**
- (3) Any new crossovers which are constructed under this approval are to be a maximum width of 5.0 metres, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in compliance with Council's Residential Design Guidelines 2016.**
- (4) All parapet walls/building structures to the adjacent property face on the southern boundary are to be finished by way of agreement between the property owners and at the applicant's expense.**
- (5) If requested by Council within the first two years following installation, the Zinalume 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) 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.**

- (7) 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.
- (8) 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.
- (9) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
- (10) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (11) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (12) This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *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.*
- (iii) *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.*
- (iv) *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).*
- (v) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (vi) *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 6:0)

**Note:**

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 June 2015 this application deemed determined, on behalf of Council, under delegated authority.

### 11.3 Angwin Street No. 20 (Lot 43 & 44) – Single Storey Alterations and Additions to Dwelling

<b>Applicant</b>	John Chisholm Design
<b>Owner</b>	L & P Nolan
<b>File ref</b>	P/ANG20; P104/16
<b>Prepared by</b>	Christine Catchpole, Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Voting requirements</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Location Plan 2. Photograph 3. Plans date stamped received 5 October 2016

#### **Purpose**

This report considers a development application for single storey alterations and additions to a heritage listed dwelling at No. 20 (Lot 43 & 44) Angwin Street, East Fremantle.

#### **Executive Summary**

The additions and alterations are minor in that two additional rooms of approximately 34m<sup>2</sup> in total are proposed. This will comprise a kitchen and dining room addition to the Angwin Street frontage of the property. The additions will be constructed in weatherboard with a double gable pitched Zinacalume roof and will be quite distinct from the original limestone building constructed c1910. Other renovation and maintenance work including re-roofing the entire dwelling is also proposed.

There are no issues relevant to the determination of the application and therefore the application is supported subject to a number of standard conditions of approval.

#### **Background**

- 1970s – 1980s – Various additions to the dwelling.
- 30 April 1991 - Below ground pool approved.
- 27 May 1991 – Limestone retaining and boundary wall approved.
- 21 February 1994 – Council approved a carport /pergola.

#### **Consultation**

##### Advertising

The application was advertised for a two week period with letters sent to surrounding land owners from 17 October to 4 November 2016 during which time no submissions were received.

##### Community Design Advisory Committee (CDAC)

This application was considered by the CDAC at its meeting on 24 October 2016. The Committee's comments were recorded as follows:

*The proposal is supported by the Committee and the Committee:*

- *support the replacement of the roof tiles with Zinacalume;*
- *recommend the removal of the finials; and*
- *commend the use of the existing building with the building retaining the existing light and access ways.*

With respect to the CDAC viewpoint regarding the finials the following response is made. From a design standpoint this is not considered a major architectural feature that will have a detrimental impact on the

remaining heritage elements of the building. These minor embellishments to the dwelling are therefore considered acceptable and amendments to the plans are not required.

The applicant did not respond to the Committee's comments.

### **Statutory Environment**

*Planning and Development Act 2005*

*Residential Design Codes of WA*

*Town of East Fremantle Town Planning Scheme No. 3 (TPS 3)*

TPS 3 – Heritage List – Category B

### **Policy Implications**

*Town of East Fremantle Residential Design Guidelines 2016 (as amended)*

*Municipal Heritage Inventory – Category B*

*Fremantle Port Buffer Zone – Area 2*

### **Financial Implications**

Nil.

### **Strategic Implications**

Nil.

### **Site Inspection**

November 2016

### **Triple Bottom Line Assessment**

#### Economic implications

There are no known significant economic implications associated with this proposal.

#### Social implications

There are no known significant social implications associated with this proposal.

#### Environmental implications

There are no known significant environmental implications associated with this proposal.

### **Comment**

TPS 3 Zoning: Residential R12.5

MRS: Urban

Site area: 1,214m<sup>2</sup>

### **Statutory Assessment**

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

Legend <i>(refer to tables below)</i>	
A	Acceptable
D	Discretionary
N/A	Not Applicable



Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Street Front Setback	7.5m	17.0m	A
Secondary Street Setback	2.0m	6.0m	A
Lot Boundary Setback	1.5m	15m	A
Open Space	55%	75%	A
Outdoor Living	30m <sup>2</sup>	>100m <sup>2</sup>	A
Car Parking	2	2	A
Site Works	Less than 500mm	Less than 500mm	A
Retaining Walls	Greater than 500mm and closer than 1m from lot boundary	No additional retaining required	A
Overshadowing	25%	<25%	A
Drainage	On-site	On-site	A

Local Planning Policy 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	A
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
3.7.18.3 Garages, Carports and Outbuildings	N/A
3.7.15-20 Precinct Requirements	A

Building Height Requirement	Required	Proposed	Status
Building Height (wall) (RDG)	5.6m	3.7m	A
Building Height (roof) (RDG)	8.1m	5.1m	A

In addition to the two room extension on the Angwin Street side of the property it is also intended to undertake the following works:

- replace the concrete roof tiles with Zinalume for the entire dwelling;
- restore the exiting limestone façade;
- maintain all the original timber balustrades and fretwork; and
- restore the existing timber verandah deck where required.

The additions and restoration/maintenance work is considered acceptable and in keeping with the heritage status of the property. The provisions of the R-Codes and the Residential Design Guidelines are met and as such the application is recommended for approval subject to a number of standard planning conditions as outlined below.

*Cr M McPhail declared an impartiality interest as the owner of the property is known to him and declared that he will consider this matter on its merits in terms of the benefit to the Town and vote accordingly.*

**11.3 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP051216**

**Cr White moved, seconded Cr Mayor O'Neill**

**That Council grant approval for additions and alterations to the existing dwelling at No. 20 (Lot 43 & 44) Angwin Street, East Fremantle, in accordance with the plans date stamped received on 5 October 2016, subject to the following conditions:**

- (1) If requested by Council within the first two years following installation, the Zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
- (2) The details and colours of the construction materials to be to the satisfaction of the Chief Executive Officer and submitted at Building Permit application stage.**
- (3) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- (4) The proposed works are not to be commenced until Council has received an application for a Building 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 storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
- (7) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- (8) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
- (9) 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:***

- (i) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (ii) 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.***

- (iii) 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.*
- (iv) 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).*
- (v) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (vi) 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 6:0)

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 June 2015 this application deemed determined, on behalf of Council, under delegated authority.

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**11.5 Authority to Affix the Common Seal – Withdrawal of Caveat: No. 235 (Lot 553, 554, 555 & 556)  
Canning Highway and Discharge of Easement: No. 36 – 42 (Lot 601 & 602) Duke Street**

<b>Applicant</b>	McLeods Barristers & Solicitors on behalf of Burwood Property Settlements
<b>Owner</b>	Michael Hughes Legal on behalf of P & S Unsworth Paintessa Developments P/L P & S Unsworth
<b>File ref</b>	P/CAN235; PDUK36-42
<b>Prepared by</b>	Christine Catchpole, Planning Officer
<b>Supervised by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Meeting Date:</b>	6 December 2016
<b>Voting requirements:</b>	Simple Majority
<b>Documents tabled</b>	Nil
<b>Attachments</b>	1. Location Map 2. Agreement for deferring conditions of subdivision approval - copy of Legal Agreement (Deed) dated 26 April 2015 3. Withdrawal of Caveat form (Canning Highway) 4. Application form for a Discharge of Easement for a right of carriageway (Duke Street)

**Purpose and Executive Summary**

The purpose of this report is to authorise the Mayor and Chief Executive Officer to sign and affix the Common Seal of the Town in respect to the following documents:

- Permanent withdrawal of a caveat placed on the Certificate of Title of No. 235 (Lot 553, 554, 555 and 556) Canning Highway to ensure a condition of subdivision approval was satisfied. The condition has now been satisfied and the request for permanent withdrawal of the Town's caveat is supported; and
- Discharge of an easement for a right of carriageway under Section 136J of the Transfer of Land Act in respect to the Certificate of Title for No. 36 – 42 (Lot 601 and 602) Duke Street. The easement is no longer required subsequent to redevelopment approval for the site.

It is therefore recommended that Council authorise the Mayor and Chief Executive Officer to sign and affix the Common Seal to the withdrawal of caveat document and the application to discharge the easement for a right of carriageway at No. 235 Canning Highway and No. 36-42 Duke Street respectively.

**Background**

235 Canning Highway

As a result of an Application for Review by the State Administrative Tribunal (10 April 2014) the survey strata subdivision application for the above site was allowed subject to a number of conditions. One of the conditions being:

*“2. All dwelling(s) being constructed to plate height prior to the submission of the diagram or plan of survey (deposited plan).”*

Subsequently, Council at its meeting of 19 August 2014 granted approval for construction of a number of dwellings at No. 235 Canning Highway.

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The owner requested the Town recommend clearance of Condition 2 of the WAPC subdivision approval prior to the construction of all dwellings to plate height so the application for Titles could proceed while the buildings were under construction.

The Town agreed to the owner's request to defer the works required to be carried out by Condition 2 subject to the owner entering into a legal agreement (Deed) to ensure the dwellings were constructed to plate height within 18 months of the date of the issue of the building permit for any dwelling on the land or within two years from the date of execution of the legal agreement.

A Deed in relation to the above was prepared by McLeods for the Town and was executed by the owner, Paintessa Developments P/L. A caveat in relation to the Deed was subsequently placed on the Title. The dwellings are now very close to completion so the owner has requested permanent withdrawal of the caveat.

### 36 – 42 Duke Street

An application pursuant to section 136J of the Transfer of Land Act to discharge the easement for a right of carriageway from Lot 601 which benefitted Lot 602 Duke Street has been submitted. The easement was required for historical reasons which are no longer relevant with redevelopment of the lots. An owner cannot progress an application of this type without the consent of all encumbrancers even though the encumbrancers may not be impacted by the Application as is the case with this application.

The Town is a caveator in respect to a legal agreement entered into by the owner with the Town to ensure completion of subdivision and the issue of Titles for the redeveloped property.

### **Consultation**

Not applicable.

### **Statutory Environment**

*Transfer of Land Act 1893 (as amended)*

*Local Government Act 1995*

### **Policy Implications**

Nil

### **Financial Implications**

Nil

### **Strategic Implications**

Nil

### **Site Inspection**

November 2016.

The buildings at No. 235 Canning Highway have been constructed to plate height as required to satisfy the condition of subdivision approval and the redevelopment of No. 36-42 Duke Street has substantially commenced.

### **Triple Bottom Line Assessment**

#### Economic implications

There are no known significant economic implications associated with this proposal.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

**Comment**

235 Canning Highway

McLeods have been contacted by Burwood Property Settlements (on behalf of the owner) to permanently withdraw the caveat. Inspection of the site has confirmed that condition 2 of the subdivision approval as noted above has been met.

The Town's caveat is supported by the terms of the legal agreement. Given the obligations under the legal agreement have been satisfied, that is the buildings have been constructed to plate height, the request to permanently withdraw the caveat is supported.

36 - 42 Duke Street

The Town's consent to the discharge of the easement is a Landgate requirement in respect to the section 136J Application and does not in any way impact on the City's interest as caveator.

There is no detriment to the Town in signing the consent to the Application and the caveat will remain in place until the subdivision occurs.

It is therefore recommended that Council authorise the Mayor and Chief Executive Officer to sign and affix the Common Seal to the withdrawal of caveat document and the application to discharge the easement for a right of carriageway at No. 235 Canning Highway and No. 36-42 Duke Street respectively.

**11.5 OFFICER RECOMMENDATION/COUNCIL RESOLUTION TP061216**

**Mayor O'Neill moved, seconded Cr Nardi**

**That Council authorise the Mayor and Chief Executive Officer to sign and affix the Common Seal in relation to:**

- (1) The application for "Withdrawal of Caveat" at No. 235 (Lot 553, 554, 555 and 556) Canning Highway, East Fremantle on the 'Withdrawal of Caveat – Caveat No. N093155' form; and**
- (2) The Landgate application form for the "Discharge of Easement for a Right of Carriageway" at No. 36 – 42 (Lot 601 and 602) Duke Street, East Fremantle.**

**(CARRIED 6:0)**

Note:

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 June 2015 this application deemed determined, on behalf of Council, under delegated authority.

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## 11.6 Canning Highway 135 – Additions and Alterations to East Fremantle Town Hall

<b>Applicant</b>	Town of East Fremantle
<b>Landowner</b>	Town of East Fremantle
<b>File ref</b>	P/CAN135
<b>Prepared by</b>	Andrew Malone, Executive Manager Regulatory Services
<b>Supervised by</b>	Gary Tuffin, Chief Executive Officer
<b>Documents tabled</b>	Nil
<b>Attachments</b>	<ol style="list-style-type: none"><li>1. Location plan</li><li>2. Accompanying documentation (initial preplanning response from the Heritage Council).</li><li>3. Heritage Council Register of Heritage Places – Data Base No. 0789</li><li>4. Photographs</li><li>5. Plans date stamped received on 18 November 2016</li></ol>

### **Purpose**

This report considers a development application for proposed additions and alterations to the Town's Administration Centre and Council Chambers at 135 Canning Highway, East Fremantle.

### **Executive Summary**

On 20 September 2016, based on the evaluation results Council resolved that the Tender for the refurbishment work to the Town's Administration Centre and Council Chambers be awarded to Peter Hunt Architects for the detailed design, documentation and project management services for the refurbishment of the building.

The subject building is the administration offices for the Town of East Fremantle. The land is zoned 'Town Centre'. No change of use is proposed. The proposal is to alter and refurbish the internal design of the building and for additions to include a new external lift and office space.

There has been no assessment of the building with regards to land use or car parking requirements, as the proposal does not change the existing use of the building and is not considered to increase the car parking demand. The heritage value and character of the building has been assessed and will be discussed below.

The recommendation for approval is subject to conditions.

### **Background**

Zoning: Town Centre

MRS: Subject property abuts Canning Highway a Regional Road Reserve under the MRS.

Date application received: 18 November 2016

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

No recent planning decisions relate to this property.

### **Consultation**

#### Advertising

The application for the proposal was advertised to Main Road Western Australia, the Department of Transport, the Heritage Council and the National Trust. As the redevelopment of the building will have no significant impact to neighbouring developments the proposal was not advertised to surrounding properties in the town centre.

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Community Design Advisory Committee

This application was considered by the Community Design Advisory Committee at its meeting on 28 November 2016. The Committee's comments were recorded as follows:

- The Committee supported the proposed development.

**Statutory Environment**

*Planning and Development Act 2005*

*Town of East Fremantle Town Planning Scheme No. 3 (TPS 3)*

*TPS 3 Heritage List*

*State Heritage List – State registered place No. 12112*

**Policy Implications**

*Town Centre Redevelopment Guidelines 2011*

*Fremantle Port Buffer Zone – Area 2*

*Municipal Heritage Inventory – Category A*

**Financial Implications**

Nil

**Strategic Implications**

Nil

**Site Inspection**

N/A

**Triple Bottom Line Assessment**

Economic implications

Council has resolved to spend \$1,500,000 on the refurbishment of the Town Hall.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

**Comment**

Statutory Assessment

The proposal has been assessed against the provisions of Town Planning Scheme No. 3 and the Town's Local Planning Policies. The subject site is zoned 'Town Centre'. Approval is sought for proposed additions and alterations. The works include, full internal refurbishment and alterations (minor structural works), a new external lift, external services area and a new office area to the enclosed courtyard at the corner of Canning Highway and Council Place.

The proposed additions have been assessed as per the relevant Council planning requirements. No additional car parking other than that allocated to the rear of the building is being provided on-site. The parking allocation is considered to comply with the Town Centre development requirements. The primary development issue regards the heritage impact to the building.



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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.

- 5.6.1 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 that the proposal meets the above Zone Objectives of the Scheme.

Compliance with LPP- Town Centre Redevelopment Guidelines

An assessment of the proposed additions and alterations has been undertaken as per the Town Centre Redevelopment Guidelines. The proposed development is generally a satisfactory response to the heritage status of the building and is largely consistent with the provisions of the LPP – Town Centre Redevelopment Guidelines.

The proposal fits comfortably within the height, plot ratio and car parking provisions of the LPP indicating that it does not constitute over development of the site. The proposed additions are sympathetic to the original building and have been given in principal support by the Heritage Council. Subject to conditions the application is considered to meet all relevant statutory planning provisions.

Heritage

The Town Hall is on the Town's Heritage List and categorised as Category 'A' on the Municipal Inventory. The building is also listed by the Heritage Council and the National Trust. The proposed works are primarily internal works. The proposed addition to the courtyard comprises of 27m<sup>2</sup> of office space, designed to be distinct from the existing heritage building. Overall, it is considered that the works do not significantly impact on the heritage elements of the property with regard to design.

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A heritage assessment by Council Officers has been undertaken in consultation with the Heritage Council. Preliminary advice has been received from the Heritage Council regarding the proposal. An assessment of the heritage significance of the building, as well as the potential impact the proposal will have on the property is detailed below.

The proposed alterations to the historic building will have minimal negative impact on the heritage values of the existing building. The internal modifications will improve the presentation of the building and will have a positive impact on the character and precinctual qualities of the Town Centre including the adjoining buildings of the Police Station and Dovenby House.

The Police Station has been refurbished as part of the refurbishment of the Town Hall to facilitate staff whilst the works are being carried out to the Town's Administration Centre and Council Chambers. Dovenby House will also be utilised as administration offices. The three buildings, combined with the Post Office building on the corner of Canning Highway and Stirling Highway, make a distinctive heritage location.

The modification to the Town's Administration Centre and Council Chambers will improve the internal functionality of the building, improving the internal office space, without significantly impacting on the heritage value of the building. Initially the building will be internally 'gutted' to reveal the extent and health of the building, which will reveal any works required to improve or restore the building.

In its present form, the proposed additions and alterations will have minimal impact on the aesthetic value of the building, with the exception of the new office area, new lift and service area. The lift and service area are to the rear of the building and will ensure the building meets the modern standards of a public building. The additional office area is proposed to the existing courtyard at the corner of Canning Highway and Council Place. The new structure has been designed to be wholly within the courtyard, designed to be 'hidden' from view. The existing arches of the courtyard will remain. The form, scale and bulk of the front addition, is sympathetic to the significance of the building.

Under Clause 7.5 and 5.6 of Town Planning Scheme No 3, the applicable development standard may be relaxed, unconditionally or subject to such conditions as the local government thinks fit, however the power conferred in this clause can only be exercised if:

- (i) Council is satisfied the non-compliance will not have an adverse effect upon the occupiers and users of the development, the inhabitants of the locality or the likely future development of the locality.
- (ii) Council is satisfied the relaxation would be appropriate having regard to the criteria set out in Clause 67 of the Deemed Provisions.
- (iii) If, in the opinion of Council, the relaxation is likely to affect any owners or occupiers in the general locality or adjoining the site, the Council is to consult the affected parties, as per the provisions of clause 9.4 and have regard to any expressed views prior to making its determination to grant the relaxation.

The proposed additions and alteration have been assessed with consideration given to Clause 7.5 of the Scheme. It is noted that Council has previously refurbished the building, with changes to the building occurring through the years. When the building is 'gutted', original features may be revealed to enable restoration of the building.

Preliminary comments have been received from the Heritage Council and are attached. The Heritage Council have stated:

*The demolition drawings generally shows the removal of contemporary lightweight partitions and fixtures and fittings. These have been marked as intrusive in the conservation plan and so their removal could be supported.*

*There are some areas of demolition that might cause more problems, namely a section of original wall. If original walls are approved to be demolished it is normal for us to condition that a portion of wall and bulkhead be retained so that the original plan can still easily be read.*

*The external courtyard has been identified as being intrusive in the Conservation Plan, so I do not see a problem with infill in this location. As it is intrusive, there is an opportunity for it's demolition and perhaps a more suitable sensitive addition could be constructed in its place.*

Whilst this was a preliminary communication, a full referral has been sent to the Heritage Council and the Nation Trust. The preliminary advice is supportive of the proposed works, with some modifications.

In conclusion the proposed works are mostly internal and are sympathetic to the character of the heritage building. The proposal is recommended for approval subject to conditions.

#### **11.6 OFFICER RECOMMENDATION/COMMITTEE RESOLUTION TP071216**

**Cr M McPhail moved, seconded Cr White**

**That Council grant approval for proposed additions and alterations to the heritage listed building at 135 (Town Hall) Canning Highway, East Fremantle, as indicated on the plans date stamped received 18 November 2016 subject to the following conditions:**

- (1) Prior to a Building Permit application being submitted, all responses from the Heritage Council, National Trust, Department of Transport and Main Roads Western Australia be reviewed and the recommendations of the various referral agencies be considered, with modification being made to the plans to the satisfaction of the Chief Executive Officer.**
- (2) The Town Hall building 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.**
- (3) A Site and Traffic Management Plan including parking for trades persons and delivery vehicles / site storage to be approved by the Chief Executive Officer in consultation with relevant officers, prior to a Building Permit being submitted to Council.**
- (4) The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- (5) The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- (6) With regard to the plans submitted with respect to the Building 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.**
- (7) All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**

- (8) All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
- (9) Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
- (10) 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:*

- (i) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (ii) *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.*
- (iii) *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.*
- (iv) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

(CARRIED 6:0)

**Note:**

As 4 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 16 June 2015 this application deemed determined, on behalf of Council, under delegated authority.

**12. REPORTS OF OFFICERS (COUNCIL DECISION)**

Nil.

**13. CONFIDENTIAL BUSINESS**

Nil.

**14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING – ELECTED MEMBERS, OFFICERS**

Nil.

**15. CLOSURE OF MEETING**

There being no further business, the Presiding Member declared the meeting closed at 7:41 pm.

*I hereby certify that the Minutes of the ordinary meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **6 December 2016**, Minute Book reference **1. to 15** were confirmed at the meeting of the Committee on*

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*Presiding Member*