

MINUTES OF A COUNCIL MEETING, HELD IN THE COUNCIL CHAMBERS, ON TUESDAY, 17 JULY 2012 COMMENCING AT 6.35PM.

167. DECLARATION OF OPENING OF MEETING

The Deputy Mayor (Presiding Member) declared the meeting open.

167.1 Present

Mayor A Ferris	Presiding Member
Cr C Collinson	
Cr B Lilleyman	
Cr S Martin	
Cr D Nardi	
Cr R Olson	
Cr M Rico	
Cr A Wilson	
Mr S Wearne	Chief Executive Officer
Mr L Mainwaring	Executive Manager Finance & Admin
Ms C Pidco	Town Planner (To 8.40pm)
Ms J May	Minute Secretary

168. ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member made the following acknowledgement:

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

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

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

170. RECORD OF APPROVED LEAVE OF ABSENCE

Nil.

171. RECORD OF APOLOGIES

Cr de Jong.

172. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

173. PUBLIC QUESTION TIME

Nil.

174. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

175. CONFIRMATION OF MINUTES OF PREVIOUS MEETING

175.1 Council Meeting – 19 June 2012

Cr Nardi – Cr Lilleyman

That the Minutes of the Council Meeting held on 19 June 2012 be confirmed.

CARRIED

175.2 Special Council Meeting – 27 June 2012

Cr Nardi – Cr Lilleyman

That the Minutes of the Special Council Meeting held on 27 June 2012 be confirmed.

CARRIED

176. ANNOUNCEMENTS BY MAYOR WITHOUT DISCUSSION

Nil.

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

Nil.

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

Nil.

179. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

Nil.

180. ORDER OF BUSINESS

Cr Rico – Cr Olson

That the order of business be changed to allow members of the public to address planning issues. CARRIED

181. TOWN PLANNING & BUILDING COMMITTEE

181.1 T55.4 Sewell Street No. 63 (Lot 248)

Applicant: Peter Hobbs Architect

Owner: RA Job & KL Job

Application No. P89/12

Mr Job (owner) addressed the meeting in support of the Committee's recommendation.

Cr Martin – Cr Nardi

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

That Council exercise its discretion in granting approval for two storey additions and alterations to the rear of an existing residence at No. 63 (Lot 248) Sewell Street, East Fremantle, in accordance with the plans date stamped received on 29 May 2012 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
3. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. 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.
6. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (f) below)*



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7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. This planning approval to remain valid for a period of 24 months from date of this approval.
9. A detailed schedule of external materials and finishes, including paint colours and roof details to be submitted for all work the subject of this planning approval, including alterations and improvements to the original residence to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
10. If requested by Council within the first two years following installation, the zincalume roofing and wall sheeting on the southern elevation and original residence 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.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *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

Cr Rico made the following impartiality declaration in the matter of 99 King Street: "As a consequence of the owner, Mrs Monte, being known to me, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

181.2 T55.6 King Street No. 99 (Lot 344)
Applicant: K Ostermeyer & M Berganza
Owner: N Monte
Application No. P82/2012

The following additional information, prepared by the Manager Planning Services, was considered:

At its meeting on 3 July 2012 the Town Planning and Building Committee considered an application for a change of use to establish an artisan shop and take away coffee outlet at No. 99 King Street East Fremantle. The planning report recommended conditional

approval of the artisan shop component of the proposal but refusal of the take away coffee outlet. This was because the proposed take away coffee component of the business is not consistent with the permitted land uses for the residential zone. However the Committee agreed with the opinion expressed in the Planning Officers' report that:

"This is somewhat unfortunate, as there is potential for the use to have a positive impact on both the proposed artisan shop and surrounding area with minimal disruption to residents."

Accordingly the Committee resolved that the determination of the application should be deferred to enable the applicants to better clarify the nature of the use and to investigate how the application might be approved under the Scheme's provisions.

The attached letter from the applicants dated 5 July 2012 confirms that the sale of take away coffee is an incidental yet essential component of the business plan. The letter also confirms details for the restoration of the exterior of the former shop which is Management Category A-^ on Heritage Survey 2006.

Council may consider that the additional information has provided sufficient merit for an exercise of discretion under the following clause 7.5 of the Scheme;

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

Where desirable to —

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

The applicants have confirmed that the sale of coffee will be incidental to the retail component and that they are committed to the renovation of the façade of the significant heritage building. The proposal (including the sale of coffee) has been advertised pursuant with the requirements of Clause 5.6.2. Accordingly Council may consider it appropriate to exercise discretion under clause 7.5 of the Scheme by setting aside the provisions of clause 4.3.2 which would otherwise restrict such a use within the residential zone.

In response to the Committee's resolution, an alternate recommendation for the consideration of Council follows.

RECOMMENDATION

That Council exercise its discretion under Clause 7.5 of the Town of East Fremantle Planning Scheme No 3 to allow for the sale of take away coffee and grant approval for a change of use for an artisan shop and take away coffee outlet at No. 99 King Street, subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information in relation to "artisan shop and take away coffee outlet" accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
3. 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.
4. 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



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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.

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

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (f) 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"
- (g) the approval does not include approval of any advertising signage. A separate development application is required for any signage proposal.

The CEO tabled the following information in respect to the Manager Planning Services previous advice:

Further to the officer's report dated 2 July 2012 and consideration of the matter at the Town Planning & Building Committee meeting held on 3 July 2012, the Manager Planning Services issued a memo to elected members dated 9 July 2012 in which he has included a revised officer's recommendation, consistent with the decision of the Town Planning & Building Committee.

The Chief Executive Officer was not aware of that memo until yesterday, when reviewing the agenda.

Unfortunately the recommendation contained in the memo is significantly flawed, in that, the recommendation is predicated on the property in question being included on the TPS3 Heritage List, when in fact it is not. There is thus, currently, no recourse to Clause 7.5 available.

The fact the property is not on the Heritage List should have been clear from the fact the original officer's report notes it is included in the Municipal Inventory only. It is fortunate the Committee decision was to defer the application, rather than construct an approval based on Clause 7.5 on the night. The situation highlights the particular need, if the Committee proceeds to be granted a significant degree of delegated authority, for decisions to be soundly based as it is generally very difficult, at law, to reverse or amend planning decisions once they have been taken, even when the Town Planning Scheme has been improperly applied.

In terms of the Heritage List issue, the decision can still go ahead, albeit in amended form, simply by making it a condition that the property is, subject to proper process, ultimately included on the Heritage List.



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“Proper process” refers to the provisions of Clause 7.1.3. Essentially this entails writing to the owner (and occupier, where applicable) of the property and inviting submissions from them regarding listing the property on the Heritage List.

The owner has 21 days in which to respond, however if they reply earlier then, particularly if they have replied in the affirmative, the listing can be effected with little delay.

As the CEO has a delegated authority to add places to the Heritage List, subject to the required public consultation processes having been carried out, the matter would not need to return to Council.

The above is reflected in the first condition of an amended recommendation below.

As a separate issue, elected members should note that the following preamble to the original officer’s recommendation has been removed in the Manager Planning Services new recommendation:

“That the applicant be advised that following the submission of a detailed schedule of external finishings (including paint colours) and internal materials and finishings (including removal or retention of any existing heritage features) to the satisfaction of the CEO; that Council exercise its discretion in granting approval for the change of use to “artisan shop” at No 99 (Lot 344 on Plan 1515) King Street, East Fremantle, as described on the plans date stamped received 25 May 2012 subject to the following conditions:”

It is not known whether the Manager Planning Services unintentionally deleted these stipulations or knowingly did so but in any event, in the CEO’s view, they should be restored, albeit in slightly amended form, as follows:

“That the applicant be advised that following the submission of a detailed schedule of external finishings (including paint colours) and internal materials and finishings (including removal or retention of any existing heritage features) to the satisfaction of the CEO; that Council exercise its discretion in granting approval for the change of use to “artisan shop and takeaway coffee outlet” at No 99 (Lot 344 on Plan 1515) King Street, East Fremantle, as described on the plans date stamped received 25 May 2012 subject to the following conditions:”

The above is consistent with relevant advice in the original officer’s report, which included:

“In summary, it is recommended that the applicant provide further detail of proposed external works and internal fit-out demonstrating that these works will enhance and not detract from the heritage values of the building. This information is to be provided prior to the commencement of the use.”

“Further detail of external restoration work and internal fit-out should be sought prior to commencement of the use to confirm that these minor works are consistent with the heritage values of the building.”

“The special conditions imposed on a ‘Shop’ use by the Scheme can be complied with if the applicant provides further detail of works affecting the heritage value of the building. It is recommended that the artisan shop be approved upon receipt of this information and subject to appropriate conditions.”

Pursuant to the above, the full recommendation reads as follows:

That:

- (i) subject to the property being included on the Heritage List of TPS3, following the implementation of the required public consultation processes*
- (ii) subject to the submission of a detailed schedule of external finishings (including paint colours) and internal materials and finishings (including removal or retention of any existing heritage features) to the satisfaction of the CEO;*

Council exercise its discretion pursuant to Clause 7.5 of TPS3 in granting approval for the change of use to “artisan shop and takeaway coffee outlet” at No. 99 (Lot 344 on Plan

1515) King Street, East Fremantle, as described on the plans date stamped received 25 May 2012 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information in relation to "artisan shop and takeaway coffee outlet" accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
3. 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.
4. 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.
5. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (f) 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"
- (g) the approval does not include approval of any advertising signage. A separate development application is required for any signage proposal.
- (h) The approval does not include approval of any seating for consumption of food or beverages. A separate development application is required for any seating proposal or further change of use.

Ms Ostermeyer & Ms Berganza (applicants) addressed the meeting in support of their proposal.

Cr Martin – Cr Nardi

That:

- (i) **subject to the property being included on the Heritage List of TPS3, following the implementation of the required public consultation processes**
- (ii) **subject to the submission of a detailed schedule of external finishings (including paint colours) and internal materials and finishings (including**

removal or retention of any existing heritage features) to the satisfaction of the CEO;

Council exercise its discretion pursuant to Clause 7.5 of TPS3 in granting approval for the change of use to “artisan shop and takeaway coffee outlet” at No. 99 (Lot 344 on Plan 1515) King Street, East Fremantle, as described on the plans date stamped received 25 May 2012 subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information in relation to “artisan shop and takeaway coffee outlet” accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council’s further approval.
2. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council’s attention.
3. 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.
4. 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.
5. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer’s dilapidation report, at the applicant’s expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *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”*
- (g) *the approval does not include approval of any advertising signage. A separate development application is required for any signage proposal.*
- (h) *The approval does not include approval of any seating for consumption of food or beverages. A separate development application is required for any seating proposal or further change of use.*

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181.3 T55.8 Angwin Street No. 26 (Lot 251)
Applicant: Tom Roberts
Owner: E Mioceovich-Turner and W Turner
Application No. P67/2012

Mrs Mioceovich-Turner (owner) and Mr Roberts (architect) addressed the meeting seeking the deletion of condition 11 from the Committee's recommendation.

Cr Collinson – Cr Martin

That Council exercise discretion in granting planning approval to:

(a) vary Clause 6.8.1 of the Residential Design Codes of Western Australia in regard to visual privacy to permit the cone of vision from the third level garden room windows and balcony to intrude over the northern boundary and be setback a distance of 3.31 metres as indicated on the plans date stamped received on 7 May 2012; and

(b) vary Local Planning Policy 142 – Residential Development to permit a maximum ridge height of RL 31.225 for the addition of the garden room as indicated on the plans date stamped received on 7 May 2012;

for alterations and additions, including the installation of a lift, to a four level dwelling at No. 26 (Lot 251) Angwin Street, East Fremantle, in accordance with the plans date stamped received on 7 May 2012 subject to the following conditions:

- 1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which received planning approval, without those changes being specifically marked for Council's attention.**
- 3. The proposed dwelling is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
- 4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.**
- 5. 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.**
- 6. Prior to the installation of any externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer.**
- 7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.**
- 8. This planning approval to remain valid for a period of 24 months from date of this approval.**
- 9. The zinalume roofing if requested by Council within the first two years following installation 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.**



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10. All materials, colours, and finishes for the additions and alterations to be to the satisfaction of the Chief Executive Officer and in consultation with relevant officers.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *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**181.4 T55.11 Allen Street No. 20 (Lot 47)****Applicant: Darren Turner****Owner: Sophie Ford****Application No. 187/2011**

Ms Ford (owner) addressed the meeting in support of the proposed double carport.

Cr Collinson – Cr Martin

That Council refuse to grant approval for a variation to the front setback requirements to allow the construction of a carport with a front setback of 4.4 metres and in front of the main building line of the dwelling at No. 20 (Lot 47) Allen Street, East Fremantle as shown on amended plans date stamp received 29 May 2012 for the following reasons:

1. alternative options for the parking of two vehicles were available, including single in-line parking.
2. concern that a potential precedent may be set by approving a carport forward of the main building line.
3. removal of the original front limestone fence and pillar or the widening of the existing cross-over would have a detrimental impact upon the streetscape.

CARRIED

Under s.5.21(4)(b) of the Local Government Act 1995, Cr Lilleyman requested that the voting of Council members be recorded.

Crs Rico, Nardi, Martin, Collinson and Wilson voted in favour of the recommendation with Crs Lilleyman, Olson and Mayor Ferris having voted against the motion.

Reason for not Supporting Officer's Recommendation

The Committee were of the view that the officer's recommendation could not be supported given the comments of the Town Planning Advisory Panel.

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Cr Collinson declared a proximity interest in the matter of 128 & 128A George Street as the subject property abuts his property and left the meeting at 7.30pm.

182. CONFIDENTIAL BUSINESS

182.1 128 & 128A George Street – Expressions of Interest for leasing

Ms Potter (Breadbox Marketing) and Ms Moosmueller (PACO Branding & Design) addressed the meeting in support of their lease application for 128/128A George Street.

The Executive Manager Finance & Administration advised that the other three applicants had been invited to attend the meeting, however, had been unable to do so. Mr Mainwaring read emails from Olga Cironis and Russell Quinn regarding their submissions.

Cr Rico – Cr Wilson

That this matter be dealt with on a confidential basis, in accordance with Section 5.23(2)(c) of the Local Government Act. CARRIED

Members of the gallery left the meeting.

A confidential report prepared by the Executive Manager Finance & Administration regarding the above was considered. **CONFIDENTIAL ATTACHMENT**

Cr Olson – Cr Lilleyman

That:

1. Council delegates authority to the Chief Executive Officer to negotiate and execute a lease with the provider of EOI 4 on behalf of Council for a term of 6 months.
2. in the event a lease with the provider of EOI 4 cannot be successfully negotiated, Council delegates authority to the Chief Executive Officer to negotiate and execute a lease with the provider of EOI 3 for a term of 6 months.
3. following the receipt of a heritage report on the property, the Chief Executive Officer prepares a report to Council sufficient to allow a Council decision with respect to the retention of all or part of the existing building and related issues, and sufficient to allow the preparation of a Business Plan, pursuant to Section 3.59 of the Local Government Act, should it be the decision of Council to dispose of the property. CARRIED

ABSOLUTE MAJORITY

Cr Collinson returned to the meeting at 7.50pm and it was noted he did not speak or vote on the previous item.

183. OPENING OF MEETING TO THE PUBLIC

Cr Olson – Cr Rico

That the meeting be reopened to members of the public at 7.50pm. CARRIED

184. TOWN PLANNING & BUILDING (CONTINUED)

184.1 T55.3 Duke Street No. 73 (Lot 390)

Applicant: JK and KW Lyon

Owner: JK and KW Lyon

Application No. P80/12

Cr Nardi – Cr Rico

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

- (a) to vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback to the parapet wall of the double garage and loft to the northern boundary;

- (b) to vary the requirements of Local Planning Policy 066 – Roofing to permit a pitch of 7° for a section of the garage/loft roof;
for the construction of a double garage with loft at the rear of No. 73 (Lot 390) Duke Street, East Fremantle, in accordance with the plans date stamped received on 17 May, 8 and 13 June 2012, subject to the following conditions:
1. the south facing bedroom window to be installed with a screening device along the western edge of the window frame to prevent overlooking into the rear adjoining lots. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers; and
 2. the window indicated on the western elevation and the ensuite window indicated on the southern elevation of the plans to be inoperable below 1.6m above floor level and glazed with obscure glass or screening device to prevent overlooking of the properties to the rear. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers;
 3. A detailed schedule of external materials and finishes, including paint colours and garage door profile, to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer.
 4. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
 5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 6. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 7. The proposed loft/garage is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
 9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 10. 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.
 11. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
 12. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.

13. If requested by Council within the first two years following installation, any 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.
14. This planning approval to remain valid for a period of 24 months from date of this approval.
15. The garage/loft shall not be used for ancillary accommodation and shall not be leased either as a rental property or for short stay accommodation and shall only be occupied by members of the same family as the occupiers of the main dwelling.
16. Prior to the installation of any externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

CARRIED

184.2 T55.5 Sewell Street No. 66 (Lot 646)

Applicant: Justin Cornish

Owner: Justin Cornish

Application No. P48/12

Mayor Ferris – Cr Wilson

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

That Council exercise its discretion in granting approval to vary:

- (a) the front setback requirements of the Residential Design Codes of Western Australia and allow a reduced front setback of 4.025 metres to the verandah;
- (b) the side setback requirements of the Residential Design Codes of Western Australia to permit reduced side setbacks of between 1.0 and 2.06 metres for sections of the dwelling at a ground and upper storey level as indicated on plans date stamped received on 25 May 2012;
- (c) the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback for the southern and northern boundary walls for the upper and lower floors as indicated on plans date stamped received on 25 May 2012;



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- (d) Part 2 – Streetscape Requirements of Local Planning Policy 142 in relation to front setbacks to permit the car bay to be forward of the main building line as indicated on the plans date stamped received on 25 May 2012;
- (e) the Residential Design Codes of Western Australia - Site Works requirement to permit the raised podium (metal building platform) of the dwelling to be raised 1.158 metres to a finished floor level of RL 11.26 at the front setback of the dwelling as indicated on plans date stamped received on 25 May 2012;
- (f) the Residential Design Codes of Western Australia - Clause 6.5.1 - On-site Parking Provision to allow for the provision of only one car parking bay on-site;
- (g) the Residential Design Codes of Western Australia - Table 1 to allow for less than 50% open space on-site;
- (h) the Residential Design Codes of Western Australia Clause 6.9.1 - Solar Access for Adjoining Sites to allow for overshadowing of the adjoining site of greater than 25%;
- (i) the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the living room, front verandah, balcony and upper floor bedrooms to intrude over the northern and southern boundaries as indicated on plans date stamped received on 25 May 2012;
- (j) the roof pitch requirements of Local Planning Policy 066 to allow a roof pitch of 26°;
- (k) the building height requirements of the Local Planning Policy 142 to permit a maximum wall height of RL 18.51 for the rear portion of the dwelling and RL 18.2 for the front portion of the dwelling as per the plans date stamped received on 25 May 2012;

for the construction of a new two storey single dwelling (with car bay in the front setback) and removal of a street tree at No. 66 (Lot 646) Sewell Street, East Fremantle, in accordance with the plans date stamped received on 25 May 2012 subject to the following conditions:

1. All details in relation to materials, colours, and finishes for the new dwelling and the raised metal podium are to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. A fixed screen or louvres be installed on the northern aspect of the upper floor balcony to prevent overlooking of the property to the north.
3. The details of the paving materials and colours and finishes to be used in construction of the car bay in the front setback to be to the satisfaction of the Chief Executive Officer, in consultation with the relevant officers.
4. A separate application for Planning Approval is required for the installation of solar panels and a solar hot water system on the subject site as indicated on the plans date stamped received on 25 May 2012.
5. Screening of the water tanks, to be located under the raised metal podium, to be screened to the satisfaction of the Chief Executive Officer in consultation with the relevant officers.
6. All parapet walls are to be constructed as approved by the Chief Executive Officer in consultation with relevant officers and at the applicant's expense.
7. A detailed schedule of the materials, colours and finishes of all parapet walls are to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
8. The limestone parapet wall to be restored to the satisfaction of the CE O in consultation with relevant officers (see Footnote (h)).
9. The boundary fences extending from the rear building line to the rear lot boundary not to exceed a height of 1.8 metres above natural ground level.
10. 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.
11. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.

12. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
13. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
14. 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.
15. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by Chief Executive Officer.
16. 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.
17. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
18. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
19. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (b) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (d) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of*

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up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air-Conditioner Noise”.

- (h) *it is recommended the applicant seek heritage advice on the correct restoration technique for the limestone parapet wall on the adjoining site at No. 68 Sewell Street.*

CARRIED
ABSOLUTE MAJORITY

Mayor Ferris made the following impartiality declaration in the matter of 78 Duke Street: “As a consequence of the applicant and architect, Mr John Chisholm, being known to me, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly”.

184.3 T55.12 Duke Street No. 78 (Lot 496)

Applicant: John Chisholm Design

Owner: D Murdoch & G Ruello

Application No. P91/12

Cr Nardi – Cr Olson

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

That Council exercise discretion in granting planning approval to:

- (a) vary the setback requirements of the Residential Design Codes of Western Australia to permit a 0.75 metre side setback for the wall and a 1.2 metre side setback for the deck from the northern boundary as indicated on the plans date stamped received on 31 May 2012;
- (b) vary the setback requirements of the Residential Design Codes of Western Australia to permit a 1.15 metre side setback on the southern boundary as indicated on the plans date stamped received on 31 May 2012;
- (c) vary the requirements of the Residential Design Codes of Western Australia in regard to Clause 6.6.1 (A1.2) to permit site works greater than 500mm;
- (d) vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the rear bedroom windows, rear deck and dining/living room to intrude over the northern and southern boundaries as indicated on plans date stamped received on 31 May 2012;

for additions and alterations to the rear of an existing residence at No. 78 (Lot 496) Duke Street, East Fremantle, in accordance with the plans date stamped received on 31 May 2012 subject to the following conditions:

1. The installation of a fixed screening device on the northern aspect of the rear deck to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. A detailed schedule of external materials and finishes, including paint colours and roof details to be submitted for all work the subject of this planning approval to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
3. 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.
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. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council’s attention.
6. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.



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7. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
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. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (f) below)*
10. 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.
11. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (f) *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**184.4****T56.1 Delegation of Powers to Town Planning & Building Committee**

Cr Rico – Cr Martin

That:

1. *subject to clause 5.17(1)(a) of the Local Government Act, the Town Planning & Building Committee be delegated the power to determine all applications for planning approval or advice to referral agencies and other Planning Authorities not otherwise included within the current delegations to the Chief Executive Officer subject to the following conditions:*
 - (i) *at least 5 Committee members vote in favour of the Committee recommendation*

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- (ii) the Committee determination accords with the Reporting Officer's recommendation or an amended recommendation that is supported by the Manager Planning Services or his delegate.
2. the additional delegations to the Chief Executive Officer, as recommended in the officer's report, be implemented.
3. the operations of the delegations be reviewed after six months.

Amendment

Cr Collinson – Cr Wilson

That the following become point 4 of the recommendation:

4. An elected member, not on the Committee, may request an application be determined at the Council Meeting. LOST

The motion was put.

Cr Rico – Cr Martin

That:

1. subject to clause 5.17(1)(a) of the Local Government Act, the Town Planning & Building Committee be delegated the power to determine all applications for planning approval or advice to referral agencies and other Planning Authorities not otherwise included within the current delegations to the Chief Executive Officer subject to the following conditions:
 - (i) at least 5 Committee members vote in favour of the Committee recommendation
 - (ii) the Committee determination accords with the Reporting Officer's recommendation or an amended recommendation that is supported by the Manager Planning Services or his delegate.
2. the additional delegations to the Chief Executive Officer, as recommended in the officer's report, be implemented.
3. the operations of the delegations be reviewed after six months. CARRIED
ABSOLUTE MAJORITY

185. EN BLOC RECOMMENDATION

Cr Nardi – Cr Lilleyman

That Council adopts en bloc the following recommendations in respect to Items MB Ref 185.1 to 185.3 CARRIED**185.1 T55.7 Woodhouse Road No. 16 (Lot 5018)***Applicant: Building & Construction Australia BCA Homes & Patios**Owner: M Leach & J Vallance**Application No. P75/12*

That Council exercise its discretion in granting planning approval to:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a 500mm setback from the carport/patio to the eastern boundary;
- (b) vary the front setback requirements of the Residential Design Codes of Western Australia to permit a reduced front setback of 2.0 metres (patio) and 5.2 metres (carport with garage door); and
- (c) vary the Local Planning Policy 066 to allow a dome roof form for the patios and carport;

for the construction of a carport/patio with garage door and front entry patio at No. 16 (Lot 5018) Woodhouse Road, East Fremantle, in accordance with the plans and supporting information date stamped received on 14 May 2012, subject to the following conditions:

1. The patio at the front entrance to the dwelling not being used for the purposes of parking vehicles and the driveway remaining at the existing width and not widened to accommodate another vehicle. The patio to remain open and not be enclosed with gates and/or garage doors.
2. The carport on the eastern boundary not to be used for parking any more than two vehicles and not to be enclosed without Council approval.

3. The existing trees and shrubs in the front setback/garden area to be retained and maintained.
4. A detailed schedule of external materials, colours and finishes (including the garage door details) to be submitted and accepted prior to the issue of a building licence, to the satisfaction of the Chief Executive Officer and in consultation with relevant officers.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The proposed works are not to be commenced unless there is a valid building licence and the building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
8. The proposed patio/carport is not to be used until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
9. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a building licence.
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:

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*



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- (f) *In relation to Condition 2, any enclosure of the carport/patio, including installation of gates and/or garage doors, will require separate approval from Council.*

185.2 *T55.9 Fraser Street No. 41 (Lot 4279)
Applicant: Inhouse Building Design
Owner: R Dorrington & N Devlyn
Application No. P145/2011*

That Council exercise its discretion in granting approval to:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil side setback for the western wall of the garage on the northern boundary;
- (b) vary Part 2 – Streetscape Requirements of Local Planning Policy 142 in relation to front setbacks to permit the garage to be set forward of the main building line as provided on the submitted and approved plans;
- (c) vary the Site Works requirements of the Residential Design Codes of Western Australia to permit excavation in the western side setback area to achieve a Finished Floor Level of RL 36.952 to the garage;
- (d) vary the building height requirements of the Local Planning Policy 142 to permit a maximum wall height of RL 42.10 as provided on the submitted and approved plans;
- (e) vary the roof pitch requirements of Local Planning Policy 142 to allow a roof pitch of 24°; and
- (f) vary the Visual Privacy requirements of the Residential Design Codes of Western Australia to permit the cone of vision from the bedrooms to intrude 0.5 metres over the western boundary; and to permit the cone of vision from the verandah to intrude 2.9 metres over the eastern boundary,

for the construction of alterations and extensions, including a front fence and rear alfresco area, at No. 41 (Lot 4279) Fraser Street, East Fremantle, in accordance with the plans date stamped received on 30 May 2012 and information received on 29 May and 12 June 2012 subject to the following conditions:

1. All parapet walls are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. With regard to the plans submitted with respect to the building permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. The proposed additions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
5. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved by the Chief Executive Officer (*refer footnote (h) below*).



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8. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. Any new crossovers which are constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
10. In cases where there is an existing crossover this is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
11. This planning approval to remain valid for a period of 24 months from date of this approval.
12. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
13. All details in relation to materials, colours, and finishes for the extensions, alterations, front fence and al fresco area to be submitted prior to making application for building permit and be 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:

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (g) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (h) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*



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185.3 T55.10 Duke Street No. 83 (Lot 395)
Applicant: Positiva Building Pty Ltd
Owner: SL Avenell & VA Cook
Application No. P88/12

That Council exercise its discretion in granting planning approval to:

- (a) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback for the southern boundary wall of the rear addition;
- (b) vary the side setback requirements of the Residential Design Codes of Western Australia to permit a nil setback for the extension of the existing studio parapet wall on the northern boundary as shown on plans date stamped received on 14 June 2012;
- (c) vary the requirements of Local Planning Policy 143 – Fencing to allow a boundary fence higher than 1.8 metres; and
- (d) varying the requirements of Local Planning Policy 066 – Roofing to permit a pitch of 26°;

for alterations and additions to the existing residence, and a part boundary wall on the northern boundary at No. 83 (Lot 395) Duke Street, East Fremantle, in accordance with the plans date stamped received on 29 May and 14 June 2012, subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. With regard to the plans submitted with respect to the building licence application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
3. The proposed extensions are not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. 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.
6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (g) below)*
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. This planning approval to remain valid for a period of 24 months from date of this approval.
9. All parapet walls (on the northern and southern boundaries) are to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
10. 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.

11. The limestone boundary wall being constructed in accordance with the plans date stamped received on 14 June 2012, designed by a structural engineer and approved by a Building Surveyor.
12. The studio is not to be occupied for residential purposes.
13. A detailed schedule of external materials and finishes, including paint colours and roof details to be submitted for all work the subject of this planning approval.

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a building licence is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air-Conditioner Noise".*

The Town Planner left the meeting at 8.40pm.

186. FINANCE

186.1 Accounts for Payment – June 2012

By Les Mainwaring, Executive Manager Finance & Administration on 3 July 2012

PURPOSE

To endorse the list of payments for the period 1 June to 30 June 2012.

BACKGROUND

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

ATTACHMENT

REPORT

Comments/Discussion

The List of Accounts for the periods beginning 1 June and ending 30 June 2012 require endorsement by the Council.



17 July 2012

MINUTES

RECOMMENDATION TO COUNCIL

That the List of Accounts for the period beginning 1 June and ending 30 June 2012 be received, as per the following table:

June 2012		
Voucher Nos	Account	Amount
4371 – 4389	Municipal (Cheques)	\$15,180.03
EFT 15728 – EFT 15931	Electronic Transfer Funds	\$821,824.84
Payroll	Electronic Transfer Funds	\$155,496.92
Loans	Direct Debit	64,519.93
	Municipal Total Payments	\$1,057,021.72

Cr Olson – Cr Wilson

That the List of Accounts for the period beginning 1 June and ending 30 June 2012 be received. CARRIED

186.2

Monthly Financial Activity Statement for Period Ending 30 June 2012

By Les Mainwaring, Executive Manager Finance & Administration on 5 July 2012

PURPOSE

This report recommends that the Council elect not to receive a June monthly report in accordance with Regulation 34 of the financial management regulations.

BACKGROUND

Section 6.4 of the Local Government Act 1995 and Regulation 34 of the Local Government (Financial Management) Regulations 1996 requires financial reports to be prepared monthly, and such reports must be submitted to Council within two months following the end of the reporting period.

COMMENT

In order to maintain statutory compliance, and avoid a statutory non-compliance qualification on our annual audit report, Council has the option of electing not to receive a June monthly activity report in favour of receiving the full final audited accounts in the annual financial report.

The intention of monthly reporting has been to forecast the anticipated carried forward position compared to budget, however the timing of budget preparation is such that the final audited carried forward position will not be confirmed at the time of preparing the budget. We are mindful of the situation in last years budget where the budgeted carried forward figure was overestimated by \$88,000, leaving a funding shortfall, therefore in this regard we would rather err on the conservative side when estimating the budgeted carried forward.

With the benefit of time to complete end of year processing, and receive final audited results, there will be a comprehensive analysis of the final carried forward position presented to the next available ordinary council meeting. At this time Council will be able to consider any budget revisions to existing projects or any distribution of the final carried forward position. This may provide opportunities to bring forward non-recurrent projects that were deferred during the budget balancing stage.

STATUTORY REQUIREMENTS

Local Government Act 1995 (As amended)

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

Regulation 34. Financial activity statement report — s. 6.4

- (1) *A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —*
 - (a) *annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);*
 - (b) *budget estimates to the end of the month to which the statement relates;*
 - (c) *actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;*
 - (d) *material variances between the comparable amounts referred to in paragraphs (b) and (c); and*
 - (e) *the net current assets at the end of the month to which the statement relates.*
- (2) *Each statement of financial activity is to be accompanied by documents containing —*
 - (a) *an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;*
 - (b) *an explanation of each of the material variances referred to in subregulation (1)(d); and*
 - (c) *such other supporting information as is considered relevant by the local government.*
- (3) *The information in a statement of financial activity may be shown —*
 - (a) *according to nature and type classification; or*
 - (b) *by program; or*
 - (c) *by business unit.*
- (4) *A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —*
 - (a) *presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and*
 - (b) *recorded in the minutes of the meeting at which it is presented.*

POLICY IMPLICATIONS

Nil.

FINANCIAL IMPLICATIONS

Nil.

RECOMMENDATION

That Council elect not to receive a June monthly financial activity report under Regulation 34 of the Financial Management Regulations 1996, until final audited results are presented in the annual financial report.

17 July 2012

MINUTES

Cr Olson – Cr Collinson

That Council defer the receipt of a June monthly financial activity report under Regulation 34 of the Financial Management Regulations 1996, until final audited results are presented in the annual financial report. CARRIED

187. REPORTS OF ELECTED MEMBERS**187.1 SMRC**

Cr Collinson provided a brief update on matters pertaining to the SMRC.

188. CONFIDENTIAL BUSINESS**188.1 Royal George Hotel Workshop**

Cr Rico – Cr Nardi

That this matter be dealt with on a confidential basis, in accordance with Section 5.23(2)(c) of the Local Government Act. CARRIED

The meeting was closed at 8.43pm.

Elected members considered a memo from the CEO regarding the Royal George Hotel Workshop held on 27 June 2012. **CONFIDENTIAL ATTACHMENT**

Cr Martin – Cr Nardi

That elected members endorse the notes provided by the CEO on the Royal George Hotel workshop. CARRIED.

189. OPENING OF MEETING TO THE PUBLIC

Cr Collinson – Cr Lilleyman

That the meeting be reopened to the public at 8.50pm. CARRIED

190. REPORTS OF CHIEF EXECUTIVE OFFICER**190.1 Bus Stop Blitz Graffiti Program**

The CEO:

- advised that Hon Nick Goiran MLC had today presented a cheque for \$15,000 from the State Government under the above program
- circulated examples of the artwork that will be painted on selected bus shelters.

190.2 Glasson Park Design

The CEO circulated the final design plan for Glasson Park, following consultation by the Mayor and Council's Operations Manager with students of East Fremantle Primary School. The Mayor requested that a site plan be drawn up outlining the location of the new play equipment.

190.3 T Pestana

The CEO read the following email from Mr Pestana:

"I want to acknowledge the kindness and common sense shown by the two Rangers on Sunday 10 June 2012. Our gate blew down and my dog was on the verge. According to neighbours who witnesses the events the two rangers took our dog.

The humanity and kindness of these rangers came through when they did not put the dog in the cage but placed him in the front while they went about their business on that stormy day.

When I contacted them, they returned my dog who was in the front.

I want to thank them for their kindness.

I want to acknowledge the good public relations from the rangers as I have not received any from the other staff over our renovations.

Yours sincerely

Terence Pestana”

190.4 Mr & Mrs Brien

The CEO read the following email from Mr & Mrs Brien, owners of Penshurst:

“Dear Sir

Just a quick email to thank yourself and council for your letter of congratulation regarding our recent success in the Western Australian Heritage Awards.

We feel Penshurst is a prime example of how by working together with Council and State Heritage, a successful outcome is had by all.

We have the privilege of living in this grand old residence, albeit with a contemporary edge now, whilst the local community have a piece of history returned to them. From day one, Penshurst has received a huge amount of local interest. The recent award and media coverage has reignited people’s interest and we are receiving photographs and stories from local residents once again.

Thank you for Council’s support throughout the conservation works.

Kind regards

Tim and Frances Brien”

191. REPORTS OF ELECTED MEMBERS (CONTINUED)

191.1 WALGA

Cr Rico briefly reported that WALGA was currently advocating for remuneration for State Government employees serving on statutory committees/boards.

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

Nil.

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

Nil.

194. CLOSURE OF MEETING

There being no further business, the meeting closed at 9.05pm

I hereby certify that the Minutes of the meeting of the Council of the Town of East Fremantle, held on 17 July 2012, Minute Book reference 167. to 194. were confirmed at the meeting of the Council on

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Presiding Member