



Town Planning & Building Committee

**2 December 2014
6.30pm**

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 2 DECEMBER, 2014 COMMENCING AT 6.30PM.

T136. OPENING OF MEETING

T136.1 Present

T137. ACKNOWLEDGEMENT OF COUNTRY

T138. WELCOME TO GALLERY

T139. APOLOGIES

T140. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

T141. CONFIRMATION OF MINUTES

T141.1 Town Planning & Building Committee – 4 November 2014

T142. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T142.1 Sewell Street No. 77 (Lot 254)

T142.2 Sewell Street No. 77 (Lot 254)

T142.3 Salvado Avenue No. 5 Unit 1

T143. REPORTS OF COMMITTEES

T143.1 Town Planning Advisory Panel – 28 October 2014

T144. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL

T144.1 Receipt of Reports

T144.2 Order of Business

*T144.3 Silas Street No. 8 / Unit 2 (Lot 593)
Applicant: The Nest on Silas
Owner: Rembridge Holdings Pty Ltd
Application No. P138/14*

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Agenda Item 9.1*

*T144.4 Sewell Street No. 77 (Lot 254)
Applicant: S Vallance
Owner: S Vallance & A Slinger
Application No. P136/14*

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Agenda Item 9.2*

*T144.5 Canning Highway No. 209 & 211 (Lots 49, 50 & 110)
Applicant/Owner: Commissioner of Main Roads
Application No. P141/14*

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Agenda Item 9.3*

*T144.6 Salvado Avenue No. 5 - Unit 1
Owner/Applicant: L Phillips
Application No. P137/14*

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Agenda Item 9.4*

- T144.7** **Sewell Street No. 90 (Lot 293)** **Page 28**
Applicant/Owner: T Harris & B Dries **Agenda Item 9.6**
Application No. P146/14
- T144.8** **Pier Street No. 15 (Lot 192)** **Page 35**
Applicant: Riverstone Construction **Agenda Item 9.7**
Owner: I Monkhouse & F McAlpine-Monkhouse
Application No. P135/14
- T144.9** **Riverside Road Lot 7771 (Reserve 27376) - Swan Yacht Club** **Page 45**
Applicant: Swan Yacht Club **Agenda Item 9.8**
Owner: Town of East Fremantle
Application No: P134/2014
- T144.10** **Fraser Street No. 36 (Lot 1/S61319)** **Page 55**
Applicant/Owner: D & S Cornwell **Agenda Item 9.5**
Application No. P148/14
- T145. REPORTS OF OFFICERS – STRATEGIC PLANNING**
- T145.1** **Status Report - Planning & Development Services** **Page 64**
Agenda Item 10.1
- T145.2** **Review of Municipal Heritage Inventory and Heritage List** **Page 66**
Agenda Item 10.2
- T145.3** **Residential Design Guidelines - Proposed Amendment to Roof Materials** **Page 67**
Agenda Item 10.3
- T146. CONFIDENTIAL BUSINESS**
- T147. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**
- T148. CLOSURE OF MEETING**

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 2 DECEMBER, 2014 COMMENCING AT 6.30PM.

T136. OPENING OF MEETING

T136.1 Present

Cr Siân Martin	Presiding Member
Cr Julie Amor	
Cr Cliff Collinson	
Cr Matthew Handcock	
Mayor James O'Neill	
Mr Jamie Douglas	Manager – Planning Services
Mr Andrew Malone	Senior Town Planner (To 9pm)
Ms Janine May	Minute Secretary

T137. 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.”

T138. WELCOME TO GALLERY

There were 8 members of the public in the gallery at the commencement of the meeting.

T139. APOLOGIES

Cr Michael McPhail
Cr Maria Rico.

T140. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

T141. CONFIRMATION OF MINUTES

T141.1 Town Planning & Building Committee – 4 November 2014

Mayor O'Neill – Cr Collinson

That the Town Planning & Building Committee minutes dated 4 November, 2014 be confirmed. CARRIED

T142. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T142.1 Sewell Street No. 77 (Lot 254)

Further comment provided by adjoining neighbour at 75 Sewell Street.

Cr Collinson – Cr Amor

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T144.4). CARRIED

T142.2 Sewell Street No. 77 (Lot 254)

Photographs provided by the applicant/owner of 77 Sewell Street in support of his application.

Cr Collinson – Cr Amor

That the correspondence be received and held over for consideration when the



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matter comes forward for discussion later in the meeting (MB Ref T144.4).

CARRIED

T142.3 Salvado Avenue No. 5 Unit 1

Further advice from neighbour at 59 Alexandra Road advising that he had met with the applicant and now had no objection to the proposal.

Cr Collinson – Cr Amor

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T144.6).

CARRIED

T143. REPORTS OF COMMITTEES

T143.1 Town Planning Advisory Panel – 28 October 2014

Cr Martin – Cr Collinson

That the minutes of the Town Planning Advisory Panel meeting held on 28 October, 2014 be received and each item considered when the relevant development application is being discussed.

CARRIED

T144. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL

T144.1 Receipt of Reports

Cr Handcock – Cr Amor

That the Reports of Officers be received.

CARRIED

T144.2 Order of Business

Cr Handcock – Cr Amor

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

CARRIED

T144.3 Silas Street No. 8 / Unit 2 (Lot 593)

Applicant: The Nest on Silas

Owner: Rembridge Holdings Pty Ltd

Application No. P138/14

By Andrew Malone, Senior Town Planner on 23 October 2014

PURPOSE OF THIS REPORT

This report considers a change of use application to include an additional use of a coffee kiosk to the prevailing use of a consulting room at 8 Unit 2 (Lot 593) Silas Street, East Fremantle.

The proposal raises the following issues which influence the determination of the application:

- Land use
- Car parking

The proposed inclusion of a coffee kiosk use to the predominant consulting room use is recommended for approval subject to conditions.

BACKGROUND

It is proposed to include a coffee kiosk into the existing consulting room use.

Unit 2/8 Silas Street is currently utilised as a medical use. The business is called “the Nest on Silas” and acts as a pregnancy, childbirth and postnatal resource centre. The services provided through the Nest include Midwifery led care, counselling, naturopathy, lactation consulting and hypnotherapy.

The proposed kiosk is considered an additional use, not an ancillary use.

Description of Site

The subject site is:

- a 132m²
- zoned Town Centre
- developed with a two storey commercial building
- located in the East Fremantle Town Centre

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Town Centre

Impact on Public Domain

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

Documentation

Plans and relevant forms date stamp received on 3 October 2014.

Date Application Received

3 October 2014

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

9 March 2004 Special approval granted for proposed medical use - physiotherapist

CONSULTATION

Advertising

The proposed change of use application was advertised to surrounding neighbours for a two week period between 7 October 2014 and 21 October 2014. At the close of advertising Council has not received any submissions relating to this application.

Town Planning Advisory Panel

This application was not considered by the Town Planning Advisory Panel as there is no change to the existing property or streetscape.

Site Inspection

By Senior Town Planner on 23 October 2014.

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.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

DISCUSSION

The subject site is zoned 'Town Centre'. Approval is sought for a change of use to include an additional use not listed within the zoning table. The proposed additional use has been assessed as per the relevant Council planning requirements.

No additional car parking is being provided. This will be addressed below, along with the proposed land use.

Land Use

The proposed land use of a coffee kiosk is not listed on the Town's Zoning Table. The nearest definitions are of fast food outlet or lunch bar, which are not appropriate definitions and therefore the proposed use is considered a use not listed under the Town's TPS.

Clause 4.4 states:

- 4.4.1 *Where a specific use is mentioned in the Zoning Table, it is deemed to be excluded from the general terms used to describe any other use.*
- 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 advertised to surrounding businesses and property owners within the locality. No submission was received by Council.

The proposed use is not considered to be an intensive use. The kiosk has been described as providing takeaway hot drinks and muffins. The use is takeaway only, no seating is provide, therefore for the purposes of patronage, the proposed kiosk is considered to only be utilised by locals and by people already within the town centre or surrounds. Currently no café or coffee takeaway services are provided within the town centre.

The applicant has provided the following comments:

- *The operational hours (0630-1330) and Monday to Friday.*
- *Office layout: the premises are 5 m wide by 18m long. The coffee shop will take up 1.5m by 2.5 m including customer standing room. Please see plan attached below.*
- *Owner approval: the owner of 2/8 Silas St has given written approval via email for the take away coffee shop to go ahead if approval is granted.*

The nature, size and opening hours of the proposed coffee kiosk are considered limited and 'part-time'. The proposed use is considered not to be intensive and will only serve a local market. Whist the proposed use cannot be directly considered an ancillary use, the use does provide a use that is consistent with the objectives and purposes of the particular zone and is therefore recommended for approval, subject to conditions.

Car Parking

In terms of the Town Centre, the following are TPS3 requirements relate to car parking:

- 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,*



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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.

- 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.*
- 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.*

Under Schedule 10 of TPS3 the parking requirement for "a coffee kiosk" is not listed. No additional car parking is being provided. The subject site has seven (7) car parking bays for two commercial units and two dwellings. 5 car parking bays are associated with the commercial units (currently a shortfall). It is considered that given the location of the site within a business area, proximity to public transport and the restricted nature of the proposed business, that the existing parking is sufficient to accommodate the proposed use. The proposed use will only have an area of 3.75m². The proposed use will not have an adverse impact on the amenity of the immediate area, nor will it increase the car parking demand within the town centre. It is considered the proposed use will only provide to clients and customers of existing businesses within the local area. The proposed use is for takeaway purposes only and will provide convenience foods for the purposes of take away coffee (muffins and confectionary etc).

In this situation, Council must 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, in this case the parking requirement, however can only do so if it meets the following criteria:

- 5.6.2 *In considering an application for planning approval under this clause, where, in the opinion of the local government, the variation is likely to affect any owners or occupiers in the general locality or adjoining the site which is the subject of consideration for the variation, the local government is to —*
- (a) *consult the affected parties by following one or more of the provisions for advertising uses under clause 9.4; and*
 - (b) *have regard to any expressed views prior to making its determination to grant the variation.*
- 5.6.3 *The power conferred by this clause may only be exercised if the local government is satisfied that —*
- (a) *approval of the proposed development would be appropriate having regard to the criteria set out in clause 10.2; and*

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- (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.*

'Matters to be considered by local government' as per clause 10.2 of the Scheme, which Council must have regard to if such a relaxation is to be granted, required to be considered under 10.2, include the following:

- (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;*
- (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;*

If it is decided that the parking requirements will not be relaxed, it is still open to Council to specify how the shortfall is to be met. The options are:

- off site in the immediate vicinity of the development site (this does not include any form of on street parking). Note however that the Scheme provides that "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".
- immediately adjacent on street parking. "Immediately adjacent" means the street parking abutting the development ie "out the front" of the development.
- a cash-in-lieu payment.

All car parking and associated street car parking has already been accounted for. There is no other car parking that can be utilised for this proposed application. The town centre car parking while available cannot be assumed to be used conjunction with the development at such times as it might reasonably be required. It is considered that patronage of the kiosk will be from existing user of the town centre and the proposed use will not generate addition vehicular movements.

The applicant has provided the following justification with regard to car parking:

Car Parking: It is to my understanding that car parking is a great concern in Silas St. The coffee shop should not put any strain on the already short supply of car parking. The reasons for this include:

1. *The majority of customers will be local residents and business operators who originate within walking distance.*
2. *The operational hours (0630-1330) and Monday to Friday nature work to further reduce incoming customers from outside of the Silas St area.*
3. *The cafe is take away only thereby ensuring any car park utilized will only be used for a very short amount of time.*
4. *We are not open on a weekend nor do we provide a 'sit down' facility.*
5. *The barista lives 5 minute's walk from Silas Street and plans to walk or ride to work.*
6. *The produce sold is muffins and hot drinks only thereby increasing the speed to which customers are served should they require a car park.*

With regard to Clause 10.2 of TPS3, the proposed use is considered to adhere to the Town Centre objectives, primarily *“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”*. The traffic likely to be generated by the proposal and the probable effect on traffic flow are considered negligible. The turnaround of clients is considered relatively high, however as discussed it is envisaged that these customers will be existing users of the town centre. In conclusion it is considered the orderly and proper planning of the area is being maintained.

While cash in lieu has been considered as an option, it is considered an unviable option and is one Council should not request in this instance due to the scale and nature of the use. A condition has been included in the Officer’s Recommendation approving the proposed use for 1 year only on a trial period, with the applicant required to submit a further application to retain the use after the expiry of the 1 year time period.

A vibrant, efficient and active Town Centre benefits the Town and the wider community. Providing suitable services with the town is also necessary. It is considered that Council can approve the proposed addition of use of coffee kiosk to the existing use of “Consulting Room” and it is recommended Council utilise Clause 5.6.1 of TPS, where Council may approve the application even if it does not meet Scheme requirement of car parking, without the requirement for a cash in lieu payment. It is considered excessive to require a coffee kiosk of 3.75m² in area within the Town Centre to provide additional car parking bays.

In light of the above, the proposal is considered acceptable and is recommended to be supported subject to appropriate conditions.

RECOMMENDATION

That the change of use from “Office” to “consulting rooms” be approved at 10 (Lot 593) Silas Street, East Fremantle, subject to the following conditions:

1. This approval is only valid for 12 months. The applicant is required to submit a further application to retain the use, prior to the 12 months expiry date from the date of this approval.
2. The operational hours are not to exceed 0630-1330 Monday to Friday. Kiosk is not permitted to operate on the weekends without the prior approval of Council.
3. No food is to be served from the kiosk with the exception of muffins/ biscuits and associated confectionary to the proposed use / service.
4. 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.
5. The commercial 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.
6. 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.
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 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:

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



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- (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) the approval does not include approval of any advertising signage. A separate development application is required for any signage proposal.

Ms Rodda (applicant) addressed the meeting advising that she supported the officer's recommendation.

Cr Martin foreshadowed an amendment to condition 2 of the approval to increase the operating hours to 1500. The Senior Town Planner advised that he would support the proposed change.

Cr Martin – Cr Collinson

That the change of use from "Office" to "consulting rooms" be approved at 10 (Lot 593) Silas Street, East Fremantle, subject to the following conditions:

1. This approval is only valid for 12 months. The applicant is required to submit a further application to retain the use, prior to the 12 months expiry date from the date of this approval.
2. The operational hours are not to exceed 0630-1500 Monday to Friday. Kiosk is not permitted to operate on the weekends without the prior approval of Council.
3. No food is to be served from the kiosk with the exception of muffins/ biscuits and associated confectionary to the proposed use / service.
4. 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.
5. The commercial 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.
6. 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.
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 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:

- (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) *the approval does not include approval of any advertising signage. A separate development application is required for any signage proposal.* CARRIED 5:0

Note:

As 5 Committee members voted in favour of an amended Reporting Officer's recommendation which the officer supported, pursuant to Council's decision regarding delegated decision making made on 18 June 2014, this application is deemed determined, on behalf of Council, under delegated authority.

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T144.4 Sewell Street No. 77 (Lot 254)

Applicant: S Vallance

Owner: S Vallance & A Slinger

Application No. P136/14

By Andrew Malone, Senior Town Planner on 3 November 2014

PURPOSE OF THIS REPORT

This report considers an application for a boundary fence at 77 (Lot 254) Sewell Street, East Fremantle.

The proposal raises the following issues which influence the determination of the application:

- variation to the Town's Local Law for Fencing: 2.1 metre high fence; and
- the neighbour has raised amenity concerns.

The proposed fence is recommended for approval subject to conditions.

BACKGROUND

Description of Site

The subject site is:

- 508m² lot
- Residential R20
- single storey heritage dwelling
- Plympton Precinct
- Municipal Heritage Inventory 2006 – Management Category B (MI)

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

Statutory Considerations

Town Planning Scheme No. 3 (TPS3)

Residential Design Codes (RDC)

Relevant Council Policies

Residential Design Guidelines (RDG)

Local Laws Relating to Fencing

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : No impact

Documentation

Plans and relevant forms date stamp received on 2 October 2014.

Date Application Received

2 October 2014

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

23 February 2001 Building Permit issued for a swimming pool.

CONSULTATION

Advertising

The application was advertised to the adjoining neighbour to the north, south and two neighbours to the west. The adjoining neighbour to the north (75 Sewell) has made a submission with respect to the proposed development:

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>I do not object to a 1.8m limestone wall being built in place of the existing fence between 75 & 77 Sewell St, however I have objections to the proposed 2.4m & 2.7m high sections along 6m at the rear my property, and I also have some provisos regarding the wall, as follows:</p> <ul style="list-style-type: none"> • <i>the wall location</i> must be situated entirely on land owned at 77 Sewell St; being made of limestone blocks it is much wider than a standard paling/metal fence. My house is a terrace house and I do not have space to accommodate any encroachment along the length of my side path (which is the single access to the rear of my property). This has been discussed with the owners of 77 Sewell St and should be no issue. I am informed they will get the boundary surveyed to ensure this is all OK. • <i>the wall height calculations need to consider ground height on my property at our shared boundary.</i> I am informed that the proposed heights are relative to ground level at 77 Sewell St and I think that this is higher than at 75 and/or has been built up. A 1.8m wall will cut out much of the light that currently enters my house via its side windows (all of which are south facing hence face the fence) and I would be further disadvantaged regarding light if, for example, a 1.8 wall was, in relation to my property, actually 2m high (see attached X 2). Therefore I would object to wall height in excess of 1.8m. • <i>6 meters of the proposed wall at the side far rear boundary has a stated height of the 2.70m (for 3 m) plus 2.40m (for 3m).</i> Based on the plans presented I have sketched what the before and after might look like to determine its appearance from within my backyard (attached X 2); a human figure is included 	<p>The existing 1.3m fence provides inadequate privacy and security from the 10-bay carpark of the unit complex located behind at 84-86 Hubble Street. Headlights from vehicles entering the complex shine directly into home.</p> <p>The neighbouring strata complex has agreed to financially contribute towards a fence. However, Ms Rhind of 75 Sewell no agreement achieved. Consequently, Ms Rhind will enjoy a new fence with no financial contribution herself.</p> <p>In response to Ms Rhinds concerns we offer the following comments in order of the points raised – relevant images are attached:</p> <ul style="list-style-type: none"> • We will have the property boundary surveyed & re-established by a licensed surveyor upon removal of the existing asbestos fence to ensure that the new fence is constructed along the true property boundary. • The new fence will honour the property boundary. • We will abide by Councils guidance as to whether the new fence should straddle the property boundary or be constructed on our property. • The proposed fence heights are relative to our property as is convention with ours being the marginally higher of the two properties. • As the fence in question is our northern fence any shadow it casts will be onto our property – it will not/cannot reduce light entering the south facing windows of Ms Rind's house. • The proposed height of 2.7m along our rear boundary is to create privacy/audible screening and security between ourselves and the carpark of the unit complex located immediately behind us at 84-86 Hubble St. The existing fence is 1.2 – 1.3m in height and 	<p>The adjoining neighbour's concerns and the applicant's response are acknowledged and due regard to both has been undertaken during the assessment of this application.</p> <p>A detailed assessment of the proposal has been undertaken and is addressed below.</p>

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>for scale. As illustrated, this wall is exceptionally high, I consider it an unreasonable height, and such a large structure would permanently alter the character of my backyard. It would block out connection with the surrounds and with what is currently the most open area of my backyard, and from within my property it would appear rather fortress-like and create a closed-in effect. Importantly, the proposed wall would be north facing and its thermal mass in summer would capture heat and heat my place up (I think anything growing in my garden near it would struggle to survive), and for much of the year the mass whiteness of the limestone could be blinding; I am concerned that its bulk could interfere with the sea breeze & cooling.</p> <p>I am not familiar with walls of 2.7m heights being proposed along a property boundary, and object to this. My preference would be that the wall be built at the standard height of a boundary fences (1.8m).</p>	<p>provides neither privacy nor security between the properties. It is surprising this wasn't addressed at the time the unit complex was constructed.</p> <ul style="list-style-type: none"> • Returning the fence at 2.7m height for a distance of 3m, thence dropping to 2.4m height for a further 3m before dropping further to 1.8m height along the rear corner of our northern boundary shared with 75 Sewell St is for both structural integrity and aesthetic quality. • The rear corner of Ms Rhind's yard is occupied by a clothes hoist and a garden shed – arguably not the “most open area” of Ms Rhind's backyard as she suggests. • This section of the fence will be shaded by Ms Rhind's shed and a very old/mature Jacaranda tree also situated in this section of Ms Rhind's yard – its ability to act as a heat producing “thermal mass” will be insignificant. • The proposed heights of the new fence will not adversely affect Ms Rhind's property nor will it be “fortress-like”. Ms Rhind's sketches whilst artistically impressive are not to scale and are exaggerated for dramatic effect. • The new fence, as proposed in its entirety, is in fact significantly lower than a pre-existing carport structure which dominated our backyard when we purchased our property earlier this year and which we have since removed (along with several large trees on our fence line in polite response to Ms Rhind's concerns), substantially enhancing light, air flow, connection with our surrounds and sense of openness - which Ms Rhind now appears fearful of losing. 	

Town Planning Advisory Panel Comments

Due to the nature of the application, it was not referred to the Town Planning Advisory Panel for comment.

Site Inspection

23 October 2014 and 12 November 2014.

STATUTORY ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	N/A	A
Outdoor Living	30sqm	N/A	A
Car Parking	2	N/A	A
Site Works	Less than 500mm	N/A	A
Overshadowing	35%	N/A	A
Drainage	On-site	N/A	A

Local Planning Policies Assessment

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

DISCUSSION

Description of Proposal

The proposed development has been considered as per the relevant legislation.

The proposed boundary wall is predominately 1.8 metres in height. The rear 6 metres of fence raises to 2.4 metres between 6 metres and 3 metres from the rear fence. The rear 3 metres of fence raises to 2.7 metres between 3 metres and the rear fence line. The rear fence is 2.7 metres in height. The applicant has provided justification for the proposed fence heights. All costs associated with the purchase and construction of the fence, are proposed to be borne by the applicant.

The local laws require a dividing fence of a limestone material, adjoining two residential properties, to comply with the following requirements:

A fence constructed of brick, stone or concrete, which satisfies the following specifications:

- footings of minimum 225mm x 150mm concrete 15MPA or 300mm x 175mm brick laid in cement mortar;
- fences to be offset a minimum of 200mm at maximum 3000mm centres or 225mm x 100mm engaged piers to be provided at maximum 3000mm centres;
- expansion joints in accordance with the manufacturer's written instructions; and



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- (d) the height of the fence to be 1800mm except with respect to the front setback area for which there is no minimum height but which is subject to clause 7.

The 2.4 and 2.7 metre high sections of fence do not comply with the 1.8 metre maximum height requirements of a sufficient fence as defined by the Town's Local Law. The 2.4 and 2.7 metre high fence is proposed to provide privacy and security to the owner of the subject lot. The existing fence is approximately 1.3 metres high, which the applicant considers does not provide sufficient screening and security.

Notwithstanding the above criteria, the local government may consent to the erection or repair of a fence which does not comply with the requirements of these Local Laws under Clause 6 'Sufficient Fence'. The local government is required to have regard to Section 9 of the Local Law for Fencing, which states:

In determining whether to grant its consent to the erection or repair of any fence, the local government may consider, in addition to any other matter that it is authorised to consider, whether the erection or retention of the fence would have an adverse effect on:

- (a) the safe or convenient use of any land; or
(b) the safety or convenience of any person.

The proposed fence has no impact to the safe or convenient use of any land or the safety or convenience of any person adjoining the subject lot. As stated by the applicant, the proposed fence is required to improve the privacy and safety of the subject lot, thereby improving the safe or convenient use of the subject lot for the applicant.

The neighbour to the north has objected to the proposed fence. No submission was received from the strata development to the west, however the applicant has noted:

We have recently received agreement for minimal financial contribution (50% cost of a "standard" fence) from the owners of the strata complex located along our rear boundary at 84 – 86 Hubble St

The neighbour to the north has objected to the fence because of a loss of amenity, including, loss of light and the overall height, scale and bulk of the wall. The proposal has also been assessed as per Clause 10.2 Matters to be Considered by Local Government of TPS3, which includes amenity provisions.

While the proposed fence is considered to be high, the applicant has provided justification for the height:

The proposed height of 2.7m along our rear boundary is to create privacy/audible screening and security between ourselves and the carpark of the unit complex located immediately behind us at 84-86 Hubble St.... Returning the fence at 2.7m height for a distance of 3m, thence dropping to 2.4m height for a further 3m before dropping further to 1.8m height along the rear corner of our northern boundary shared with 75 Sewell St is for both structural integrity and aesthetic quality.

As is illustrated in the photographs, the applicant's rear yard and swimming pool are overlooked by the rear strata lot. The proposed fence height is to screen the existing carport on the strata lot and provide privacy from the balconies. The proposed fence is 2.7 and 2.4 metres respectively for the rear 6 metres of the northern neighbour's lot. The area adjoins the neighbour's shed and clothes line, two areas that are considered not to be sensitive outdoor areas. The neighbour's light will not be impacted at these areas, as the neighbour is located to the north. The proposed wall height will only impact the subject lot. All areas adjoining outdoor habitable areas or the existing dwelling are located adjoining the proposed 1.8 metre high section of boundary fence. The neighbour has concerns with regard to loss of light to their dwelling, however the proposed fence height at the dwelling is 1.8 metres and complies with Council requirements. The only

section of fence requiring Council discretion is the rear six metres and the rear fence. It is considered the proposed fence will have minimal impact to the adjoining neighbour.

The scale and height of the proposed fence is considered consistent with the adjoining carport to the rear of the lot and to the shed located on the northern neighbour's lot. The proposed six metre extent of the rear section of fence (higher than 1.8 metres) is considered minor as the overall length of the subject lot is 41.5 metres.

The proposed fence is considered to comply with the amenity provisions of the Scheme. The proposed fence will not impact on the streetscape.

Accordingly, it is recommended that the fence is approved subject to conditions.

RECOMMENDATION

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

.. *variation to the Town's Local Law for Fencing: (1.8 metre high fence)*

for a proposed 2.7 and 2.4 metre high boundary fence situated at 77 (Lot 254) Sewell Street, East Fremantle, as described on the plans date stamped received 2 October 2014 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. Applicant to notify and consult with adjoining neighbour prior to the erection of the fence, as per the requirements of the Dividing Fences Act.
3. The maximum height of the fence is not to exceed 2.7 metres at the rear fence, returning 3.0 metres on the southern and northern boundaries, reducing to 2.4 for a further 3.0 metres and reducing to a maximum height of 1.8 metres within 6.0 metres from the rear boundary of the subject lot.
4. The proposed works are not to be commenced unless there is a valid building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. The boundary wall and footings shall be constructed wholly within at 77 (Lot 254) Sewell Street, East Fremantle.
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. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

The email and photographs, referred from Correspondence (MB Ref 142.1 & 142.2) were tabled.

Mr Vallance (owner/applicant) addressed the meeting in support of the proposal and advised that he supported the officer's recommendation.

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Mayor O'Neill – Cr Martin
The adoption of the officer's recommendation.

Amendment

Cr Handcock

That Condition 3 be amended to read:

3. The maximum height of the fence is not to exceed 2.7 metres at the rear fence, returning 1.0 metre on the southern and northern boundaries, reducing to 2.4 for a further 1.0 metre and reducing to a maximum height of 1.8 metres within 2 metres from the rear boundary of the subject lot. LAPSED FOR WANT OF A SECONDER

The substantive motion was put.

Mayor O'Neill – Cr Martin

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

.. variation to the Town's Local Law for Fencing: (1.8 metre high fence)
for a proposed 2.7 and 2.4 metre high boundary fence situated at 77 (Lot 254) Sewell Street, East Fremantle, as described on the plans date stamped received 2 October 2014 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. Applicant to notify and consult with adjoining neighbour prior to the erection of the fence, as per the requirements of the Dividing Fences Act.
3. The maximum height of the fence is not to exceed 2.7 metres at the rear fence, returning 3.0 metres on the southern and northern boundaries, reducing to 2.4 for a further 3.0 metres and reducing to a maximum height of 1.8 metres within 6.0 metres from the rear boundary of the subject lot.
4. The proposed works are not to be commenced unless there is a valid building licence issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. The boundary wall and footings shall be constructed wholly within at 77 (Lot 254) Sewell Street, East Fremantle.
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. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED 3:2

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T144.5 Canning Highway No. 209 & 211 (Lots 49, 50 & 110)

Applicant/Owner: Commissioner of Main Roads

Application No. P141/14

By Jamie Douglas, Manager of Planning Services, on 13 November 2014

PURPOSE OF THIS REPORT

This report recommends approval of an application for the demolition of outbuildings and additions and the removal of some designated trees associated with two existing dwellings at 209 and 211 Canning Highway.

The assessment raises the following issues:

- Heritage significance of the place both dwellings are classified as 'B' management category on the Municipal Inventory.
- Impact on the streetscape, neighbouring property and amenity of the location
- Loss of mature trees

BACKGROUND

It is proposed to demolish the current fences, retaining walls and paving around the residences which occupy a corner site at the junction of Allen Street and Canning Highway. The veranda infill's and rear out-buildings, together with a number of trees that are proposed to be removed, are to allow for a proposed subdivision of 8 lots and a common driveway.

The Department of Main Roads proposes to sell the subject properties because they are no longer required for road widening. Initially the Department approached the Town's Planning Staff to assess the potential for the demolition of the two dwellings. Main Roads was encouraged to seek alternative options (such as proposed) which achieves the retention of these two prominent dwellings.

Statutory Considerations

Town Planning Scheme No. 3 (TPS3).

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

For reference the Management Category B requirements are:

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

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : N/A

Light pole : N/A

Crossover : N/A

Streetscape : The removal of the additions and mature trees will have some impact upon the existing streetscape character in Canning Highway and Alan Street.

Parking : N/A

Date Application Received

6 October 2014



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CONSULTATION

Agency Referrals

Because the subject property is located in a designated area of a primary regional road reserve the proposal was referred to the Western Australian Planning Commission (Department of Planning) and the Department of Main Roads for comment. These agencies responded as follows:

Department of Planning

"...this section of Canning Highway is considered to be a Primary Regional Road (PRR) under the Metropolitan Region Scheme and therefore come under the responsibilities of Main Roads Western Australia (MRWA). For this reason, it is recommended that MRWA's comments be sought in relation to this proposal."

Main Roads WA

No response has been received at time of writing however given the property is in the ownership of the Department of Main Roads it is reasonable to presume the Department supports the application.

Town Planning Advisory Panel Comments

This application was circulated to the Town Planning Advisory Panel members on 28 October 2014.

The following comments were made:

- *Panel does not support the removal of the palm tree (Phoenix Canariensis), as the tree is considered integral to the setting of the dwelling and would have been planted approximately at the time the heritage dwelling was constructed.*
- *Panel supports the proposed partial demolition.*
- *Panel recommends the retention of the boundary limestone wall within the curtilage of the heritage dwelling.*

The Panel's comments were forwarded to the applicant.

Public Advertising

The application was advertised by letter to neighbours for a two week period ending 29 October 2014. No comments were received.

DEVELOPMENT IMPACT STATEMENTS

Development Impact Statements in respect of both dwellings were undertaken by Phillip Griffiths (Heritage Architect) on behalf of the applicant.

In respect to the elements subject to proposed demolition at 211 Canning Highway the assessment states:

"Modifications completed in the inter war period have diminished the aesthetic value and authenticity of the house. The modifications are of low significance. The verandah infills, sleepouts, garden sheds and the like are intrusive. The plantings are of low significance. Outbuildings are relatively recent and have no heritage value."

In respect to the elements subject to proposed demolition at 209 Canning Highway the assessment states:

"The verandah infills, sleepouts, trelliswork and extensions are intrusive. The plantings are of low significance no significance. Its representative value is somewhat diminished by its reduced authenticity."

CONSIDERATION

Heritage Significance

Both dwellings are classified as a 'B' Management Category under the Municipal Inventory and although in need of refurbishment, do contribute in a substantial way to the surrounding streetscape and to the heritage character of the Town. The many substantial



trees on site also contribute to the streetscape character. The elements of the buildings which are the subject of the application for demolition are later stud frame additions to the principal structures and some minor sheds and garden structures to the rear of the properties. These structures are not considered to contribute to the heritage significance of the dwellings and their removal will allow better visibility of the principal building form.

It is proposed that a Heritage Agreement and the applicant's consent to the inclusion of the dwellings on the Heritage List be required as conditions of planning approval to assure the conservation of the residual dwellings subsequent to the subdivision and sale of the properties. The applicant has advised that they consent to the application of such conditions and they are comprising a schedule of significant building elements to facilitate the compilation of a Heritage Agreement.

Town Planning Scheme No. 3 Assessment

Clause 1.6 – Aim of the Scheme

The aims of the Scheme are relevant:

- (a) *To recognise the historical development of East Fremantle and to preserve the existing character of the Town;*
- (b) *To enhance the character and amenity of the Town, and to promote a sense of place and community identity within each of the precincts of the Town;*
- (c) *To promote the conservation of buildings and places of heritage significance, and to protect and enhance the existing heritage values of the Town.*

It is considered the proposed development does comply with the relevant provisions of Clause 1.6(a), (b) and (c).

The proposal would not have a detrimental impact upon the existing character of the Town and the surrounding streetscape and will not prejudice the heritage significance of the place and therefore the proposal is considered to comply with the aims of the Scheme (which Council is required to consider in any determination pursuant with Clause 10.2 (a) of the Scheme).

Clause 4.2 – Zone Objectives

The proposed development complies with the following Clause 4.2 Objectives of the Zones- General of the Town of East Fremantle Town Planning Scheme No. 3, which are as follows:

- *To recognise and respect the desired future character of each precinct, and to ensure future development is sympathetic with that character.*
- *To recognise the historical development of East Fremantle and its contribution to the identity of the Town.*
- *To conserve significant places of heritage value, and to preserve the existing character of the Town.*
- *To facilitate and encourage effective public involvement in planning issues and processes.*

The proposal will facilitate the conservation and continued use of two significant heritage dwellings and the existing streetscape character.

Clause 8.2 – Permitted Development

The proposed partial demolition is consistent with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 8.2. Pursuant with Clause 8.2 the development application requires planning approval for the demolition of a building listed on the Municipal Inventory. In determining any such proposal for demolition, Council is required to consider Clause 10.2 (a) and the Aims of the Scheme (Clause 1.6). As

previously stated, the proposed development is considered to comply with these provisions.

Residential Design Guidelines

Section 3.7.5 of the Guidelines contains the guideline provisions relevant to Demolition. It is considered the proposal satisfies the following Policy Statement, Desired Outcomes, the Acceptable Development Provisions or the Performance Criteria of the Guideline.

3.7.5 Demolition

3.7.5.1 Statement

The Policy Area retains much of its original building fabric. The demolition of traditional buildings has been minimal. Traditional buildings contribute significantly to the character of the Policy Area and are vital to the retention of heritage values of the town. Therefore the demolition of heritage places, part demolition of individually contributory buildings (refer glossary) and the demolition of contributory elements is discouraged. However the removal of inappropriate alterations, additions and works that detract from the cultural significance of the place and its proper presentation is encouraged.

3.7.5.2 Desired Outcomes

- Conservation of significant and contributory places; and
- The removal of inappropriate alterations, additions and works that detract from the cultural significance of the place.

3.7.5.3 Performance Criteria and Acceptable Development Provisions

Performance Criteria	Acceptable Development Provisions
<p>P1.1 Demolition of any building or place on the Heritage List requires the development approval of the Town. The Town shall not approve demolition of a building until there is a planning approval granted for a new building that complies with this Local Planning Policy. Where no other development is proposed the owner of the listed building will be requested to give reasons for the planning application for demolition so that Council shall be fully informed in its decision-making.</p>	<p>A1.1 Relevant information of new development, additions or alterations submitted with planning application for demolition.</p> <p>A1.2 Relevant drawings illustrating the demolition area and zones of significance (refer glossary) of the existing building. This is to include demolition plans and elevations and possible sections. Street elevations are to be included including a minimum of the subject lot and two neighbouring lots.</p>
<p>P1.2 The Local Government shall not approve demolition if the proposed development, addition(s) and/or alterations do not conform to this Local Planning Policy.</p>	
<p>P2 Applications for demolition of all or part of an existing contributory building must demonstrate the cultural heritage significance of</p>	<p>A2 For contributory buildings a comprehensive Development Impact Statement that addresses the implications of the demolition is</p>



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the existing building and the proposed demolition area(s) are not adversely affected by the demolition.

P3.1 Planning application for demolition will not be approved for a contributory building on the grounds of neglect, poor condition or economic/other gain for redevelopment of the land.

P3.2 Part demolition of individually significant or contributory buildings or removal of contributory elements will not be approved unless it is demonstrated to the Council's satisfaction:

- i. that part of the heritage place has been changed beyond recognition of its original or subsequent contributory character(s).
- ii. that part is not visible from a street frontage, park or public open space and the main building form including roof form is maintained.
- iii. the removal of the part would not adversely affect the contribution of the building to the heritage place.
- iv. for individually significant building or works, it can be demonstrated that the removal of part of the building does not negatively affect the significance of the place.

to be provided. An acceptable format is attached in Appendix A.

A3 If a place is included on the Municipal Inventory, in a designated heritage area, or included a TPS Schedule of heritage places, relevant information is required from suitably qualified consultants, such as a structural engineer or heritage architect, to assess demolition applications.

NOTE: Refer Town of East Fremantle Town Planning Scheme for developments that require planning approval.

It is noted the proposal will specifically met the following provision of the guidelines:

"removal of inappropriate alterations, additions and works that detract from the cultural significance of the place and its proper presentation is encouraged."

LANDSCAPE

As stated the subject site contains many mature trees of various species. These contribute to the existing character of the place. However it will be necessary to remove some of these to facilitate the proposed subdivision and future development. Over time it will also be necessary to remove or prune many of the trees in proximity to the road frontage and the established dwellings because of their size and age they will have undesirable safety and amenity impacts.

The TPAP has commentated that:

- Panel does not support the removal of the palm tree (*Phoenix Canariensis*), as the tree is considered integral to the setting of the dwelling and would have been planted approximately at the time the heritage dwelling was constructed.
- Panel recommends the retention of the boundary limestone wall within the curtilage of the heritage dwelling.

Although it is difficult to control tree removal that is not associated with a development application (unless the trees are on a significant tree register), the RDG does contain the following Landscape Guidelines.

3.7.10 Landscape Guidelines

3.7.10.1 Statement

Established vegetation makes a valuable contribution to the amenity of the community, in particular with respect to shade, privacy, aesthetics and their contribution towards minimising greenhouse gases, maintaining ground water levels and providing habitats for birds and fauna.

The retention of existing trees, shrubs and hedges on private property is encouraged. Development proposals should avoid the removal of, or taking of any action which will damage, existing mature trees on the site.

3.7.10.2 Desired Development Outcomes

- i. Established vegetation, particularly mature trees, shrubs and hedges, is to be retained.
- ii. Landscaping is to be compatible with the character of the immediate locality.

3.7.10.3 Performance Criteria and Acceptable Development Provisions

Performance Criteria	Acceptable Development Provisions
<p>Existing Buildings:</p> <p>P1 Development shall be designed around significant established vegetation.</p>	<p>Existing Buildings:</p> <p>A1.1 Development applications are to be accompanied by a site survey including the location of existing mature trees, shrubs, hedges and other significant vegetation.</p> <p>A1.2 Any proposal to remove existing significant vegetation shall be accompanied by a tree survey justifying removal of the vegetation and prepared by a suitably qualified consultant or by a landscape plan demonstrating compensating re-vegetation of the site.</p>

It is considered that at this time only removal of trees in the proposed common property (internal driveway) should be permitted as part of this development application. This will not include the *palm tree* (*Phoenix Canariensis*). Future purchasers of the proposed lots can then make informed decisions regarding tree retention when future building footprints are known. The applicant has advised that they support the application of a



relevant condition of approval which limits tree removal to the common property in the proposed subdivision.

CONCLUSION

The subject site is classified as Management Category B in the Municipal Inventory.

The proposed partial demolitions comply with the requirements of the Town Planning Scheme No.3:

Clause 1.6 – Aims of the Scheme.

Clause 4.2 – Objectives of the Zones - General Objectives.

Clause 8.2 – Permitted Development.

The proposed demolition complies with the provisions of Clause 10.2(a), (c), (g), (j), (o), (p) and (z) as it will not negatively impact on neighbouring properties and the wider locality.

The proposed development is compatible with the provisions of the Residential Design Guidelines Section 3.7.5 Demolition.

It is considered the application should be approved subject to standard conditions and conditions requiring the application of a Heritage Agreement and the restriction of tree removal to the areas of common property as designated in the proposed subdivision plan.

RECOMMENDATION

That Council grant approval for the demolition of outbuildings and additions and the removal of some designated trees associated with two existing dwellings at 209 and 211 Canning Highway, East Fremantle subject to the following conditions in accordance with the application plans date stamp received on 6 October 2014.

1. prior to the issue of a Demolition Permit the existing dwelling at 209 (Lot 49 & 50) and 211 (Lot 110) Canning Highway are to be included on the Heritage List pursuant with Clause 7.1.3 of TPS No. 3.
2. prior to the issue of a Demolition Permit the land owner is to enter into a Heritage Agreement pursuant with section 29 of the Heritage of Western Australia Act 1990 in respect to the existing dwelling at 209 (Lot49,50) and 211 (lot 110) Canning Highway.
3. all trees are to be retained except for those contained within the proposed common property (internal driveway) in the proposed plan of subdivision dated 18/06/2014
4. the demolitions 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 the demolition permit is issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
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. 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.

Footnote:

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

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

Mr & Mrs Fleming (neighbours) were in attendance however did not wish to address the meeting.

Cr Collinson – Mayor O’Neill

That Council grant approval for the demolition of outbuildings and additions and the removal of some designated trees associated with two existing dwellings at 209 and 211 Canning Highway, East Fremantle subject to the following conditions in accordance with the application plans date stamp received on 6 October 2014.

- 1. prior to the issue of a Demolition Permit the existing dwelling at 209 (Lot 49 & 50) and 211 (Lot 110) Canning Highway are to be included on the Heritage List pursuant with Clause 7.1.3 of TPS No. 3.**
- 2. prior to the issue of a Demolition Permit the land owner is to enter into a Heritage Agreement pursuant with section 29 of the Heritage of Western Australia Act 1990 in respect to the existing dwelling at 209 (Lot49,50) and 211 (lot 110) Canning Highway.**
- 3. all trees are to be retained except for those contained within the proposed common property (internal driveway) in the proposed plan of subdivision dated 18/06/2014**
- 4. the demolitions 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 the demolition permit is issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 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. 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.**

Footnote:

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

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

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 18 June 2014, this application is deemed determined, on behalf of Council, under delegated authority.

T144.6

Salvado Avenue No. 5 - Unit 1

Owner/Applicant: L Phillips

Application No. P137/14

By Jamie Douglas, Manager Planning Services on 3 November 2014

BACKGROUND

Description of Proposal

This report considers a planning application for a reroofing of an existing conjoined dwelling from tiles to colorbond (surf mist –off white) at unit 1/ 5 Salvado Avenue, East Fremantle.

The proposal raises the following issues relevant to the determination of the application:

- *Impact of the proposed change in roof materials upon the streetscape character of the area.*

The proposed reroofing is recommended for approval.

Description of Proposal

The subject site is one of four units located on the corner of Salvado Avenue and Alexandra Road. Unit 1 is conjoined with unit 2 and Unit 3 is conjoined with unit 4. As part of the redevelopment of Unit 1 it is proposed to replace the existing tiled roof with a new 'colorbond' roof ('surf mist'- off white in colour) which is to be attached to the existing roof framing. It is intended to extend a parapet wall through the roofline to divide unit 1 and 2.

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Residential R12.5

Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : Reroofing will change the appearance of the dwelling from the streetscape.

Documentation

Plans, and application forms date stamp received on 2 October 2014.

Date Application Received

2 October 2014

CONSULTATION

Advertising

The proposed reroofing application was advertised to surrounding neighbours for a two week period between 7 October and 21 October 2014. At the close of advertising five submissions (3 in favour and 2 against) were made which are summarised below.

Two comments in favour were received following the close of the comment period.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>John Wroth 59 Alexandra Road.</p> <p>1. The proposed 'colorbond' roof is not supported as it is not in keeping with the other units.</p> <p>2. Any roof material that departs from the current uniform brown tiles of the strata building will not be supported unless the entire strata group is re-roofed.</p>	<p>The neighbour has only a limited and oblique view of the rear of units 1 & 2. There is screening vegetation and it is intended to increase the screening vegetation.</p> <p>This comment is irrelevant. On 1 March 2014 the strata owners unanimously agreed to convert from merged strata to survey strata status. This was to allow each owner autonomy and freedom in how they chose to upgrade their units.</p>	<p>It is accepted that the external materials of the conjoined unit can be amended without detrimental streetscape impact.</p> <p>The existing appearance of the units does not have a positive impact upon the streetscape character. There are no streetscape character or heritage issues which necessitate the maintenance of the existing identical facades.</p>
<p>Aine & Patrick Carter 8 Sergeant Rd Melville (owner of Unit 2)</p> <p>I feel that if these adjourned properties have different roof types it will look unsightly and could have potential issues with leakage – I do not approve of the roof and have sought quotes regarding the cost of a similar roof and render.</p>	<p>I strongly feel the best aesthetic solution is to make a complete break from the existing finishes – including the wall and roof colour and finish. This would allow a 'neat vertical line junction' between properties, the same that is achieved by 2 green title properties with adjoining boundary walls. To have different wall finishes, 1 old and 1 new and the same old roof cover would not be the best outcome.</p> <p>My renovations will not require any expense of my neighbour in regard to them needing to render and re-roof their side of the building.</p> <p>I have complete confidence that that the joining of the two materials can be achieved without leakage.</p>	<p>A previous planning approval allowed for rendering of the walls of the subject property and at this time it was accepted that the appearance of the strata units could be "individualised" without detrimental impacts to the streetscape character.</p> <p>The proposal plans include the extension of a parapet wall between the roofs of the strata units both roofs will be flashed onto this wall. There is no reason to assume that leakage will occur.</p>
<p>Don Campbell (owner) 4/5 Salvado Avenue</p> <p>Approves of the proposed colorbond roof</p>		Noted
<p>J Rochford 3/5 Salvado Avenue</p> <p>Approves of the proposed 'colorbond' roof</p>		Noted

<p>Jennifer Wright 3 Salvado Avenue</p> <p>Approves of the proposed 'colorbond roof</p>		<p>Comment received following close of comment period.</p>
<p>Nicola Vinicombe 2 Salvado Avenue</p> <p>Approves of the proposed 'colorbond roof</p>		<p>Comment received following close of comment period.</p>

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting held on 28 October 2014 and the following comments were made:

- Panel support the proposed reroofing of the dwelling as the proposal is in line with the Panels recent recommendation relating to roof material on dwellings not listed on the Town's Municipal Inventory.
- Panel encourages the proposed change of material and reroofing to be applied to all dwellings within the strata development.

Site Inspection

By Manager Planning Services on 10 September 2014.

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.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Local Planning Policies Assessment

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

CONSIDERATION

The Performance Criteria of 3.7.2 Additions and alterations to Existing Buildings of the Residential Design Guidelines states:

- P2** Restoration of contributory buildings to their original or earlier form.
- P3** Streetscape presence of heritage buildings to be retained.
- P4.1** Replacement of deteriorated building fabric with either:
 - i. A "like for like" approach; or

ii. In a similar but not identical fashion where appropriate

The applicant has provided justification for the replacement of the roof. The subject property is not a "contributory building" (listed on the Municipal Inventory) as defined by the RDG. The subject site has no heritage significance and the existing tiled roof and current building appearance does not make a positive contribution to the streetscape character. Accordingly it is considered the provisions of P4.1 are not applicable in this instance.

The Town Planning Advisory Panel supports the application.

A planning approval has already been issued to allow for the rendering of the external walls of unit 1 and as such its appearance will depart from that of its neighbours. Accordingly it is considered there are no planning grounds to require the subject site to replicate the appearance of conjoined unit 2. Neither should the reluctance of these neighbouring owners to undertake external modifications at this time prejudice the applicant's planned alterations.

The proposal incorporates the extension of a parapet wall above the roof line between units 1 and 2. This will provide a physical separation between the proposed 'colorbond' roof and the existing tiled roof. Both roofs will be flashed onto the parapet.

CONCLUSION

The proposed external alterations will improve the appearance of the existing dwelling. The retention of the existing tiled roof is not necessary in support of heritage or streetscape issues, the proposal is therefore recommended for approval.

RECOMMENDATION

It is recommended that the application for reroofing, comprising change of existing tiled roof to 'colorbond' "Surf Mist" at Unit 1/5 Salvado Avenue, East Fremantle, be approved 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 Approval Certificate, changes are not to be made in respect of the plans which have received retrospective planning approval, without those changes being specifically marked for Council's attention.
3. 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 Approval Certificate is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

The email, referred from Correspondence (MB Ref 142.3), was tabled.

Ms Phillips (owner/applicant) addressed the meeting advising that she supported the officer's recommendation.

Cr Collinson – Mayor O’Neill

That the application for reroofing, comprising change of existing tiled roof to ‘colorbond’ ‘Surf Mist’ at Unit 1/5 Salvado Avenue, East Fremantle, be approved 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 Approval Certificate, changes are not to be made in respect of the plans which have received retrospective planning approval, without those changes being specifically marked for Council’s attention.
3. 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 Approval Certificate is to conform with the approved plans unless otherwise approved by Council.*
- (c) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer’s recommendation, pursuant to Council’s decision regarding delegated decision making made on 18 June 2014, this application is deemed determined, on behalf of Council, under delegated authority.

T144.7

Sewell Street No. 90 (Lot 293)

Applicant/Owner: T Harris & B Dries

Application No. P146/14

By Andrew Malone, Senior Town Planner on 6 November 2014

BACKGROUND

Description of Proposal

This report considers an application for planning approval for alterations and additions to the existing single house located at 90 (Lot 293) Sewell Street, East Fremantle.

The proposal raises the following issues which influence the determination of the application:

- Side setback
- Roof pitch; and
- Car parking (conditioned to comply with ‘Deemed to Comply’ provisions of the R-Codes.

The proposed additions and alterations in all other respects (as conditioned) are considered to comply with the Residential Design Codes and RDG. The dwelling is recommended for approval subject to conditions.

Description of Site

The subject site is:

- a 508m² block
- zoned Residential R20
- developed with a dwelling on-site
- located in the Plympton Precinct
- not included in Municipal Heritage Inventory

Statutory Considerations

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

Relevant Council Policies

Residential Design Guidelines (RDG)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Minor impact. Partial views of the rear / side additions will be visible from the street. The dwelling still remains the predominant structure to the street.

Documentation

Plans and relevant forms date stamp received on 16 October 2014.

Date Application Received

16 October 2014

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

17 November 2010 An application for Planning Approval for alterations and additions to the existing single house.

CONSULTATION

Advertising

The application was advertised to adjoining neighbour to the west. No submission has been received by Council. The applicant has provided a signed plan from the adjoining neighbours to the north and south.

Town Planning Advisory Panel

The application was considered by the Town Planning Advisory Panel at its meeting of 28 October 2014. The Panel supports the application.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>Panel recommends that suitable building / construction measures are implemented to ensure the limestone external walls are protected through the use of grills and / or similar to facilitate airflow to the wall, particularly in regard to the treatment of the basement floor.</p>	<p>Thank you for your consideration of our plans for our house extension and providing your recommendation.</p> <p>We will have the builder include the grills to facilitate air flow to the basement area to protect the lime stone walls as recommend as part of the building process.</p> <p>Just to inform the Planning Advisory Panel we are aware of the heritage conversation concept that 'old buildings need to breath'. Their request is small compared with what we have done so far. We purchased this house in 2010 and since that time we have removed about 60 cubic metres of cement render, tiles and other things off the external and internal lime stone walls and building. Sewell House breaths a lot easier these days. We have commenced installing some air vents to the basement level but we will discuss this with the builder when we start to</p>	<p>The Panels and applicants comments are acknowledged. It is considered the applicant is undertaking best practice with regard to the proposed additions and alterations to the dwelling.</p>

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	make sure it will meet the ventilation needs. I have included some photos of before and after.	
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Site Inspection

11 November 2014.

STATUTORY ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	60%	A
Outdoor Living	30sqm	32.8sqm	A
Car Parking	2	2 (conditioned)	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	12.4%	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

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

DISCUSSION

Side Boundary Setbacks

With respect to the proposed additions, the following three areas do not comply with the 'Deemed to Comply' provisions for side setback:

- North elevation: dwelling. 0.9 metres provided. 1.1 metre set back required.
- North elevation: shed. 0.65 metres provided. 1.1 metre set back required.
- South elevation: carport. Proposed with zero lot set back. Complies with the 'Deemed to Comply' requirements, however the zero lot setback will be discussed for clarification purposes.



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The abovementioned walls are required to be assessed against the design principles of the RDG. The LPP RDG Element 3.7.7 provides performance criteria by which to assess proposed variations to the setback requirements. This is summarised below.

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

There are no significant planning implications with regard to the front or street setback for this proposal. The proposed carport and southern elevation wall (entry/ bathroom addition) will be visible to the side of the existing dwelling. No modifications are occurring to the front of the dwelling. The applicant has provided details of the extensive remediation works that have been achieved to the front of the dwelling to achieve its current street presentation (photographs attached). The carport is located to the side of the existing dwelling and is not proposed to be forward of the building and the prevailing built form of the locality.

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

The existing dwelling is not listed on the Town's Municipal Heritage Inventory.

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

With regard to the proposed side set back of the carport to the south, the proposal is located on the southern boundary. The wall height varies in height from 2.4 metres to 3.5 metres. The required set back from the southern boundary is 1.1 metres. It is noted the adjoining dwelling to the south does have an enclosed garage and other structures located approximately 0.5 metres from the boundary. The term 'up to a lot boundary' as defined within the R-Codes means a wall, on or less than 600mm, from any lot boundary, other than a street boundary, therefore the southern neighbours structures for the purposes of this assessment are considered to be located on the boundary. The R-Codes Element C3.2 (i) permits walls to be built up to the boundary where the wall abuts an existing or simultaneously constructed wall of similar or greater dimension, therefore in this instance the carport is considered to Comply with the 'Deemed to Comply' provisions of the R-Codes and is considered acceptable.

The proposed set back of the dwelling to the northern elevation is located 0.9 metres from the northern boundary. The wall height varies in height from 2.7 metres to 4.3 metres. The required set back from the boundary is 1.1 metres. The addition is located below the existing ground level of the dwelling as it fronts Sewell Street. The proposed addition is located on the northern boundary and will have no overshadowing issues. All windows are highset, therefore there will be no overlooking into the adjoining property. The design articulates the proposed addition, reducing any perceived bulk and scale issues. The proposed addition is single storey. The proposed set back variation to the 'Deemed to Comply' requirements of the R-Codes is 0.2 metres. The proposed variation is considered minor. The dwelling additions are considered to have no significant impact on the northern neighbour and can be supported as proposed.

With regard to the proposed side set back of the shed to the north, the proposal is located 0.65 metre from the northern boundary. The wall height is 4.1 metres. The proposed shed has a wall length of 8.1 metres and has an area of approximately 38m². The proposed shed is located 1.7 metres from the eastern elevation. The proposed northern elevation is required to be setback 1.1 metres from the boundary to comply with the 'Deemed to Comply' provisions of the R-Codes. The applicant is seeking a 0.45 metre set back variation. The proposed shed is located to the rear of the subject lot. The proposed shed is considered to be located adjacent to an existing shed on the northern neighbour's lot, however it is noted the proposed shed is a larger structure. There are no

overshadowing or overlooking issues. The proposed shed is considered not to be excessive in terms of height, scale and mass. It is considered the proposed set back from the boundary of the shed can be supported.

Roof Pitch

The proposed roof pitch is approximately 10°. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

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

The Performance Criteria states:

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

The roof material is consistent with the existing dwelling. The roof forms of the additions and the shed are contemporary skillion roofs that minimises the scale and bulk of the structure to surrounding neighbours and to the dwelling. The proposed roofs articulate the dwelling. The roof materials complement the existing roof.

The roof form is considered to complement the existing roof form of the dwelling. Only the carport and entrance addition to the southern elevation will be visible from the streetscape. The roof design is not considered to impact on the prevailing built form of the locality. The proposed roof is considered appropriate for the area and therefore can be supported by Council.

Car Parking

The applicant has only indicated sufficient car parking for one vehicle. Under the 'Deemed to Comply' provisions of the R-Codes, two car parking spaces are required to be provided on-site for a residential dwelling. Given the restrictive nature of the Plympton Precinct with regard to car parking, it is considered necessary to provide an additional car parking bay on site.

The applicant has stated:

We are able to gain a second car park if we condense the steps from the carport to the entry. The steps are generous in design and can be substantially compacted which would allow a gentler driveway slope, this could then accommodate two cars in tandem.

This additional bay can be provided in tandem to the proposed car parking bay. The driveway is to be extended to encompass this area. The above area will adequately accommodate two car parking bays in tandem on-site. A condition has been included in the Officer's Recommendation to facilitate two car parking bays to be provided on-site.

As conditioned the proposed development is considered to comply with the 'Deemed to Comply' provisions of the R-Codes and therefore is considered acceptable.

CONCLUSION

The proposed development is consistent with the objectives of the residential zone. Several variations to the Town's RDG and the R-Codes are proposed, relating to side set back and roof pitch. The car parking has been conditioned to comply with the 'Deemed to Comply' provisions of the R-Codes. The variations being sought are not likely to have an undue impact on the amenity or views of neighbouring properties or the character of the streetscape. The proposal is recommended for approval subject to appropriate conditions.



RECOMMENDATION

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

- (a) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (south elevation) – required setback 1.5 metre, proposed setback 1.0 metre; and
- (b) variation to 3.7.8 Roof Form and Pitch of the Residential Design Guidelines for a proposed additions and alterations comprising of rear undercroft extension and rear shed situated at 90 (Lot 293) Sewell Street, East Fremantle, as described on the plans date stamped received 16 October 2014 subject to the following conditions:
 1. Two car parking spaces are to be provided on-site. Amended plans are to be lodged with Council demonstrating the provision of two car parking bays being provided prior to a Building Permit being submitted to Council.
 2. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 3. Applicant to demonstrate on the Building Permit that suitable building / construction measures are implemented to ensure the limestone external walls are protected through the use of grills and / or similar to facilitate airflow to the wall, particularly in regard to the treatment of the basement floor.
 4. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 5. The proposed works are not to be commenced until Council has received an application for a Demolition Licence and 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 stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 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:

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites*



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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) 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".

Ms Harris (applicant/owner) addressed the meeting advising that she supported the officer's recommendation.

Mayor O'Neill – Cr Collinson

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

- (a) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (south elevation) – required setback 1.5 metre, proposed setback 1.0 metre; and
- (b) variation to 3.7.8 Roof Form and Pitch of the Residential Design Guidelines for a proposed additions and alterations comprising of rear undercroft extension and rear shed situated at 90 (Lot 293) Sewell Street, East Fremantle, as described on the plans date stamped received 16 October 2014 subject to the following conditions:
 1. Two car parking spaces are to be provided on-site. Amended plans are to be lodged with Council demonstrating the provision of two car parking bays being provided prior to a Building Permit being submitted to Council.
 2. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
 3. Applicant to demonstrate on the Building Permit that suitable building / construction measures are implemented to ensure the limestone external walls are protected though the use of grills and / or similar to facilitate airflow to the wall, particularly in regard to the treatment of the basement floor.
 4. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 5. The proposed works are not to be commenced until Council has received an application for a Demolition Licence and 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 stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 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:

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.***
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.***
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.***
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).***
- (e) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.***
- (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 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 18 June 2014, this application is deemed determined, on behalf of Council, under delegated authority.

T144.8

Pier Street No. 15 (Lot 192)

Applicant: Riverstone Construction

Owner: I Monkhouse & F McAlpine-Monkhouse

Application No. P135/14

By Andrew Malone, Senior Town Planner, on 28 October 2014

PURPOSE OF THIS REPORT

This report considers an application for planning approval for new two storey single dwelling and swimming pool at 15 (Lot 192) Pier Street, East Fremantle.

The proposal raises the following key issues with regard to the determination of the application:

- *Overlooking;*
- *Building Height (wall height); and*
- *Crossover*

The proposed dwelling in all other respects is considered to comply with the Residential Design Codes and RDG. The proposed dwelling is recommended for approval subject to conditions.

BACKGROUND

Description of Site

The subject site is:

- a 931m² vacant freehold title lot
- zoned Residential 12.5
- located in the Richmond Hill Precinct

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Residential R12.5

Residential Design Codes (R-Codes)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

- Tree in verge : No impact
- Light pole : No impact
- Crossover : New crossover (as conditioned)
- Footpath : New crossover, existing crossover to be removed and verge to be reinstated
- Streetscape : New two storey single dwelling

Documentation

Plans and relevant forms date stamped received on 26 September 2014

Date Application Received

26 September 2014

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

- 17 December 2002 Council resolves to advise the WAPC that it does not support a proposed survey strata subdivision (WAPC Ref. 120720) of Lot 192.
- 6 January 2003 WAPC issues conditional approval for the proposed survey strata subdivision.
- 3 March 2009 Council receives a request from the landowner to rezone Lot 192 from R12.5 to R25.
- 21 April 2009 Council resolves to initiate an amendment to rezone Lot 192 from R12.5 to R25, subject to the applicant submitting the required documentation.
- 3 November 2009 Amendment documents lodged with Council.
- 11 November 2009 Demolition Licence issued for demolition of existing single dwelling.
- 25 May 2010 Council resolves to submit the amendment documents to the WAPC and Minister for final approval.
- 2 March 2011 WAPC advises Council that the Minister for Planning has refused to grant final approval for the amendment.

- 21 February 2012 Council exercise its discretion in granting approval for proposed two storey single dwelling at 15 (Lot 192) Pier Street, East Fremantle.
- 5 February 2014 Extension of planning approval granted for one year.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours from 3 October 2014 to 23 October 2014. A sign was also placed on-site for the extent of the advertising period. One submission was received during this period.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>We would like to make the following comments on the proposal for the construction of the 2 storey resident at no 15 Pier St, East Fremantle.</p> <ol style="list-style-type: none"> The height of the front fence. The height of the front of the current adjoining wall is 950mm. The proposed height of the front fence is 1800mm. Due to the slope of our driveway, if the current proposed fence is double the height of the existing fence, it will block the view of oncoming traffic which will cause problems when reversing out of the driveway. We request that the line of sight be maintained for safety reasons and that the height of the front fence and anything else within the front 7.5m set back area which could impede the line of site, is maintained equal or less than the height of the existing adjoining wall. There are planter boxes planned along our adjoining wall. While we have no issue with the planter boxes, once again we want to ensure our line of sight is not blocked by any tall trees planted in these boxes. We request that all plants in these boxes remain below the height of the top of the adjoining wall. 	<p>The applicant has communicated with the Town via telephone to discuss the submission. It is noted:</p> <p>The proposed front fence is compliant and will not block views.</p> <p>Applicant will discuss any proposed high vegetation with the neighbour prior to being planted.</p>	<p>A detailed assessment of the proposal has been undertaken and is addressed below.</p> <p>The applicant's plans do not appropriately illustrate the neighbour's front fence. The neighbour's fence at the point of access / egress to the lot is 0.95 metres in height. The proposal has been conditioned to reduce the height of the front fence to ensure safe egress of vehicles from the neighbour's lot.</p> <p>Planting is not a planning control. It is encouraged the applicant / owner of the lot and the neighbour discuss the proposed vegetation within the front set back area prior to it being planted.</p>

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 28 October 2014.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p>Some Panel members indicated a preference for a more contemporary design in this location, however it was considered if the proposed dwelling significantly complied with Council's relevant planning legislation, the proposed design is acceptable.</p>	<p>We have maintained the same architectural style as this previous submission with the exception of amending the roof from a flat roof / parapet wall style to a pitched roof. Although there is a huge diversity of architectural styles throughout the Town of East Fremantle we have adopted a pitched roof in keeping</p>	<p>Council in 2012 previously approved of a similar style development.</p> <p>The Pier Street locality has a variety of dwelling types, with no prevailing built form, therefore the proposed dwelling is considered to be consistent with other dwellings in the locality.</p>

	<p>with the Council's preference to roof style.</p> <p>Our proposal is significantly smaller in area than our previous submission.</p>	
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Site Inspection

By Town Planner on 28 October and 14 November 2014.

ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	50%	58%	A
Outdoor Living	30sqm	89sqm	A
Car Parking	2	2	A
Site Works	Less than 500mm	Excavation up to 1.5m in front setback	A
Overshadowing	25%	Less than 25%	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

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

DISCUSSION

Excavation in Front Setback

The lot slopes from front to rear, with a natural ground level variation of approximately 3.5m. The applicant has chosen to excavate into the front of the lot to achieve a finished floor level (FFL) of 33.8 AHD at the front of the dwelling, stepping to FFL 32.6 to the rear alfresco area. The proposed excavation reduces the overall height of the dwelling (discussed later in the report). By excavating into the lot, the applicant has minimised the impact of the development on viewing vistas and the streetscape. It is considered the proposed 1.5 metre excavation to the front of the lot can be supported.

Privacy Requirements

The front balcony and living room incorporate variations to the privacy setback requirements of the R-Codes along the eastern and western boundaries. The front balcony overlooks a driveway to the east. The study overlooks a pedestrian access leg to the entrance of the dwelling to the west. The affected neighbours have not lodged an objection during the comment period relating to overlooking.

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 metre above natural ground level, and positioned so as to overlook any part of any other residential property behind its street 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.

The 'Design Provisions' of 5.4.1 of the R-Codes allows for:

1. *Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:*
 - *building layout, location;*
 - *design of major openings;*
 - *landscape screening of outdoor active habitable spaces; and/or*
 - *location of screening devices.*
2. *Maximum visual privacy to side and rear boundaries through measures such as:*
 - *offsetting the location of ground and first floor windows so that viewing is oblique rather than direct;*
 - *building to the boundary where appropriate;*
 - *setting back the first floor from the side boundary;*
 - *providing higher or opaque and fixed windows; and/or*
 - *screen devices (including landscaping, fencing, obscure glazing, timber screens, external blinds, window hoods and shutters).*

The balcony cone of vision extends 2.4 metres over the front set back of the adjoining neighbour. The overlooking from the living room window is approximately 1.0 metre of the western neighbour's pedestrian access to the front door (front set back area). Overlooking illustrations detailed on sheet 2.04 demonstrate that oblique views, rather than direct views extend beyond the eastern and western boundaries. The viewing cones fall over areas not deemed to be directly habitable areas within the front set back area (both areas readily visible from the street). The 'Design Provisions' as noted above, are considered to be adequately addressed, through the provision of screening (balcony 1 and balcony 2) and offsetting the location of windows so that viewing is oblique. Where areas are overlooked, they are considered to be not sensitive habitable areas and therefore the proposed overlooking can be supported.

Building Height

Amendments are proposed to the design of the dwelling previously approved by Council. The proposed dwelling now includes a pitched roof. The overall ridge height of the proposed dwelling complies with Council's height requirements. There are several sections where the building exceeds the required 5.6 metres to eaves.

Wall Height Requirement	Required	Proposed	Status
Building Height (wall height) (southern)	5.6m	6.0m	D
Building Height (wall height) (eastern)	5.6m	6.5m	D
Building Height (wall height) (western)	5.6m	6.8m	D



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MINUTES

It is noted that only some sections of the walls require Council to exercise discretion with regard to wall heights. This is illustrated in the elevations provided by the applicant.

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

- A1.4** *In localities where views are an important part of the amenity of the area and neighbours existing views are to be affected, or the subject site is a “battle axe” lot, then the maximum building heights are as follows:*
- 8.1m to the top of a pitched roof
 - 6.5m to the top of an external wall (concealed roof)
 - 5.6m to the top of an external wall; and where the following apply.
 - i. *The proposal demonstrates design, bulk and scale that responds to adjacent development and the established character of the area or other site specific circumstances;*
 - ii. *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; and,*
 - iii. *Subject to the “Acceptable Development” standards of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

The proposed dwelling does not comply with the Acceptable Development provisions of the RDG and therefore requires assessment under the Performance Criteria. The proposed dwelling is required to be assessed as per the Performance Criteria requirements of the RDG for the building wall height only, the overall ridge height complies with Council requirements.

The Performance Criteria allows for:

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

The subject lot slopes approximately 3.5 metres from north east to south west of the lot. The dwelling is excavated 1.5 metres into the front of the lot, with the remaining dwelling stepping down to facilitate the fall in the lot. The proposed height variations are only to certain sections of the dwelling. These sections are illustrated on drawing 4.01, 4.02 and 4.03. The maximum wall height variation is 6.8 metres (located approximately at the stairwell, 6.2 metres from the side boundary). The dwelling is considered to be of a compatible form, bulk and scale to traditional development in the immediate locality.

The proposed dwelling has been designed to minimise potential impacts to surrounding dwellings as the proposal is ‘cut’ into the lot by 1.5 metres. The dwelling steps down through the lot to compensate for the slope of the lot. The overall dwelling design is considered consistent with the adjoining dwellings recently constructed.

Sections of the western and eastern elevations and the entire southern elevation wall require Council discretion to the Acceptable Development Criteria, however it is considered the majority of the walls comply with the Acceptable Development Criteria. The overall height (ridge height) of the dwelling is considered to comply with the Acceptable Development Criteria of the R-Codes.

Overall the proposed dwelling is of a compatible form, bulk and scale to the adjoining western dwellings in the immediate locality. It is considered the proposed dwelling will integrate with the built form of the adjoining dwellings and does not present as an over height development or bulky dwelling. The dwelling is ‘cut’ into the lot, with the larger heights of the dwelling located to the middle and rear of the lot, thereby helping to articulate the dwelling and minimising any potential adverse impact to the streetscape. There are not significant adverse impacts to adjoining neighbours. It is considered the



proposed heights comply with the Performance Criteria of the RDG and can be supported.

Crossover

The proposed crossover exceeds the maximum width (3.0 metres maximum width) set by the Town. The maximum width is set to minimise the impact of crossovers on the streetscape. The applicant has provided no justification for the increased width. There is a notation on the plans stating "*Paved crossover to Shire recommendation*". It is considered the proposed crossover should comply with Council's Acceptable Development Criteria provisions. Compliance with Council's crossover requirements will not affect ingress/egress from the site. A condition has been included in the Officer's Recommendation requiring the crossover to be a maximum width of 3.0 metres.

CONCLUSION

The proposed development is consistent with the objectives of the residential zone. Several variations to the Town's RDG and the R-Codes are proposed, relating to visual privacy requirements, wall height, and crossover width. With the exception of crossover width, the variations being sought are not likely to have an undue impact on the amenity or views of neighbouring properties or the character of the streetscape.

The proposed increased crossover width is not necessary for safe access / egress to the property and not consistent with the streetscape, therefore has been conditioned to comply with Council's Acceptable Development Criteria provisions.

The proposed dwelling is considered to be consistent with the design previously approved by Council in February 2012. The proposed development addresses the slope of the lot. The proposed dwelling is consistent with the prevailing design and built form in the locality. Therefore, it is considered the proposed development can be supported, subject to conditions.

RECOMMENDATION

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

- (a) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy;
- (b) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements;
- (c) element 3.7.14 of the Residential Design Guidelines: Crossover Width;

for the construction of a single two storey dwelling and proposed swimming pool at 15 (Lot 192) Pier Street, East Fremantle, in accordance with the plans date stamped received on 26 September 2014 subject to the following conditions:

1. Any new crossover which is constructed under this approval is 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 RDG Policy all to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
2. The maximum height of the fence / pillar adjoining 17 Pier Street (north eastern boundary of the subject lot), not to exceed 0.95 metres (above the existing neighbours pillar) within 1.5 metres of the access / egress of 17 Pier Street and to remain visually permeable.
3. The maximum height of the fence along Pier Street not to exceed a height of 1.8 metres above natural ground level except where altered by condition 2 and the infill panels for the fence and the gate are to be of the design to be visually permeable for the entire length and area of the fence, with at least 60% visual permeability.
4. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
5. The swimming pool fencing not to be erected without prior approval from Council. A building permit is required to be submitted to Council prior to the swimming pool being filled.



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6. Pool installer and/or property owner to whom this planning approval is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the planning application has been granted.
7. Pool filter and pump equipment to be located a minimum of 1.0 metre away from any boundary as determined by Council and all pool equipment shall comply with noise abatement regulations.
8. Prior to the issue of a building permit the applicant is to submit a report from a suitably qualified practising structural engineer demonstrating to Council's satisfaction how any structure or property closer than one and half times the depth of the pool will be adequately protected from potential damage caused by the excavation/and or the pool construction.
9. Prior to the commencement of any works on site, the applicant to notify affected adjoining landowners of intended commencement date.
10. Pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
11. 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.
12. 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.
13. 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.
14. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
15. 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.
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. 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 (h) below*).
18. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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MINUTES

- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *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".*

Ms Wainwright (Riverstone builders) addressed the meeting advising her clients supported the officer's recommendation, however, requesting that consideration be given to the deletion of Condition 2 given the width of the verge.

Mayor O'Neill – Cr Martin

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

- (a) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy;**
 - (b) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements;**
 - (c) element 3.7.14 of the Residential Design Guidelines: Crossover Width;**
- for the construction of a single two storey dwelling and proposed swimming pool at 15 (Lot 192) Pier Street, East Fremantle, in accordance with the plans date stamped received on 26 September 2014 subject to the following conditions:**
- 1. Any new crossover which is constructed under this approval is 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 RDG Policy all to the satisfaction of the Chief Executive Officer in consultation with relevant officers.**
 - 2. The maximum height of the fence / pillar adjoining 17 Pier Street (north eastern boundary of the subject lot), not to exceed 0.95 metres (above the existing neighbours pillar) within 1.5 metres of the access / egress of 17 Pier Street and to remain visually permeable.**
 - 3. The maximum height of the fence along Pier Street not to exceed a height of 1.8 metres above natural ground level except where altered by condition 2 and the infill panels for the fence and the gate are to be of the design to be visually permeable for the entire length and area of the fence, with at least 60% visual permeability.**
 - 4. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
 - 5. The swimming pool fencing not to be erected without prior approval from Council. A building permit is required to be submitted to Council prior to the swimming pool being filled.**
 - 6. Pool installer and/or property owner to whom this planning approval is issued are jointly responsible for all works to existing fencing, the repairs and resetting thereof as well as the provision of any retaining walls that are**

- deemed required. All costs associated or implied by this condition are to be borne by the property owner to whom the planning application has been granted.
7. Pool filter and pump equipment to be located a minimum of 1.0 metre away from any boundary as determined by Council and all pool equipment shall comply with noise abatement regulations.
 8. Prior to the issue of a building permit the applicant is to submit a report from a suitably qualified practising structural engineer demonstrating to Council's satisfaction how any structure or property closer than one and half times the depth of the pool will be adequately protected from potential damage caused by the excavation/and or the pool construction.
 9. Prior to the commencement of any works on site, the applicant to notify affected adjoining landowners of intended commencement date.
 10. Pool contractor/builder is required to notify Council's Building Surveyor immediately upon completion of all works including fencing.
 11. 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.
 12. 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.
 13. 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.
 14. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 15. 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.
 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. 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 (h) below*).
 18. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.
- (g) 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".

CARRIED 5:0

Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 18 June 2014, this application is deemed determined, on behalf of Council, under delegated authority.

Cr Martin made the following impartiality declaration in the matter of the Swan Yacht Club proposal: "As a consequence of the architect for this project being known to me due to a relationship with friends of mine, 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".

T144.9 Riverside Road Lot 7771 (Reserve 27376) - Swan Yacht Club

Applicant: Swan Yacht Club

Owner: Town of East Fremantle

Application No: P134/2014

By Andrew Malone, Senior Town Planner, on 24 October 2014

PURPOSE OF THIS REPORT

This report considers an application for additions and alterations to the existing Swan Yacht Club located at Lot 7771 (Reserve 27376) Riverside Road, East Fremantle. Under the Swan and Canning Rivers Management Act, the Swan River Trust is the determining authority in this instance. However since the subject site is on land reserved for 'Parks and Recreation' and the facility operates under a lease issued by Council, the proponents and the SRT acknowledge that Council should determine its position in respect to the application prior to consideration by the Swan River Trust (SRT).

The proposed additions and alterations are recommended for approval subject to conditions.

BACKGROUND

Description of Proposed Development

The proposed extension to the clubhouse is to upgrade the current infrastructure and back office facilities and includes alterations or extensions to the following areas:

Ground Floor

- Reception;
- Kitchen extension;
- Male and female toilets;
- Store;
- Extension to alfresco area for an outdoor function area; and
- Reconfiguration of internal office and administration areas.

First Floor

- Trophy room;
- Upper kitchen;
- Storeroom;
- Male and female toilets;
- Plant room;
- New external deck; and
- Reconfiguration of upper floor function rooms.

The proposed works utilise the existing building.

Description of Site

The subject site is:

- zoned Parks and Recreation
- developed with a two storey club house and associated boat storage.
- located in the Riverside Precinct.
- Reserve 27376 is vested for the purpose of 'Yacht Club and Club premises'.
- Reserve 27377 is vested for the purpose of 'Yacht Club and Free Public Pedestrian Access Way'.

Statutory Considerations

Part 5 of the Swan River Trust Act
Town of East Fremantle Planning Scheme No. 3
Metropolitan Region Scheme
State Planning Policy 2.6 Coastal Planning Policy
Contaminated Sites Act 2003

Impact on Public Domain

Tree in verge: No impact.
Light pole: No impact.
Crossover: No impact.
Footpath: No impact.
Streetscape: The clubhouse addition will also be visible from the street.

Documentation

Plans and relevant forms date stamp received on 26 September 2014.
Plans date stamp received on 9 October 2014.
Plans and relevant forms date stamp received on 11 November 2014.

Date Application Received

26 September 2014

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

21 February 2012 That Council advise the Swan River Trust that it supports the application by the Swan Yacht Club to demolish the existing club

house and the slip yard and develop a new club house and associated parking and landscaped areas.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours and a sign was erected on-site for a two week period between 13 October 2014 and 3 November 2014. A newspaper notice was also placed in a local newspaper publication. Council has not received any submissions.

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting held on 28 October 2014 and the following comments were made:

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>Panel supports the concept of improved social facilities within the locality.</p> <p>Panel recommends an alternative design be developed which responds more appropriately to the landscape and engages more compatibly with the subject lot / locality.</p> <p>Panel recommends that a feature survey plan and aerial image (showing proposed development, subject lot and moorings) be provided.</p> <p>Panel recommends more landscaping be provided as part of the redevelopment and that a detailed landscaping plan be provided as part of the development application prior to Council's determination.</p> <p>Panel does not support the proposed 1.5 metre public access way and recommends a wider public access way be provided along the foreshore.</p> <p>Some Panel members recommend the removal of the hardstand / slipway (short-term berth location where the boats are cleaned), while other Panel members recommend this area be contained.</p> <p>Panel notes the previous development application / plan approved by Council would have delivered a superior aesthetic and environmental outcome that responded to the subject site.</p>	<p>(Applicant has provided additional design information / justifications, additional plans and a direct response to the Panel's comments.)</p> <p>Thank you for the opportunity to respond to the comments of the Town Planning Advisory Panel relating to our submission for renovating our clubhouse. Each comment is addressed individually below.</p> <p>We welcome the Panel's support for the concept of improving the social facilities within the locality and believe that the plan submitted to council is a massive step forward in achieving this outcome.</p> <p>In relation to the design submitted the brief given to the architect was to re-use the existing building and through sensitive additions and alterations create an exciting new club for members both current and future. The budget for any new project is one of the key constraints and by incorporating the existing building there have been significant savings achieved while still creating an entirely new look to both the frontage onto Riverside Road and at the same time the northern frontage onto the Swan River. We believe that it is entirely appropriate for the landscape and is very compatible with the subject lot and locality. In addition the removal of asbestos and the connection to deep sewerage as opposed to the current septic tank system will greatly benefit the environment.</p> <p>A detailed feature survey plan and aerial image is attached.</p> <p>Whilst we acknowledge that the Swan River Trust will be the final determining body in regard to any plantings we have included a more detailed proposal with suggestions</p>	<p>Panel's comments and applicant's responses are acknowledged and have been considered during the assessment of this application.</p> <p>It is considered the applicant's responses appropriately address the Panel's comments.</p> <p>It is noted that the previous development presented to Council was recommended to be supported by Council in February 2012.</p> <p>An Assessment of the proposed application has been undertaken against relevant legislation and is addressed in the Discussion section of this report.</p>

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COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
	<p>for consideration. This includes the planting of Palm Trees at the front of the building to match those existing on the verge to continue that theme at the entrance and the planting of more species native to the area in other parts of the site to complement the existing vegetation. This will include species such as "Grass Trees"</p> <p>The Panel makes reference to "the proposed 1.5 metre public access way". Please note that "existing" walkway is 1.5 metre's wide, is listed and marked clearly on the lease between council and the club and that there is no proposal to alter it in the proposed renovations. We also note that there is a public dual use path that runs along the front of the premises and that there is also a dedicated bicycle lane as part of the roadway. Further the current width is in keeping with other paths of this nature in this locality.</p> <p>In reference to the hardstand/slipway we make the following observations. The slipway is an integral part of the club offering a key service to the boating members. As part of our lease which was finalised only a short time ago the club was guaranteed the use of these facilities for a further 21 years provided a management plan was submitted and agreed to. This process has been completed. In addition it should be noted that as part of this development the slip bay closest to the river and at the club house end will be removed. Further the club has introduced an internal change to the use of the boat cradle closest to jetty 2 to limit the size of vessels on that end of the slips. This provides greater separation between the end of any vessel on that cradle and the public access way. The club has also repainted the yellow lines clearly marking the walk way and the work areas and use instruction signs and barriers to protect members of the public when the slips are in use.</p> <p>The Panel has made mention of a previous development application. In reality there has not been any previous application. A concept plan was presented to council as part of our consultation process; however the proposed cost of this proposal escalated from a proposed \$6 Million development to a suggested \$12 Million proposal which the club could clearly not afford. That proposal also</p>	

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COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
	saw the slips go and this was rejected absolutely by the members at a subsequent meeting as they wanted the use of the slips and hardstand facility.	

Site Inspection

By Senior Town Planner on 3 October 2014.

STATUTORY ASSESSMENT

The proposal has been assessed against the provisions of Town Planning Scheme No. 3.

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

DISCUSSION

The applicants have proposed to re-use the existing building to enable additions and alterations to be undertaken to the club to provide improved services and facilities. In addition to the use of the existing building, the proposed works provide for the removal of asbestos to the roof and the connection of the building to deep sewerage as opposed to the current septic tank system.

The application is to be determined by the SRT.

Reserve – Parks and Recreation

The subject land is zoned Parks and Recreation under the Local Planning Scheme and under the Metropolitan Regional Scheme. Clause 3.2 Regional Reserves of TPS3 is relevant, which states:

3.2.1 *The land shown as 'Regional Reserves' on the Scheme Map are lands reserved under the Metropolitan Region Scheme and are shown on the Scheme Map for the purposes of the Metropolitan Region Town Planning Scheme Act 1959/WA Planning Commission Act 1985. These lands are not reserved under the Scheme.*

3.2.2 *The approval of the local government under the Scheme is not required for the commencement or carrying out of any use or development on a Regional Reserve.*

Note: The provisions of the Metropolitan Region Scheme continue to apply to such Reserves and approval is required under the Metropolitan Region Scheme from the Commission for the commencement or carrying out of any use or development on a Regional Reserve unless specifically excluded by the Region Scheme.

Council are a referral body only. The SRT is the determining authority for this development application for the proposed additions and alterations to the club house.

Land Use

The yacht club is defined as a 'Club Premises' under TPS No.3 however given the subject site is on land designated as a Local Reserve under the Scheme, this land use is not categorised within the Zoning Table. The amendments to the existing use should therefore be considered as an 'unlisted discretionary use' which is subject to Clause 3.4.2 of the Scheme which states as follows:

"3.4.2 In determining an application for planning approval the local government is to have due regard to -

- (a) *the matters set out in clause 10.2; and*
- (b) *the ultimate purpose intended for the Reserve.”*

The Swan Yacht Club is to remain as a club facility. The proposed use is not considered to be changing. The proposed additions and alterations are primarily to improve existing infrastructure such as kitchens, toilets and back office / administration area. The existing function / bar areas are not considered to be significantly increasing in area.

Matters to be Considered by Local Government

There are no specific development requirements under the Scheme or Council Policies which relate to development of a non-residential nature on lands zoned Reserve.

This proposal has been assessed against the provisions of Clause 10.2 of the Town Planning Scheme and the development, as proposed, is considered to comply with aims, objectives and proper planning of the area.

The proposed application has been assessed as per the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2(a), (c), (g), (j), (o), (p) and (q).

- (a) *the aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);*
- (c) *the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;*
- (g) *any Local Planning Policy adopted by the local government under clause 2.4 or effective under clause 2.6, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;*
- (j) *the compatibility of a use or development with its setting;*
- (o) *the preservation of the amenity of the locality;*
- (p) *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal; and*
- (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.*

It is considered the proposed development is consistent with the existing use of the land. There is no change of use required.

The total area of the extensions is approximately 300m² excluding new external function area at ground floor and deck at first floor. New external facades are proposed. It is also proposed to modify / improve the bin storage area, boat / dinghy storage and access areas thereby reducing the total number of car parking spaces by two (2) car parking bays. This reduction of two (2) car parking bays is considered to have no detrimental impact on the surrounding locality.

The proposed additions to the clubrooms are two storey (maximum height 6.4 metres) and have been designed to be complementary to the existing buildings (no additional height is proposed). All the proposed additions are associated with the existing yacht club uses. It is considered the overall height and design of the clubrooms are consistent with the design of the existing facilities and will not negatively impact on the locality. A façade upgrade is proposed, thereby improving the visual appearance of the building.

It is proposed to remove the dingy storage area (located on the Swan River foreshore) and improve the access to the river and the public access thoroughfare through the subject lot. The dinghy storage area is being relocated to the south west corner of the lot, with suitable tractor access being provided to ensure suitable transport for the movement of the dinghies. This will improve the foreshore by removing all dinghies from the



foreshore to within the subject lot. A screened and suitable bin storage area is also being provided. Due to the bin storage area and dinghy storage, there will be an overall loss of two (2) car parking areas. This is considered acceptable based on the improvement of the infrastructure and building. Conditions relating to the dinghy and foreshore areas have been included in the Officer's Recommendation.

While there is an addition of the external function area and first floor deck totalling approximately 235m², the proposed internal extensions are not considered to generate additional car parking requirements. The Town Planning Scheme requires for club premises:

1 space for every 5 seats or 1 space for every 5 persons the facility is designed to accommodate, whichever is greater

There is no increase to internal function facilities or bar areas. The proposed additions are to administration / office areas and to facilities / infrastructure to the building. The external function area / upper floor deck is not considered to increase the accommodation requirements of the club. Notwithstanding this, 145 car parking bays are provided on-site, effectively meaning the club can facilitate 725 persons within the clubhouse. No additional car parking is considered to be required.

Landscaping is also proposed, in conjunction with a reconfiguration of some of the car parking areas. An additional ACROD bay is also being provided. The proposed landscaping is considered to be sympathetic with the locality and will replace any vegetation that is proposed to be removed due to the reconfiguration of the car parking areas. The proposed landscaping is considered acceptable.

It is considered the proposed extension of the additions to the clubhouse (detailed above) as proposed comply with aims, objectives and proper planning of the area. The proposed works improve the subject lot and facilities provided for within the clubhouse. The proposed additions are considered to comply with the provisions of Clause 10.2 of TPS3 and therefore can be supported by Council.

Landscape Planning

Landscape provisions for the proposal are described in the application documentation and in the amended plans provided. The landscaping is proposed only to a limited extent and is incorporated in existing hardstand areas and surrounding the modifications to the club.

The existing boundaries of the lease area extend to the foreshore of John Tonkin Park, to the west of the club. Although this area is currently degraded from casual parking associated with the Club's activities, it is potentially a high value recreation area which would benefit the general public. The applicants have discussed plans to landscape and improve this area as part of their proposal, subject to appropriate species selection and approvals.

It would be undesirable if future activities such as boat and trailer storage and uncontrolled car parking associated with Club members were able to creep into this area and alienate the general public use. Accordingly, it is considered that any approval should be conditioned to restrict car parking, trailer and boat storage to the hardstand area. The use of the overflow parking areas shall be restricted to special events parking where a Parking Management Plan has been approved by the CEO.

State Coastal Policy – Sea Level Rise

With respect to physical coastal processes, SPP2.6 contains guidance for development setbacks to reduce risks associated with the effects of coastal processes, such as storm surge, tidal movement and sea level change. The guidance for development setbacks also requires consideration of other factors such as ecological values and public access.

The Policy indicates that development should be set back sufficient to achieve a 0.9m vertical separation to the existing High Water Mark.

It proposal is for additions and alteration to the existing club building. It is noted that the proposal is not for a demolition and full redevelopment of the subject site.

It is for the SRT as the 'approving authority' in this instance to ultimately determine the applicability of the Coastal Policy provisions, however it is considered that any determination should address the possible future liabilities which may arise in consequence of a known risk.

Contaminated Sites Act

Pursuant to section 59 of the Act, memorials have been placed on titles associated with the subject site. The memorials record the site classification as 'Possibly contaminated – investigation required'. It is understood that activities associated with the slips have given rise to concern regarding residual contaminants in the soil and marine sediment. The existing development is also un-sewered and serviced only by leach drains. It is proposed to connect the club to the sewer mains and to improve existing infrastructure.

In accordance with the Act, a "responsible authority" may not grant approval under a scheme for any proposed development of the land without seeking and taking into account, advice from the Department of Environment and Conservation as to the suitability of the proposed development.

Since the SRT is the "responsible authority" in this instance, the SRT will be required to undertake all necessary referrals and responses to the Department of Environment and Conservation.

RECOMMENDATION

That Council advise the Swan River Trust that it supports the application by the Swan Yacht Club plans date stamp received on 26 September and 9 October 2014, for proposed additions to the existing clubhouse, located at Lot 7771 (Reserve 27376) Riverside Road, East Fremantle, to the Swan River Trust subject to the following conditions:

1. All dinghies to be removed from the foreshore and stored in the dinghy storage area indicated on drawing A.01 date stamped received 9 October 2014.
2. The public access leg (1.5 metres in width) is to be kept free from obstructions.
3. 145 car parking spaces to be provided on-site.
4. Pre-cast concrete panels screen print to front (south) elevation design concepts to be approved by Council prior to a Building Permit being submitted to Council to the satisfaction of the Chief Executive Officer in consultation with relevant staff.
5. The clubhouse 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.
6. Activities associated with the Swan Yacht Club such as car parking, trailer and boat storage etc. are to be contained within the defined hardstand area of the car park.
7. The proposed development is to be only operated in whole and in part by the Swan Yacht Club to the satisfaction of the Town of East Fremantle.
8. The applicants acknowledge the development and its site may in the future be subject to the environmental consequences of sea level rise and contaminates associated with past activities and agree to indemnify the Town of East Fremantle and the Swan River Trust from any liability arising from these consequences now and in the future to the satisfaction of these Authorities.
9. A detailed Landscape Plan incorporating bicycle parking provisions shall be submitted and approved by the Chief Executive Officer of the Town of East Fremantle prior to a Building Permit being submitted to be the Town.
10. 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



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11. 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.
12. 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.
13. 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.
14. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
15. 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.
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. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
18. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Wilkie (SYC Commodore), Mr Gaspar (SYC Managing Secretary) and Mr Crawford (Architect) addressed the meeting in support of the proposal.

Cr Handcock – Cr Martin

That Council advise the Swan River Trust that it supports the application by the Swan Yacht Club plans date stamp received on 26 September and 9 October 2014, for proposed additions to the existing clubhouse, located at Lot 7771 (Reserve



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27376) Riverside Road, East Fremantle, to the Swan River Trust subject to the following conditions:

1. All dinghies to be removed from the foreshore and stored in the dinghy storage area indicated on drawing A.01 date stamped received 9 October 2014.
2. The public access leg (1.5 metres in width) is to be kept free from obstructions.
3. 145 car parking spaces to be provided on-site.
4. Pre-cast concrete panels screen print to front (south) elevation design concepts to be approved by Council prior to a Building Permit being submitted to Council to the satisfaction of the Chief Executive Officer in consultation with relevant staff.
5. The clubhouse 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.
6. Activities associated with the Swan Yacht Club such as car parking, trailer and boat storage etc. are to be contained within the defined hardstand area of the car park.
7. The proposed development is to be only operated in whole and in part by the Swan Yacht Club to the satisfaction of the Town of East Fremantle.
8. The applicants acknowledge the development and its site may in the future be subject to the environmental consequences of sea level rise and contaminates associated with past activities and agree to indemnify the Town of East Fremantle and the Swan River Trust from any liability arising from these consequences now and in the future to the satisfaction of these Authorities.
9. A detailed Landscape Plan incorporating bicycle parking provisions shall be submitted and approved by the Chief Executive Officer of the Town of East Fremantle prior to a Building Permit being submitted to be the Town.
10. 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
11. 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.
12. 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.
13. 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.
14. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
15. 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.
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. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
18. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRED 5:0

T144.10 Fraser Street No. 36 (Lot 1/S61319)

Applicant/Owner: D & S Cornwell

Application No. P148/14

By Andrew Malone, Senior Town Planner on 7 November 2014

PURPOSE OF THIS REPORT

This report considers a development application for additions and alterations comprising rear addition, new carport and swimming pool at 36 (Lot 1/S61319) Fraser Street, East Fremantle.

The proposal raises the following issues which influence the determination of the application:

- *Side setback to northern boundary (carport). Zero lot boundary proposed. 1.0 metre set back required;*
- *Front set back of the carport; and*
- *Roof pitch.*

The proposed additions and alterations are recommended for approval subject to conditions.

Description of Site

The subject site is:

- a 430m² lot.
- zoned Residential R12.5
- developed with a single storey dwelling
- located in the Richmond Precinct

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Residential R12.5

Residential Design Codes (**R-Codes**)

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (**RDG**)

Documentation

Plans and relevant forms date stamp received on 21 October 2014.

Amended plans date stamp received on 5 November 2014

Date Application Received

21 October 2014

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

Nil

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between 23 October 2014 and 10 November 2014. At the close of advertising, Council has received no submissions relating to this development application.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 28 October 2014. The Panel made the following comments:

PANEL COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
<p>Panel commend the retention of the existing dwelling.</p> <p>Panel members requested amended plans illustrating the proposed change to the roof (plan – gable roof element).</p> <p>Panel query the plan with respect to the details on the plans describing the existing dwelling as 'existing timber frame and zincalume residence to remain'. It is noted the dwelling has a tiled roof. Accurate plans to be provided.</p> <p>Some Panel members note the decorative scallops to the roof are not compatible with the era of the dwelling and should be reconsidered.</p> <p>Some Panel members are concerned with the over embellishment of the existing simple structure of the dwelling.</p> <p>Panel query the proposed roof garden and access arrangement to the proposed roof garden.</p>	<p>I would like thank the panel for their positive feedback regarding the new additions & renovations noted in item #1. I would also like to respond to their comments by addressing each concern or statement that they have in the above paragraph. Please find the responses below:</p> <ol style="list-style-type: none"> 1. Please find the attached plans that have been since amended to illustrate the proposed change to the roof. 2. The detail previously high light by the panel concerning the existing roofing material has been amended on the newly provided plans. The existing property is correctly, a timber framed house with existing roof tiles. 3. The decorative scallops to the roof where added to improve the overall vista of the property as well as providing the property with its own caricature. A reconsideration to this option would be to use a standard non-decretive fascia board. 4. We feel by keeping the majority of the existing structure and adding some small improvements to the front elevation, we will be adding value to the area and at the 	<p>The adjoining neighbour's concerns and the applicant's response are acknowledged and due regard to both has been undertaken during the assessment of this application.</p> <p>A detailed assessment of the proposal has been undertaken and is addressed below.</p> <p>The proposal has been conditioned to minimise the embellishment of the existing dwelling, including the removal of the decorative scallops.</p>

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PANEL COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
	<p>same time be saving what most people would demolish to make way for a complete new dwelling.</p> <p>5. The proposed decorative roof garden has been removed from the newly submitted plans.</p>	

Site Inspection

By Senior Town Planner on 10 November 2014.

STATUTORY ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	64%	A
Outdoor Living	30sqm	56sqm	A
Car Parking	2	1 carport and 1 hardstand	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	N/A	A
Drainage	On-site	On-site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	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	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	N/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	A
3.7.15-20 Precinct Requirements	D

DISCUSSION

Carport

The proposed carport complies with the RDG 'Acceptable Development' requirement to be less than 30% of the width of the total frontage of the lot, however the carport is not located 1.2 metres behind the existing building line, as required by the RDG. The dwelling is located 7.2 metres from the front boundary.

Council records (photographs) demonstrate a carport was located in the proposed location previously. Records indicate a carport was present in 1985 through to 2007,

however after 2007 and prior to 2010 the carport was removed. The proposed carport is to be located where the previous carport was located.

Notwithstanding the above carport replacement, Council's development requirements have changed and the proposed new carport is required to comply with Council's current requirements. The proposed carport is located 7.2 metres from the front boundary, adjoining the front of the dwelling (not setback 1.2 metres behind the front of the dwelling). The LPP RDG Element 3.7.15.3.3 Performance Criteria P3 states:

- P3** *For existing buildings where there are no alternatives, carports may be located forward of the building line, provided they:*
- i. Do not visually dominate the streetscape or the buildings to which they belong; and,*
 - ii. Do not detract from the heritage character of a contributory building. Street elevations are to be included including a minimum of the subject lot and two neighbouring lots.*

There are limited alternatives available with regard to the location of the proposed carport in this instance. A window (kitchen) to the rear of the proposed carport restricts the carport being setback 1.2 metres behind the front of the building. The carport is visually permeable and will permit sightlines though to the rear of the lot. Further the front of the dwelling (bed 2) is separated 1.5 metres from the proposed carport, thereby articulating the front of the dwelling. Therefore, in this instance, the proposed location of the carport is considered an appropriate location. The carport has minimal impact to the visual character of the dwelling or the streetscape and as previously discussed is a replacement carport.

The carport is considered to comply with the Performance Criteria of the above P3 provisions for the following reasons:

- The predominant front setback of the dwelling is 7.2 metres. The proposed carport on the subject lot is to be set back 7.2 metres from the front boundary, in alignment with the front wall of the dwelling.
- The carport is visually permeable and it is considered the front of the dwelling is articulated, minimising any perceived scale and bulk issues.
- Whilst the carport is to be located adjoining the existing building line of the dwelling, the proposed carport is visually permeable and integrates with the existing dwelling as the structure incorporates a pitched roof and is considered a lightweight design, therefore minimising any potential dominance the carport may have. (A condition has been included in the Officer's Recommendation requiring the roof scallops to be removed and the front façade of the dwelling / carport to be retained as a 'simple' design).
- Alternative locations are not possible without constructing the carport forward of the building line. The kitchen window restricts the carport being positioned further behind the building line.

The proposed carport does not adversely impact on the scale or bulk of the dwelling. The carport is considered sympathetic with the design of the existing dwelling (as conditioned) and to the overall streetscape. There are no adverse impacts to surrounding neighbours. It is considered that the location of the carport can be supported by Council in this instance, considering the above justifications.

Side Boundary Setbacks

The carport is proposed to be located on the northern boundary for a total length of 5.2 metres. As the existing dwelling is already located on the boundary (southern boundary, adjoining access leg to rear battle-axe lot), the proposed carport wall exceeds the Acceptable Development Criteria requirement of 9.0 metres in length on only one boundary of the subject lot. The LPP RDG Element 3.7.7 provides performance criteria



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by which to assess proposed variations to setback requirements. This is summarised below:

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

The front façade of the dwelling will not be significantly impacted by the carport (as discussed in the above section of this report). The carport will have a pitched roof, designed to be consistent with the existing roof of the dwelling. The carport is considered a lightweight structure that will match the traditional setback of the dwelling and that of the immediate locality.

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

The existing dwelling is not listed on the Town's Municipal Heritage Inventory.

It is considered the proposed carport does not significantly impact the visual presence of the primary streetscape or adjoining neighbours. The existing dwelling remains the dominant structure as presented to the street.

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

The proposed carport is considered a minor structure, significantly open on three sides. A boundary parapet wall is proposed to the northern boundary for a length of 5.2 metres and a height of 2.9 metres. The proposed nil side set back to the boundary of the carport does not significantly impact on the streetscape or the adjoining neighbours to the north. There is no overshadowing impact.

The carport is significantly open (lightweight structure) and is considered to integrate with the dwelling. The height, scale and bulk of the carport are consistent with the existing dwelling, with the overall height of the pitch approximately in line with the eaves of the dwelling. The carport has been conditioned to be a simple design structure that is consistent with the existing design of the dwelling.

In conclusion the proposed carport has been designed to have minimal adverse impacts with regard to scale or bulk of the dwelling. The proposal does not significantly negatively impact on the streetscape or adjoining neighbours and therefore it is considered the proposed nil set back of the carport to the northern boundary can be supported by Council.

In all other respects the proposed development is considered to comply with the setback requirements of the R-Codes and RDG.

Roof

The proposed roof of the carport is a pitched roof which is sympathetic in design to the existing dwelling.

The proposed rear addition is a contemporary modular flat roof addition to the rear of the existing dwelling. The existing roof partially screens the rear addition from the street. It is considered only minor sightlines of the rear addition will be available from the streetscape. The proposed additions have been designed to be distinct from the built form and character of the existing dwelling.

The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

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

The proposed rear addition does not comply with the Acceptable Development Criteria, therefore the roof will be assessed under the Performance Criteria, which states:

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

The existing roof material is being removed and 'Colorbond' will be utilised throughout the proposal. The rear addition will be constructed from 'Core 10' steel, creating a consistent material finish between the roof and addition. The flat roof of the rear addition is distinct from the existing dwelling. The flat roof has been designed to reduce the dominance of the rear structure, thereby maintaining the existing dwelling as the dominant built form presenting to the street.

There is no modification to the pitch of the roof to the existing dwelling. The proposed roof forms are simple (as conditioned: embellishments and ornate details to be removed). The proposed roof forms, materials and pitches are consistent with the prevailing locality. The existing dwelling is not heritage listed. The existing dwelling maintains the dominance to the streetscape. The proposed application can be supported by Council.

CONCLUSION

The proposed design of the carport and additions as conditioned are sympathetic with the character of the original dwelling and are consistent with other similar additions in the area. The proposal does not visually interfere with the dominance of the existing dwelling or with the streetscape. The proposals are not considered to impact on the adjoining neighbours.

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

RECOMMENDATION

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

- (a) variation to the setback requirements of the side (northern) setback (carport) (Required : 1.0 metres - Proposed : Zero lot boundary wall);
- (b) element 3.7.8 of the Residential Design Guidelines : Roof pitch; and
- (c) element 3.7.15 of the Residential Design Guidelines : Carports

for additions and alterations comprising rear addition, new carport and swimming pool at 36 (Lot 1/S61319) Fraser Street, East Fremantle, in accordance with the plans date stamp received on 5 November 2014, subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed carport is to remain open to the east and west and partially open on the south (where the carport does not abut the dwelling). No door to the carport is permitted.
3. No new or modified crossover is permitted under this development application. A works to the exiting crossover are first to be approved by Council.
4. Pool equipment to be located a minimum of 1.0 metre away from all boundaries to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all pool equipment shall comply with noise abatement regulations.
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. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.
7. The maximum height of the front fence not to exceed a height of 1.8 metres above natural ground level.
8. Maximum height of the solid portion of the front fence adjoining the driveway not to exceed 1.2 metres.
9. The vertical and/or horizontal infill panels are not to extend above the height of the piers.
10. The infill panels for the front fence and the gate are to be of the design to be visually permeable for the entire length and area of the fence, with at least 60% visual permeability.
11. 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.
12. 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.
13. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
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. 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.
16. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
17. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

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- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *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".*

Mayor O'Neill – Cr Handcock

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

- (a) variation to the setback requirements of the side (northern) setback (carport) (Required : 1.0 metres - Proposed : Zero lot boundary wall);**
- (b) element 3.7.8 of the Residential Design Guidelines : Roof pitch; and**
- (c) element 3.7.15 of the Residential Design Guidelines : Carports**

for additions and alterations comprising rear addition, new carport and swimming pool at 36 (Lot 1/S61319) Fraser Street, East Fremantle, in accordance with the plans date stamp received on 5 November 2014, subject to the following conditions:

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- 3. No new or modified crossover is permitted under this development application. A works to the exiting crossover are first to be approved by Council.**
- 4. Pool equipment to be located a minimum of 1.0 metre away from all boundaries to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all pool equipment shall comply with noise abatement regulations.**
- 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. All parapet walls to be fair faced brickwork or cement rendered to the adjacent property face by way of agreement between the property owners and at the applicant's expense.**
- 7. The maximum height of the front fence not to exceed a height of 1.8 metres above natural ground level.**
- 8. Maximum height of the solid portion of the front fence adjoining the driveway not to exceed 1.2 metres.**
- 9. The vertical and/or horizontal infill panels are not to extend above the height of the piers.**
- 10. The infill panels for the front fence and the gate are to be of the design to be visually permeable for the entire length and area of the fence, with at least 60% visual permeability.**
- 11. 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.**
- 12. 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.

13. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
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. 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.
16. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
17. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

CARRIED 5:0



Note:

As 5 Committee members voted in favour of the Reporting Officer's recommendation, pursuant to Council's decision regarding delegated decision making made on 18 June 2014, this application is deemed determined, on behalf of Council, under delegated authority.

T145. REPORTS OF OFFICERS – STRATEGIC PLANNING

T145.1 Status Report - Planning & Development Services

By Jamie Douglas, Manager Planning Services on 21 November 2014

Purpose of This Report

This report provides Elected Members with information on the progress of the various Strategic Planning and Development Projects currently identified within the Planning Program.

Plympton Steps / Kitson Park

The re- construction of the retaining walls and installation of the steel balustrade has been completed.

The project was transferred to the management of the Operations Manager, Steve Gallagher at the end of October. Steve will take responsibility for the development of the final landscape works in accordance with stage one of the Master Plan for the Park.

Town Hall/ Old Police Station

All external conservation and landscape works are now complete.

Heritage Review

The consultant has completed a detailed assessment of properties in all Precincts.

A workshop involving Elected Members and the Town Planning Advisory Panel (in respect to consultation strategy) has been organised with the Consultant on the evening of Tuesday 25 November 2014.

This item is the subject of a separate report in this agenda.

Planning Review

At its meeting on 16 September 2014 Council endorsed the draft Scheme Amendment 10 for Public Notification. The draft amendment has since been referred to the Environmental Protection Authority for assessment in accordance with the Act. Following advice from the EPA, public notification commenced on 1 November 2014 and concludes on 15 December 2014.

Proposed 'Dome Café' - 26 Riverside Drive (Red Herring)

Elected Members may be aware of recent works to establish a Dome Café on the site (refer following photographs). There has been concern by staff as to whether the application received for comment by the Trust is an accurate description of the proposal and if the works already being undertaken, fall within the scope of existing approvals issued. The Trust has further been asked to provide advice as to what action it is taking to achieve compliance in respect to the outstanding conditions of approval associated with the earlier development application. Of particular concern is the outstanding amount of cash-in-lieu for car parking spaces which is due to the Town.

It is important to note that the deficiency in parking for the existing restaurant was noted at the time of the previous approval in 2006. Condition 23 of that Approval requires payment of cash in lieu for 14 car parking spaces (although correspondence to the Trust on file shows that in fact this shortfall should have been estimated at 32 spaces) This is a substantial cost requirement, for example while we do not have to hand the Valuer General's estimates in respect to this site, the estimates provided by the VG in respect to

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the Royal George Hotel re-development was that Cash-in-lieu for that location would be \$22,500 per space. This would indicate that a sum of approximately \$315,000 (at least) would be due. The Town has not received any monies to date albeit the Swan River Trust's Development Approval was granted in February 2006.



The above matters are being pursued with the Trust and the current application for deck extensions will be the subject of a planning assessment report to the next meeting round.

RECOMMENDATION

It is recommended that the Planning & Development Services – Status Report be received.

Cr Handcock – Cr Collinson

That the Planning & Development Services – Status Report be received. CARRIED

T145.2 **Review of Municipal Heritage Inventory and Heritage List**
By Jamie Douglas, Manager Planning Services on 20 November 2014

Background

At its meeting held on 21 October 2014 Council resolved:

That a workshop and briefing be held with elected members, Griffiths Architects and the Town Planning Advisory Panel to discuss the proposed communication plan and next steps for progressing the Heritage Review of the Town.

after having considered the attached report.

DISCUSSION

At the time of writing, outcomes from the Workshop held on 25 November 2014 are not known. Accordingly it is proposed that a late item be circulated with any recommendations arising from the Workshop.

It should be noted that, assessments for all Precincts have now been completed and accordingly any proposed recommendations can now extend to the whole Scheme Area.

RECOMMENDATION

That the report be received and further consideration be given to the outcomes from the Workshop held on 25 November 2014.

Cr Martin – Cr Collinson

That elected members determine how they would like to progress the Heritage Review by the adoption of the following option:

- 1. The revised Municipal Inventory as tabled, be accepted as a draft.*
- 2. That all owners of properties categorised either A or B on the draft MI be written to advising of the intention to include their property on the Heritage List pursuant with Clause 7.1.3 of the Town Planning Scheme.*
- 3. That elected members consider the status of those properties on the draft MI for which submissions have been received pursuant to Clause 7.1.3(d) of Town Planning Scheme No. 3.*
- 4. Following a consideration of submissions and further consultant advice, Council resolves to determine which of the properties (that have been subject to the above owner notification), on the Heritage List pursuant with clause 7.1.3(d) of TPS No. 3*
- 5. The Town undertakes a public information program advising of the MI Review and Heritage Listing and undertakes to establish an on line data base of the MI and Heritage List.*
- 6. In addition to the above, priority be given to the development of draft Heritage Areas and associated planning policies.*

Amendment

Cr Handcock – Cr Amor

That:

- **point 1 be amended to read:**
 - 1. The revised Municipal Inventory, for Categories A & B as tabled, be accepted as a draft.**
- **the following be added as point 7:**
 - 7. Elected members to provide feedback regarding the draft communication to residents for consideration by the Acting CEO.**

CARRIED

The substantive motion, as amended, was put.

Cr Martin – Cr Collinson

That elected members determine how they would like to progress the Heritage Review by the adoption of the following option:

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1. The revised Municipal Inventory, for Categories A & B as tabled, be accepted as a draft.
2. That all owners of properties categorised either A or B on the draft MI be written to advising of the intention to include their property on the Heritage List pursuant with Clause 7.1.3 of the Town Planning Scheme.
3. That elected members consider the status of those properties on the draft MI for which submissions have been received pursuant to Clause 7.1.3(d) of Town Planning Scheme No. 3.
4. Following a consideration of submissions and further consultant advice, Council resolves to determine which of the properties (that have been subject to the above owner notification), on the Heritage List pursuant with clause 7.1.3(d) of TPS No. 3
5. The Town undertakes a public information program advising of the MI Review and Heritage Listing and undertakes to establish an on line data base of the MI and Heritage List.
6. In addition to the above, priority be given to the development of draft Heritage Areas and associated planning policies.
7. Elected members to provide feedback regarding the draft communication to residents for consideration by the Acting CEO. CARRIED 5:0

The Senior Town Planner left the meeting at 9pm.

T145.3 Residential Design Guidelines - Proposed Amendment to Roof Materials
By Jamie Douglas, Manager Planning Services on 20 November, 2014

Background

At its November meeting the Town Planning & Building Committee having considered the officer's report of 28 October, 2014 recommended:

"That this matter be held over to the December Town Planning & Building Committee meeting pending further discussion with the consultant and planning staff."

DISCUSSION

Following from the Committee's meeting, Mayor O'Neil emailed his concerns and a number of questions, to the Manager Planning Services. These were responded to and additional professional advice was also provided by Heritage Architect Phillip Griffiths. This advice was provided to all Elected Members by email during the period since the November Committee Meeting.

It is hoped that the additional advice provided has addressed the outstanding issues. However it should be noted that while the proposed amendments to the RDG identify that "like for like" replacement of roofing materials is preferred for "contributory buildings" (buildings on the MI), for all other buildings or where "like for like" replacement is demonstrated not to be practical, other alternatives can be considered.

RECOMMENDATION

That:

1. Council endorse the proposed amendments to the 'Local Planning Policy - Residential Design Guidelines - September 2012' as indicated in the report dated 28 October 2014; and
2. pursuant to Clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3, Council resolves to publicly advertise the proposed amendments to the 'Local Planning Policy - Residential Design Guidelines - September 2012'.

Mayor O'Neill – Cr Handcock

That:

1. Council endorse the proposed amendments to the 'Local Planning Policy - Residential Design Guidelines - September 2012' as indicated in the report dated 28 October 2014;

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2. pursuant to Clause 2.4 of the Town of East Fremantle Town Planning Scheme No. 3, Council resolves to publicly advertise the proposed amendments to the 'Local Planning Policy - Residential Design Guidelines - September 2012'.
3. the definition of "contributory buildings" be amended as follows:
"Contributory Buildings
A building that appears on the Town of East Fremantle's Municipal Heritage Inventory or Heritage List. However for the purposes of clause 3.7.9 of the Residential Design Guidelines, 'contributory buildings' shall not include those buildings categorised 'C' or below on the Municipal Inventory." CARRIED

T146. CONFIDENTIAL BUSINESS
Nil.

T147. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING
Nil.

T148. CLOSURE OF MEETING
There being no further business the meeting closed at 9.15pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **2 December 2014**, Minute Book reference **T136. to T148.** were confirmed at the meeting of the Committee on*

.....

Presiding Member