



Town Planning & Building Committee

**3 November 2015
6.34pm**

MINUTES



**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD
IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 3 NOVEMBER, 2015
COMMENCING AT 6.34PM.**

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T124.1 Town Planning & Building Committee – 6 October 2015

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MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 3 NOVEMBER 2015 COMMENCING AT 6.34PM.

T119. OPENING OF MEETING

The Manager Planning Services opened the meeting and advised that following the recent elections, nominations would be called for Presiding Member of this Committee.

T119.1 Present

Mayor Jim O'Neill	
Cr Cliff Collinson	(Presiding Member)
Cr Dean Nardi	
Cr Andrew White	
Mr Jamie Douglas	Manager Planning Services
Mr Andrew Malone	Senior Town Planner
Ms Janine May	Minute Secretary

T120. APPOINTMENT OF PRESIDING MEMBER

The Manager Planning Services called for nominations for the position of Presiding Member.

Mayor O'Neill - Cr Nardi

That the election of a Presiding Member for the Town Planning Building Committee be held over to a special Committee Meeting to be convened within the next 7 days, and that Cr Collinson be appointed Presiding Member for this evening's meeting.

CARRIED 4:0

Cr Collinson assumed the Chair.

T121. 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."

T122. WELCOME TO GALLERY

There were 18 members of the public in the gallery at the commencement of the meeting.

T123. APOLOGIES

Cr Michael McPhail
Cr Lukas Nicholson

T124. CONFIRMATION OF MINUTES

T124.1 Town Planning & Building Committee – 6 October 2015

Mayor O'Neill - Cr Nardi

That the Town Planning & Building Committee minutes dated 6 October 2015 be confirmed with the following correction to MB Ref 234.1 Review of Municipal Inventory and Heritage List:

That part 2 of the motion be amended to replace "15 September" with "20 July 2015".

CARRIED 4:0



T125. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T125.1 No 62 View Terrace (Lot 85)

T & B Radaich, 64 View Terrace: Advising that their consultant considered the proposed boundary wall at 62 View Terrace should not constitute a deemed to comply development.

Mayor O'Neill – Cr Nardi

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T128.4).

CARRIED 4:0

T126. REPORTS OF COMMITTEES

Nil.

T127. REPORTS OF OFFICERS – STRATEGIC PLANNING

T127.1 Review of Municipal Heritage Inventory and Heritage List

By Jamie Douglas, Manager – Planning Services on 19 October 2015

BACKGROUND

At its meeting on 2 December 2014 Council resolved as follows:

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, 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), are to be included 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*

PURPOSE OF THIS REPORT

The purpose of this report is to resolve which properties are to be included on the Municipal Inventory as Management Category 'B' in the Riverside Precinct and to include these properties on the Scheme's Heritage List. Also addressed in the report are those remaining properties in other precincts for which a determination has not been made.

This report will complete the review of the Municipal Inventory and Scheme Heritage List.



STATUTORY PROVISIONS RELATING TO THE PREPARATION OF A HERITAGE LIST

The following provisions of the Town Planning Scheme prescribe the procedure for the preparation of a Heritage List:

7.1 *Heritage List*

- 7.1.1. *The local government is to establish and maintain a Heritage List to identify those places within the Scheme area which are of cultural heritage significance and worthy of conservation under the provisions of the Scheme, together with a description of each place and the reasons for its entry.*
- 7.1.2. *In the preparation of the Heritage List the local government is to —*
 - (a) *have regard to the municipal inventory prepared by the local government under section 45 of the Heritage of Western Australia Act 1990; and*
 - (b) *include on the Heritage List such of the entries on the municipal inventory as it considers to be appropriate.*
- 7.1.3. *In considering a proposal to include a place on the Heritage List the local government is to —*
 - (a) *notify in writing the owner and occupier of the place and provide them with a copy of the description proposed to be used under clause 7.1.1 and the reasons for the proposed entry;*
 - (b) *invite submissions on the proposal from the owner and occupier of the place within 21 days of the day the notice is served;*
 - (c) *carry out such other consultations as it thinks fit; and*
 - (d) *consider any submissions made and resolve to enter the place on the Heritage List with or without modification or reject the proposal after consideration of the submissions.*
- 7.1.4. *Where a place is included on the Heritage List, the local government is to give notice of the inclusion to the Commission, the Heritage Council of Western Australia and to the owner and occupier of the place.*
- 7.1.5. *The local government is to keep a copy of the Heritage List with the Scheme documents for public inspection.*

In regard to the above statutory requirements it is considered relevant to note the following planning implications for properties included on the MI and Scheme Heritage List.

- The above scheme provisions are requirements of the WAPC 'Model Scheme Text' and are therefore consistent with those applied in the majority of municipalities in Western Australia.
- The Town is required to undertake periodic reviews of the MI and to include on the Heritage List properties which it determines are appropriate.
- The process for consultation and determination in respect to listings is prescribed by the Scheme. This process has been adhered to.
- The principal planning provisions relating to properties included on the Heritage List and the MI can be summarised as follows:



- Demolition – currently under the Scheme all properties included on the Heritage List require the prior planning approval of Council for a demolition permit.
- Properties categorised A or B on the MI will generally be required to replace roofing materials with similar materials although the ability to vary this exists under the Residential Design Guidelines.
- Properties on the Heritage List are advantaged by the provisions of clause 7.5 of the Scheme which allows Council to set aside any site or development requirement where it will facilitate the conservation of the heritage place. All other properties are subject to the normal provisions of the Scheme.
- There is nothing in the scheme which requires the reinstatement of the heritage built form should it be destroyed by fire.

DISCUSSION

At its 4 December 2014 meeting Council resolved that owners and occupiers of properties categorised as 'A' and 'B' on the revised draft Municipal Inventory be given written advice of their revised assessments and of the intention to consider these properties for inclusion on the 'Heritage List' under the Scheme. There are 85 properties categorised 'A' and 595 categorised 'B'. The notification period for A and B category properties has now closed. There are 8 Category A and 16 Category B properties in Riverside Precinct. Seven submissions have been received in respect to Category B properties. The Place Record prepared by 'Griffiths Architects' has been reviewed in respect to each of the submissions and a recommended action in respect to each of these properties is included in the Consideration section of this report.

Some general statements recur in the submissions and are addressed as follows:

- **Competency of the Consultants and the Validity of the Assessment Process —**
While it is reasonably predictable that such comments will be made, it is unfortunate where they are made by professionals engaged by property owners and at best may be described as an unfortunate blurring between professional opinion and advocacy. The consultants were engaged following a competitive tender process and are recognised as one of the leading Practices in Heritage Conservation in this State. As already stated, the process applied and the basis for the assessments is consistent with the statutory prescribed process and 'best practice' examples applicable within other municipalities. The level of detail in the heritage assessments is appropriate for the management function for which it is designed. Where more detailed assessment is necessary, this is required at the time of development application as part of a Heritage Impact Statement.
- **The Heritage Significance of Properties Should Not Be Recognised As It Will Cause Financial Disadvantage —**
In some instances there has been confusion between listing under the State Heritage Act and the Heritage List included in the Planning Scheme. The processes are distinctly different and the level of significance required for inclusion in the MI and the Scheme's Heritage List is less than listing at state level. The planning impacts for properties included in the Scheme Heritage List are explained earlier in this report under the heading 'Statutory Provisions Relating to the Preparation of a Heritage List'. In most instances the current status quo in respect to classifications on the MI are recommended for retention under this review and hence planning provisions will be unaffected. Development proposals for the extension and adaption of properties on the MI and the Heritage List will be considered by the Town, as before.

Some submitters cited real estate advice that substantial financial disadvantage could be attributed to any inclusion on the MI or Heritage List. In this regard, it is interesting



to note the following statements by real estate agent Mr. Hayden Groves in a recent article in the Herald Newspaper dated 21 February 2014:

"But acting out of fear or ignorance is fraught and I am reminded that as a Real Estate Agent, buyers will often ask the question "is it heritage listed?" which is code for "will I have all sorts of problems with relevant authorities if I want to renovate and/or demolish the building?". The reality is, an appearance on a council register is not usually a particularly onerous encumbrance."

Mr Groves is the REIWA Deputy President and an East Fremantle resident who owns a heritage property subject to this Review and who is knowledgeable of the local market.

While planning provisions in respect to land use, development density, height, setback etc. all have significant impact upon property value, it is generally only those relating to heritage conservation which are argued against on the basis of their perceived impact upon property value and unreasonable curtailment of property rights. There is no reasonable premise for this distinction. Indeed the financial impacts of not conserving heritage and streetscape character will have substantial financial dis-benefits for the community. It is the attributes of visual amenity, streetscape character, unique heritage and ambience that are the underlying elements to the property values currently enjoyed in the Town. It is these elements which in large part attract buyers into the community. As a consequence, where there is loss of heritage significance, streetscape character and amenity due to inappropriate development, it is reasonable to expect that neighbouring properties will experience some loss of value.

Consistency in decision making and defined statutory planning provisions from which future residential amenity and development outcomes can be predicted, are essential components in stimulating investment.

CONSIDERATION OF SUBMISSIONS

The 16 properties in Riverside Precinct which are categorised 'B' in the draft MI are identified in the Municipal Heritage Index which forms Attachment (1) to this report. A total of seven submissions were received. Some of these owners responded to their notification by providing additional or corrected property details for inclusion on the draft place record forms. These forms have been revised where necessary. **ATTACHMENT**

A summary of the submissions, a response and recommended action follows for each property.

These properties are listed as follows:

ADDRESS	COMMENT
20 Angwin Steet	Objection
21 Angwin Street	Objection
5 Bolton Street	Objection
140 Canning Highway	Objection
5 Preston Point Rd	further information provided
15 Preston Point Rd.	further information provided
17 Preston Point Rd.	Objection

**Consideration of Submissions**Heritage List Category 'B' - Responses

Property Address	Owner Submission	Response	Recommended Action
20 Angwin Street	<p>Objection to inclusion of property on the Town's Heritage List on the following grounds:</p> <ol style="list-style-type: none"> 1. Modifications to original building fabric including additions, alterations and reorientation to Angwin Street. At present only two bedrooms and a lounge of the original house have any of the original features intact. In our view both brick extensions are not in keeping with the character of the original house. 2. Our concern is that by placing the residence on the Heritage List it would only compromise our ability to remove or modify what is essentially a modern structure. 3. We seek that Council not include our residence on its List. Should it not accept this we ask that only the original bedrooms and lounge be included as heritage listed. 	<ol style="list-style-type: none"> 1. Modern introductions don't impact the significant fabric. The original authentic built form is readily discernible from the streetscape. 2. The property has been on the MI since 2006 and development / adaption of the property will be unaffected by its Listing. Adaptation of the building structure is not prohibited by its Listing. 3. The Residential Design Guidelines apply to all properties in the Town. There are no additional planning requirements. 4. The Scheme affords greater flexibility in development control in respect to 'listed properties'. <p>In certain instances a 'development impact' statement may necessarily accompany a development application.</p> <p>The listing while applying to the property in general does identify which elements are significant and notes new additions.</p>	<p>Maintain Management Category B .</p> <p>Include property on Heritage List.</p>
21 Angwin Street	<p>Objection to inclusion of property on the Town's Heritage List on the following grounds:</p> <ol style="list-style-type: none"> 1. The property has been subject to major renovations and extensions. 2. The original residence does have some "aesthetic value" as a federation bungalow as acknowledged by current "B" listing on the MI however any further heritage value is not validated for following reasons:- <ul style="list-style-type: none"> • You cannot view the main residence from the street, only some sections of the 	<ol style="list-style-type: none"> 1. Modern introductions don't impact the significant fabric. The original authentic built form is readily discernible from the public domain adjacent to the property. The site is on an elevated scarp and is also prominent when viewed from many locations side and streetscape. 2. The submission acknowledges that the residual structure retains significance sufficient for Categorisation as B on the MI. No change to this is proposed however the Council is required to include these significant properties on the Heritage List in 	<p>Maintain Management Category B .</p> <p>Include property on Heritage List.</p>



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Property Address	Owner Submission	Response	Recommended Action
	<p>roof are visible.</p> <ul style="list-style-type: none"> The new renovations obscure the original residence – this has little significance. The exterior brickwork of the original residence has been “tuck pointed”. The site has been developed to what we believe is its full potential – it is highly unlikely that any further development other than exterior landscaping upgrades are likely to occur – therefore there is no issue with future development and hence no reason to add the property to the Heritage List. It is clear that the current “management Listing Cat B is more than sufficient to acknowledge its “actual heritage significance”. 	the planning scheme. It is not proposed to “Heritage List” the property under the State Heritage Legislation.	
5 Bolton Street	<p>In favour of conservation but inaccuracies in place assessment seem to suggest a very cursory assessment.</p> <p>The owner has gathered an amount of old photographic evidence and has spoken to many of the previous owners –</p> <p>Further details – only original house is two storeys – may have been constructed over 10 years prior to stated, the veranda timber posts and decorative friezes are not original. The inside of the house has been renovated.- I do not agree that the house retains a high degree of integrity.</p> <p>I therefore assume that no listing of the house will occur prior to a more detailed assessment.</p>	<p>The submission is not an objection per se but provides further details and corrections and assumes a more detailed assessment will occur prior to listing.</p> <p>The additional information is noted and the Place Record Form will be updated accordingly. The extent of the assessed data is considered satisfactory to support inclusion on the scheme’s heritage list.</p>	<p>Maintain Management Category B .</p> <p>Include property on Heritage List.</p> <p>Revise Place Record Form to reflect physical and historic information in the owner’s submission.</p>
140 Canning Highway	<p>Objection to inclusion of property on the Town’s Heritage List on the following grounds:</p> <p>Refers to earlier aborted review in 2012 and lack of response and explanation the Cat B+ assessment. Once again need to address this Heritage matter.</p>	<p>Noted. It is understood that a general public consultation exercise was not undertaken when the MI was last reviewed in 2006. While it may have been desirable, there is not statutory</p>	<p>Maintain Management Category B .</p> <p>Include property on Heritage List</p>



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Property Address	Owner Submission	Response	Recommended Action
	<p>Lack of consultation in respect to review of MI in 2006.</p> <p>Site is within Town Centre Guideline boundary, it is difficult to agree to its "place" in East Fremantle and to its heritage value.</p> <p>Consideration should be given to the property's location and surrounding multiple dwellings. No 140 is the only single residence surrounded by high rise buildings. The recently approved "Richmond Quarter" exacerbates this. The site will be zoned commercial in the future.</p> <p>The house is not located near, nor is it contributing to, Riverside's small concentration of fine houses as suggested in the Draft Record Report.</p> <p>The MRS is to be amended and our property will ultimately be affected by a 6.1 metre road reserve – this will severely affect access to the property because of the topography. This has been exacerbated by a Council approved a subdivision in 2000 which "landlocked" the site.</p> <p>Raises possible future development scenarios for adjacent property at 138 Canning Highway and consequent impacts leaving this house isolated in an area of unsympathetic development.</p> <p>Identifies several "in accuracies in the draft Place Record Form and notes several changes to the built structure over time. Submits house is not authentic. We challenge the aesthetic significance as a "fine example" of a Queen Ann home. Challenge historic significance in the Place Record Form. Down grading the heritage category for No 140 Canning Highway would allow for congruent development of the north side of the highway.</p>	<p>requirement to do so.</p> <p>Inclusion within the Policy Area for the Town Centre Design Guidelines does not impact upon heritage significance and is not a premise for re-development. The unsympathetic development in the vicinity is noted however there are numerous significant dwellings along Canning Highway of which the subject property is one. There is no intention to zone the site "commercial" in the future. Amendment 10 does propose an extension of the Town Centre zone where by development standards would be determined by a Structure Plan. Continued residential use would be protected.</p> <p>The subject property has a substantial setback. Main Roads WA has advised that even should road widening occur, practical access can be achieved (indeed this would be a requirement for any engineering design outcome unless the entire property was purchased).</p> <p>Should redevelopment occur it would present the opportunity to achieve a design which is more sympathetic to the subject property than the existing structure.</p>	



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Property Address	Owner Submission	Response	Recommended Action
5 Preston Point Road	Objection to inclusion of property on the Town's Heritage List. An extension of time was requested and granted however no submission was received.	No grounds given for objection	Maintain Management Category B . Include property on Heritage List
15 Preston Point Road	The submission is not an objection as such but notes a two storey extension has been added which is presumed is not significant. Has since tried to restore property to original appearance.	The draft place record form notes the rear extension and garage. To provide clarity, this should be identified as a two storey extension to the single storey original dwelling.	Maintain Management Category B . Include property on Heritage List Amend draft Place Record Form
17 Preston Point Road	In principal do not object to the listing but given listing will have financial impacts seeks rezoning to commercial use which would accord with the property's historical use as a corner store.	If included on the Heritage List as proposed, the property would enjoy the benefits of clause 7.5 of the Scheme which allows for all scheme provisions to be varied where it would support the preservation of heritage values. Amendment 10 of the Scheme will provide further incentives for listed properties by providing greater subdivision potential. Accordingly commercial uses can be entertained once the property has been included on the Heritage List.	Maintain Management Category B . Include property on Heritage List

87 Petra Street, Woodside Precinct – Proposed Category 'B'

The owner had requested a deferral in a determination in respect to this property until 1 October 2015 so that a development application for the property and structural and heritage assessment reports could be completed. Although, a development application has not been lodged, structural and heritage assessment reports have been submitted.

87 Petra Street	<p>Objection to inclusion of property on the Town's Heritage List.</p> <p>A Structural Engineers report concludes;</p> <ul style="list-style-type: none"> The building has significant structural issues Considerable and extensive works are required to bring the property back to a habitable state and these costs may be greater than the value of the building. <p>A Heritage Consultant has provided the following assessment;</p> <ul style="list-style-type: none"> The 2006 MHI states the building has moderate aesthetic value. This has decreased since then due to the level of decay and vandalism to the original 	<p>It is regrettable that the dwelling has been left to deteriorate to a state where it is uninhabitable. The structural report confirms that there are now major structural faults which would require more investment than the residual value of the building. As importantly the extent of works required would mean that little of the residual structure and detail would remain.</p> <p>The new Planning Regulations which are effective from 19 December 2015 will insert new clauses into the Planning Scheme which include the power to require repairs to be carried</p>	Delete the property from the Municipal Inventory.
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	<p>fabric.</p> <ul style="list-style-type: none"> The building is in poor condition and requires substantial remedial works to bring it to a habitable standard. The cost of the conservation and structural remediation works is approximately equal to or greater than the value of the property. The building does not meet the threshold for heritage listing, but could be retained on the MHI as Category D. This would allow the historical value of the place to be respected and recorded for prosperity. 	<p>out to a listed building. However since this building is not at this time a listed building it would be a denial of natural justice to require this retrospectively.</p> <p>The building is currently an eyesore and detrimental to the streetscape character.</p> <p>In light of the above, on balance it is considered preferable to remove the property from the MI which would facilitate its demolition and redevelopment of the site.</p> <p>There is little point in reclassification to D on the MI since there is little of the structure left to record.</p>	
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Heritage Places on Council Reserves

The review of the MI has confirmed the existing Management Categories for the following structures which are on Council Reserves and/or in the Public Domain. Accordingly, it is proposed the status quo in respect to these properties should be retained and that these structures be included on the Scheme's Heritage List.

- Richmond Raceway Turnstiles, Corner of George and Moss Streets – Category A
- Richmond Raceway Pavilion, Raceway Park, Raceway Circus – Category B
- Richmond Raceway Turnstiles, Silas Street & Bay Patch Street Gate – Category B
- Town Hall – Category A
- Former Policy Station – Category A
- Dovenby House - 1 Council Place – Category A
- Plympton Steps and Parkland – Category A
- Glasson Park – George Street – Category A
- Locke Park – East Fremantle Oval Precinct – Category A
- Merv Cowan Park - Angwin Street – Category B
- Bus Shelter (opposite 53 View Terrace) – Category B

CONCLUSION

The review of the Municipal Inventory has not altered the status quo of buildings (from the 2006 MI) in respect to the majority of properties. The Heritage consultants have reviewed the MI which was established in 2006 in the context of the existing building forms, many of which have been adapted over time. In most cases these adaptations have not detrimentally impacted the significance of the properties and are consistent with Council's planning objectives and design guidelines which protect heritage values whilst allowing for built from changes necessary to encourage continued use of the places.

Where necessary, it is recommended the Place Record Forms should be revised to reflect the physical and historic information in the owner's submissions.

All properties with the exception of 87 Petra Street in the Woodside Precinct shown on the attached MHI Index as Management Category 'B' should be confirmed as category 'B' on the revised MI and included on the Scheme's Heritage List.



Those structures within Council Reserves or the Public Domain not addressed in the previous determinations by Council should now be confirmed within the revised MI and included on the Scheme's Heritage List.

RECOMMENDATION

It is recommended that:

- (a) where appropriate the relevant Place Record Forms should be revised to reflect the physical and historic information in the owners submissions
- (b) 87 Petra Street should be removed from the Municipal Inventory
- (c) with the exception of 87 Petra Street, all properties shown on the attached MHI Index as Management Category 'B' should be confirmed as Category 'B' on the revised MI and included on the Scheme's Heritage List pursuant with CI 7.1.3 (d) of Town Planning Scheme No. 3.
- (d) notification in respect of all places to be included on the Scheme's Heritage List be undertaken in accordance with the provisions of CI.7.1.4 of Town Planning Scheme No. 3.
- (e) in respect to the following structures which are contained on Council Reserves or within the Public Domain, the indicated management categories should be confirmed on the revised MI and included on the Scheme's Heritage List pursuant with CI 7.1.3 (d) of Town Planning Scheme No. 3.
 - Richmond Raceway Turnstiles, Corner of George and Moss Streets – Category A
 - Richmond Raceway Pavilion, Raceway Park, Raceway Circus – Category B
 - Richmond Raceway Turnstiles, Silas Street & Bay Patch Street Gate – Category B
 - Town Hall – Category A
 - Former Policy Station – Category A
 - Dovenby House - 1 Council Place – Category A
 - Plympton Steps and Parkland – Category A
 - Glasson Park – George Street – Category A
 - Locke Park – East Fremantle Oval Precinct – Category A
 - Merv Cowan Park - Angwin Street – Category B
 - Bus Shelter (opposite 53 View Terrace) – Category B

Mr McKendrick (owner of 21 Angwin Street) addressed the meeting objecting to the heritage listing of his property given only a small portion is the original home.

Cr Nardi – Cr White

That:

- (a) where appropriate the relevant Place Record Forms should be revised to reflect the physical and historic information in the owners submissions
- (b) 87 Petra Street should be removed from the Municipal Inventory
- (c) with the exception of 87 Petra Street, all properties shown on the attached MHI Index as Management Category 'B' should be confirmed as Category 'B' on the revised MI and included on the Scheme's Heritage List pursuant with CI 7.1.3 (d) of Town Planning Scheme No. 3.
- (d) notification in respect of all places to be included on the Scheme's Heritage List be undertaken in accordance with the provisions of CI.7.1.4 of Town Planning Scheme No. 3.
- (e) in respect to the following structures which are contained on Council Reserves or within the Public Domain, the indicated management categories should be confirmed on the revised MI and included on the Scheme's Heritage List pursuant with CI 7.1.3 (d) of Town Planning Scheme No. 3.
 - Richmond Raceway Turnstiles, Corner of George and Moss Streets – Category A



- Richmond Raceway Pavilion, Raceway Park, Raceway Circus – Category B
- Richmond Raceway Turnstiles, Silas Street & Bay Patch Street Gate – Category B
- Town Hall – Category A
- Former Policy Station – Category A
- Dovenby House - 1 Council Place – Category A
- Plympton Steps and Parkland – Category A
- Glasson Park – George Street – Category A
- Locke Park – East Fremantle Oval Precinct – Category A
- Merv Cowan Park - Angwin Street – Category B
- Bus Shelter (opposite 53 View Terrace) – Category B

CARRIED

T127.2 Amendment 11 to Town Planning Scheme No 3 – Outcomes of Advertising and Recommendations

By Christine Catchpole, Planning Officer on 25 September 2015

PURPOSE

This report considers the following:

- The submissions received in respect to the public advertising of Amendment 11 which proposed modifications to the provisions of Amendment 10 that is, R20 be modified to R17.5 for sections of the Richmond Hill and Richmond Precincts.
- The outcomes of advertising and response to submissions.
- Adoption of Amendment 11 without modification.

ATTACHMENTS

1. Map indicating lots with potential for subdivision under the R20 code and heritage dwellings – Richmond and Richmond Hill Precincts.
2. Schedule of Submissions

STATUTORY PROCESS TO AMEND THE PLANNING SCHEME

The process for standard Scheme Amendments under the Planning and Development Act 2005 is as follows:

- A Local Government may at its sole discretion decide whether or not to initiate an amendment (s.75). There is no appeal provision associated with this decision.
- The Minister may direct a Local Government to make an amendment or adopt a new scheme (s.76).
- A Local Government must have due regard to any State Planning Policy in preparing an amendment (s.77).
- Proposed scheme amendment to be referred to the Heritage Council (s.79).
- Proposed scheme amendment to be referred to the EPA (s.81).
- Proposed scheme amendment to be referred to relevant public authorities such as Water Corporation, Western Power, and the Western Australian Planning Commission (s.83).
- Subsequent to the above, the amendment is publicly advertised for a minimum period of 42 days unless otherwise varied by the WAPC (s.84).
- Council considers any public submissions and resolves to forward the Amendment for Ministerial Approval, with or without changes.
- The amendment is submitted for the Final Approval of the Minister (s.87) and if approved published in the Gazette (s.87 (3)).

BACKGROUND

In early 2012, consultant Town Planner, Eugene Ferraro completed a projected population analysis and a survey of the existing housing density and development pattern throughout the Town to inform revisions to the Local Planning Strategy and



Planning Scheme. Based on this analysis R-Codes were reviewed and consideration was given as to where subdivision and development could be considered at higher densities subject to the proposals for higher density meeting certain performance criteria. This approach was considered to encourage housing diversity since not all lots in an area would be able to satisfy the criteria necessary for redevelopment at higher density and areas with heritage and streetscape values could be identified and protected.

In May 2012 an overview of the planning analysis and a draft Local Planning Strategy was circulated to Elected Members and the Town Planning Advisory Panel and subsequently to the Town Planning and Building Committee. The Committee endorsed the draft Local Planning Strategy as the basis for the review of the Planning Scheme. Following this endorsement, the draft Strategy was further refined and an omnibus scheme amendment (Amendment 10) was drafted in consultation with senior officers of the Department of Planning. In April 2013 Council resolved to adopt the proposed Local Planning Strategy, endorse Amendment 10 proposals and embark on a community engagement programme.

Although the draft Local Planning Strategy was forwarded to the Western Australian Planning Commission in May 2013 for its formal consent to advertise as yet no formal response has been received. Council has previously been advised that other local government authorities are experiencing similar delays, accordingly it was decided to proceed with the Scheme Amendments which did not need the prior consent of the WAPC to commence public advertising.

Following a report on the Community Engagement Program in 2014 Council initiated Amendment 10 for advertising with the comment period ending on 15 December 2014. Four submissions were received in respect to Amendment 10 and only one of these supported R20 in the Richmond Precinct. There were no other submissions relating to this matter. It is important to note that the minimum lot sizes in place at the time meant that effectively no further subdivision could occur unless the lot sizes were greater than 1000m² (unless special circumstances prevailed which permitted a 5% reduction in lot area to be approved by the WAPC).

This approach aligned with the objectives of the Local Planning Strategy. During that time the WAPC changed the minimum lot size required for subdivision at R20 to 900m² by amending the R-Codes. The impact of the R-Code changes was considered quite significant and is depicted in Attachment 1 which demonstrates substantial potential for subdivision in these areas. This was contrary to the original intent of the Planning Strategy as under the R20 code no lots in the Richmond or Richmond Hill Precincts would be large enough for subdivision, with most lots being between 900m² and 1000m² and only three lots between 1000m² and 1100m² in the Richmond Hill Precinct.

In light of the above it was proposed to modify the R-Code from R20 to R17.5 (minimum lot size 500m², similar to the original R20 minimum lot size). As this was considered a substantial modification it was considered the Town should seek the views of the residents. Accordingly it was believed appropriate that this aspect of Scheme Amendment 10 should not proceed and that it be re-advertised, with every landowner in the area being notified and a further 42 day advertising period be applied.

In March 2015 Council resolved as follows:

"That Council:

- 1. Endorse the modifications of draft Scheme Amendment 10 by the deletion of the proposed R-Code density change from R12.5 to R20 in respect to the Richmond and Richmond Hill Precincts.*



2. Adopt the Scheme Amendment 10 as modified and submit it to the Minister for Planning of Final Approval pursuant with s.87 of the Planning and Development Act 2005.
3. Endorse the public notification (including a mail out to all affected property owners) of Amendment 11 to TPS No. 3 comprising the change of R-Code density zone for the Richmond and Richmond Hill Precincts from R12.5 to R17.5."

OUTCOME OF ADVERTISING AND CONSIDERATION OF SUBMISSIONS

Advertising

Amendment 11 was advertised for 46 days from 6 June to 21 July 2015 and 58 Form 4 submissions were received. Newspaper notifications as per statutory requirements appeared in *The Herald* on 6 June 2015 and in *The Gazette* on 9 June 2015. Referral to the EPA was undertaken and the Scheme Amendment documentation and advertising details were also made available on the Town's website.

Further to the statutory advertising period the Town sent letters in March 2015 to all landowners in the area impacted by the Amendment 11 advising of the proposed changes to the density code. Seven (7) landowners made informal submissions in response to that letter and they were further advised in writing in June 2015 that their comments would be considered as part of the consideration of Amendment 11 and it was therefore not necessary to resubmit unless they wished to submit additional information. All persons contacted made further submissions on Amendment 11 objecting to the proposed change from R20 to R17.5.

Submissions Received

Each submission (Form 4) has been reviewed, summarised and entered in the Schedule of Submissions. Refer to Attachment 2 for a summary and response to each submission.

A breakdown of the 58 submissions received is as follows:

- 51 objected to R17.5 and supported R20 or R30 (repeat submissions excluded).
- 43 objections were pro forma submissions - 39 of the pro forma submissions supported R20 but no individual planning justification was included.
- 3 supported R17.5.
- 4 repeat submissions (an individual submitted two or more submissions for the same property).

Submissions Opposed to Amendment 11

The major themes raised in submissions objecting are summarised below.

- Rezoning to R20 will support housing choice, diversity and affordability and will align with State government policy on housing targets, urban consolidation and help decrease traffic congestion and provide housing choice as people age. Specifically the strategies outlined in *Directions 2031 and Beyond* and *Perth and Peel @ 3.5million* will be satisfied.
- R17.5 restricts/prohibits the potential to subdivide.
- Density bonus for corner lots at R30 density standards should be reinstated. Lots are of an adequate size to accommodate more than one dwelling.
- R20 reflects the prevailing character and density of the area (reference made to specific pockets of former subdivision and higher density development in the Precincts).
- Higher density can be accommodated without change to streetscape character and amenity of the area.
- R20 subdivision will ensure original homes and the heritage elements are preserved as these dwellings will be retained if another dwelling is permitted at the rear.
- No community opposition to R20 when Amendment 10 was advertised.

Pro forma Form 4 Submissions

43 submissions containing the following pre-written statement on a Form 4 were received.

"We support the residential density zoning to be increased from R12.5 to R20 for the Richmond precinct area and wish for LPS3 Amendment 11 to be updated to reflect this."

39 of these submissions did not contain any other justification for why the areas concerned should remain at R20 and seven (7) of the pro forma submissions were signed by occupiers of the property and not the landowner.

The remaining four (4) pro forma submissions contained more information in respect to why the density code should be R20, that is:

- landowner has plans to develop the rear of the lot;
- did not proceed with approval to subdivide the property prior to gazettal of TPS 3;
- support for down the middle subdivision; and
- retention of large lots results in replacement of 'heritage' dwellings with large contemporary houses.

The pro forma submissions were the result of 'door knocking' by one other submitter who is a land owner in the Richmond Precinct, but does not reside in the Town. The 'door knock' was conducted in the area between Windsor Road and the western side of Clayton Street (~208 dwellings). The submitter reports speaking to 117 owners and occupiers in the area and from this states that approximately 50 people completed a Form 4. The separate submission made by the landowner conducting the survey noted that of the remaining 67 people contacted ten (10) were not supportive, four (4) were not concerned either way and 53 were undecided and did not complete the information as requested.

Submissions in Support of Amendment 11

Submissions in support of Amendment 11 are summarised as follows.

- Retain large lots in order to retain the residential amenity which corresponds with a low density area.
- An R20 code will allow for too much development. The R-Codes result in poor quality development outcomes for anything other than single residential development. The R-Codes need to be reviewed by the WAPC.
- Retain R17.5 density coding.

Submission Issues - Consideration and Response**Submission Issue**

Rezoning to R20 will support housing affordability, choice and diversity and will align with State government policy in respect to addressing the Town's housing targets as specified under 'Directions 2031 and Beyond' and the urban consolidation principles reinforced in more recently released 'Perth and [Peel@3.5million](#) and the supplemental document the Central Sub-regional Planning Framework.

Consideration

The main thrust of the six (6) submissions on this issue argued that a R20 code would facilitate or support variation in lot sizes, housing choice, housing affordability and result in a variety of living options in the suburb. This outcome would then align with State government planning objectives to reduce car dependency, promote efficient use of land, use existing infrastructure and take advantage of accessibility to public transport. The principles and objectives of these documents have been addressed in the Local Planning Strategy and Amendment 10 as outlined below.

*State Planning Strategies*

The objective of applying a range of densities across the Town as specified in Amendment 10 is to address the urban consolidation principles that have been stated in the recently released *Central Sub-regional Planning Framework*. The first two of which refer to housing choice and local character, that is:

1. *"Housing - Provide for a diversity of quality higher-density residential housing to match the changing demographics of the population and ensure that the scale and design of development integrates into the surrounding neighbourhood."*
2. *Character and heritage - Ensure the attractive character and heritage values within suburbs are retained and minimise changes to the existing urban fabric."*

The planning framework for the Central Sub-region, in which the Town is located, provides guidance on where sustainable development should occur over the next 30 - 40 years and aims to reduce the impact of urban growth on areas of environmental significance; protect heritage values; and maximise the benefits of available land and existing infrastructure. The new framework encourages urban consolidation predominately through infill around activity centres, transport corridors and train station precincts in order to prevent future urban sprawl and also through incremental small scale infill of existing suburbs.

Small Scale Infill

The Richmond and Richmond Hill Precincts will be provided with the opportunity for greater housing diversity and choice through the introduction of a dual density code R12.5/R40. Development at a higher density, on appropriate sites, that meets the specific performance criteria under the dual code has been applied in these Precincts, as well as in the nearby Riverside Precinct. This dual code will also apply to Canning Highway and for the majority of Petra Street. Under proposed Planning Scheme provisions appropriate lots that are 880m² or larger could accommodate up to four new residential dwellings. This approach addresses Council's obligation to take steps to work towards the housing target for East Fremantle under *Perth and Peel @3.5million* without the need for a general or 'blanket' up-code in housing density across the Town. A 'blanket' up-code will result in a loss of character and amenity and be counter to the overall vision of the Planning Strategy, which is to preserve the historic fabric and residential amenity that are highly valued by residents of the Town.

Housing Diversity and Choice

The *Central Subregional Planning Framework* notes there is a place "for different styles of housing (for example, smaller dwellings which are easier to maintain) so that people can downsize from the traditional three or four bedroom home but remain in the same suburb". In addition, the Planning Strategy also advocates the provision of a diversity of quality higher-density residential housing to match the changing-demographics of the population and ensure that the scale and design of development integrates into the surrounding neighbourhood. The varying densities facilitate the development of single, grouped, multiple, aged and dependent and ancillary dwellings throughout the Town. There may also be further opportunities for a combination of dwelling types at different price ranges at the one location with the redevelopment of large sites such as Leeuwien Barracks or Woodside Hospital.

"Special Purpose" dwellings are permitted under certain circumstances under the R-Codes as well, so the development of aged and dependent and ancillary dwellings is also a possibility. The Local Planning Strategy underpinning Amendment 10 is to enable an increased choice of the type and size of dwellings for the wider population. Ideally, this will accommodate those who wish to down size, young singles or couples, and single-parent families wishing to have a smaller more affordable housing option, but remain in,



or move into a high amenity suburb. As mentioned above there will be opportunities for a range of housing types to be considered in the redevelopment of the sites such as Leeuwin Barracks and Woodside and Kaleeya Hospital sites.

Housing Targets

The new *Central Sub-region Planning Framework* has not been based on specific dwelling targets for individual growth areas; rather it is at the determination of each local government to allocate how targets will be met over each local government area. The Local Planning Strategy has achieved this in outlining how it will seek to provide opportunities for increased dwelling densities through a combination of incremental development opportunities, identification of growth locations such as an expansion of the Town Centre and Mixed Use zones, which will enable the Town Centre and Canning Highway corridor to realise their optimal dwelling potential.

Since 2012, the WAPC and Department of Planning has released annual report cards in respect to *Directions 2031* which detail the progress of each local government in achieving their infill targets. The 2014 annual report card noted infill dwelling targets for each local government area across five-yearly groupings between 2011 and 2031. The dwelling target for the five years, 2011 to 2015 was 240 dwellings for East Fremantle. Since 2011 the number of dwellings approved, including ancillary dwellings is approximately 220, including 119 multiple dwellings in the Richmond Quarter development in the Town Centre.

The Town under *Perth and Peel@3.5million* now has an infill target of 900 new dwellings to be accommodated by 2050. This figure is an increase of 300 new dwellings since the infill housing target to 2031 was first released in 2010 within the draft Central Metropolitan Perth Sub-regional Strategy. The aim under the new framework is for 75% of all new infill residential development (or 225 dwellings) to occur within 'growth areas' such as activity centres, corridors and station precincts and the remaining 25% or 75 dwellings to be provided as 'small scale incremental' development such as in existing built-up areas within traditional suburban streets. It is considered the Local Planning Strategy has provided the foundation to work towards achieving this target, particularly so as the timeframe covers growth within the next 35 years.

Corridors (Canning Highway, Marmion and Petra Street)

The State strategy identifies key public transport corridors that should be the focus for investigating increased densities and a greater mix of suitable land uses. Mixed used development and high density development (\geq R100-R160 and R-AC) is to be provided along Canning Highway with transition areas of medium density (R12.5/R40 – R60) development in close proximity. It is not expected that the entire corridors be developed but that opportunities for development along these be investigated by local governments. This has been applied in the Town's Planning Strategy. Canning Highway and Marmion Street are identified as future or existing high-quality public transport serviced corridors within the draft framework which can service increased housing density and this has been reflected in the proposed increased densities in Amendment 10. It is acknowledged the targets are for the much longer term and more detailed planning will need to occur at the local level to determine what final dwelling yields are possible, particularly so with the structure planning for the redevelopment sites mentioned above.

Incremental Growth

Incremental growth areas are considered as minor developments occurring through existing or proposed Town Planning Scheme provisions and outside of the allocated urban consolidation areas that is, outside of activity centres and corridors. Incremental growth can be realised through the application of the dual density coding and in the preparation of structure plans for major redevelopment sites such as the Leeuwin



Barracks and the Woodside and Kaleeya Hospital sites. There may also be some limited opportunities through redevelopment of the East Fremantle Oval Precinct.

In light of the above comments it is considered the Town has applied a long term strategic approach to housing development and has addressed the urban consolidation objectives at a metropolitan wide level. Given this there is no justification to increase the density of development in the areas concerned.

Response

Amendment not recommended for change.

Submission Issue

The R17.5 code restricts/prohibits potential to subdivide.

Consideration

Changes to the R-Codes since the Local Planning Strategy and Amendment 10 were drafted have resulted in the impact of an increase to R20 being substantially greater on the overall development potential in the Richmond and Richmond Hill Precincts. The initial intent to rezone certain areas from R12.5 to R20 was to more closely reflect the prevailing development density. R-Code changes in 2013 have reduced the required R-Code lot sizes from an average of 500m² to 450m² thereby providing for almost all lots in the Richmond and Richmond Hill Precincts with the potential to be further subdivided and developed for two dwellings. A “blanket” up-coding of these Precincts would be the result. This was very clearly not the intention and it is considered a R20 code would dramatically change the character, nature, amenity and identity of the area and for this reason is not recommended. The R17.5 code responds to the analysis of the overall density controls for the Town and Council’s resolution to maintain the current density of development in these areas. The reasons for which are outlined in greater detail in this report in response to other submission issues raised. Attachment 1 demonstrates the number of lots potentially impacted if development at R20 was permitted.

Response

Amendment not recommended for change.

Submission Issue

Reinstate density bonus for corner lots at R30 density standards. Lots in the area are of an adequate size to accommodate more than one dwelling.

Consideration

The corner lot density bonus in R12.5 coded areas has been removed under the provisions of Amendment 10. As the majority of corner lots in the Town have now been subdivided, the original clause 5.3.1 is no longer considered necessary. The clause that replaces this clause in Amendment 10 specifies that development shall occur at the lower density code of the proposed dual code (ie R12.5/R40) unless the development criteria specific to the higher density code can be met. The dual coding does not apply as a subdivision code, which means that an integrated development must be approved and constructed before a new title is issued.

The Planning Strategy seeks to support housing diversity by supporting the development of higher density housing only in selected locations and subject to specific criteria. The criteria have been developed with the aim of:

- protecting heritage values;
- protecting and enhancing amenity;
- avoiding rear lot subdivisions;
- maximising redevelopment opportunities in areas selected for higher densities; and



- encouraging coordinated development.

Response

Amendment not recommended for change.

Submission Issue

R20 reflects the prevailing character and density of the area (reference made to specific pockets of former subdivision and higher density development in the Precincts).

Consideration

It is acknowledged that in the past under different planning controls, some lots in the surrounding area have been developed for grouped and multiple dwellings (e.g. strata titled flats, villas and townhouses). The housing density analysis completed to formulate the final Planning Strategy was not aimed at simply applying density codes that reflected a housing density of the past. The objective of applying the dual coding in these Precincts was specifically to discourage the subdivision of land to create either narrow side by side lots or rear battle-axe shaped lots. Narrow frontage subdivision results in the majority of the frontage of the properties being dominated by car parking and driveways. This type of infill development results in buildings dominating the streetscape and adversely altering the character and amenity of the areas. The architectural features, entries and front gardens of houses are replaced by hard paved surfaces and garage doors, with the entry to the house difficult to define and very little room, if any for soft landscaping.

There is also a greater potential for loss of on-street parking, street trees, vegetation on private land and reduced distance between buildings as the current trend is for very large homes, regardless of the number of people living in the dwelling. Rear battle-axe subdivision also creates the potential for additional driveways onto properties and results in the loss of the rear yard and vegetation and also reduces the distances between buildings, thus impacting on privacy. All these impacts adversely affect the character and amenity of the Town. This is precisely why a density that reflected the prevailing subdivision and development patterns was applied.

Furthermore, a density analysis for each street block, that is, the average number of dwellings per net hectare was calculated and then the equivalent R-Code was noted. In the area south of Fraser Street, east of Staton Road, north of Wolsely Road and west of Clayton Street the average number of dwellings per net hectare ranges from 7 to 19 with 7 of 10 street blocks being in the range of 11 to 13 dwellings per net hectare which equates to R10 to R15, hence the application of the R17.5 code.

Lots subdivided in Gill Street were considered under the provisions of TPS 2. In some cases the subdivision proposal may not have been supported by Council but was nonetheless approved by the Western Australian Planning Commission.

Response

Amendment not recommended for change.

Submission Issue

Higher density can be accommodated without change to streetscape character and amenity of the area.

Consideration

It is considered a R20 code would result in a change in the scale and form of housing relative to lot sizes and the present overall building form. The Richmond and Richmond Hill Precincts both present elements of renewal, with the progression of new dwellings replacing ageing housing stock. Many of the modern dwellings present a substantially



larger built form outcome than the original homes. The local character of the area is therefore already undergoing a process of transformation in relation to the bulk and scale of built form with the trend toward very large homes with minimised lot boundary setbacks and often with dispensations requested for open space on site as required by the R-Codes. The Town's approach to maintaining the character and amenity of the area has been to integrate this transitioning character and style of dwellings by maintaining the subdivision pattern and density of development, which also respects the heritage elements and streetscapes within the Precincts.

The Town has always considered the quality of residential streetscapes to be a very high priority. Matters such as dominant garages/carports and crossovers, wide driveways, solid fencing, reduced landscaping in the front setback area and increased building bulk impacting on streetscapes and neighbouring properties have been factored into the assessment of current housing densities, subdivision patterns and the Town's Residential Design Guidelines. These impacts have typically resulted from the trend towards the construction of much larger homes on smaller and narrower lots, thus the need for the R-Coding to reflect the current density of development if the impact of redevelopment on heritage values and current streetscapes is to be limited.

Response

Amendment not recommended for change.

Submission Issue

R20 subdivision will ensure original homes and the heritage elements are preserved as these dwellings will be retained if another dwelling is permitted at the rear.

Consideration

Neighbourhood character, the area's heritage and how it will be impacted by development was an important consideration in the development of the Local Planning Strategy. The minimum lot frontage for freehold subdivision in R20 coded areas is 10 metres, the most likely outcome being "down the middle" subdivision resulting in very narrow lots. This type of subdivision is discouraged in this area of the Town as discussed above. If this type of subdivision is facilitated it is considered unlikely that the original dwelling will be retained as it will straddle new lot boundaries.

Further, the Town has taken steps to preserve the valued heritage fabric of the Town through its recent review of the Municipal Inventory. The Inventory comprises a considerable number of properties across the Town. Council has resolved to include Management 'A' and 'B' Inventory properties in the Heritage List under Part 7 of TPS No. 3. This has been advertised to over 700 affected landowners and Council has resolved to include 86 'A' category properties across all precincts in the Town and 220 'B' category properties in the Heritage List after consideration of places in the Plympton and Richmond Hill Precincts alone.

The places in the remaining precincts are still to be considered by Council. Properties listed in the Scheme are afforded a higher status and level of protection and it is extremely unlikely that the Council would approve of demolition of properties listed in the Scheme. This level of protection will work towards ensuring that valued places are retained. Without this level of protection it is unlikely that heritage places would be retained by simply providing the option of rear lot development potential. There is no guarantee that existing dwellings will be retained if the R-Code of an area is increased, in fact the reverse may eventuate to maximise development potential of the lot.

Response

Amendment not recommended for change.

**Submission Issue**

No community opposition to R20 during the advertising of Amendment 10.

Consideration

In response to this statement it would be reasonable to argue that at the time Amendment 10 was advertised the R-Code minimum and average lot areas for R20 did not permit any further subdivision of the lots. So no community opposition at the time could reasonably be interpreted as approval or acceptance of the proposals to maintain the existing situation and density of development and should not be presumed to be support for R20. Experience suggests that people are more likely to make a submission if they are opposed to a proposal than if in support.

Every land owner in the areas concerned was individually consulted and given the opportunity to respond to the change under Amendment 11. It is more likely that if there was widespread opposition to R17.5 that a far greater number of submissions would have been received. Just over 600 landowners in the two Precincts were contacted and from that direct consultation exercise 51 people objected (including 7 residents who are not property owners).

Response

Amendment not recommended for change.

Summary Report attached to Submission No. 58

As mentioned earlier in the report the pro forma submissions were the result of 'door knocking' by one other submitter who is a land owner in the Richmond Precinct, but does not reside in the Town. The submitter prepared a summary report which was attached to one of the submissions received by that person (i.e. Submission No. 58). The report outlined the results of 'door knocking' residents between Windsor Road and the western side of Clayton Street. As noted in the Schedule of Submissions the survey conducted is acknowledged, however, its validity as a formal record of resident support for Amendment 10 is not given the same weight as submissions made on a Form 4, or otherwise in writing, because it cannot be verified that the information provided, in this case when seeking support for the Amendment 10 proposals, contained full and accurate detail and background to the Amendment 11 proposals.

CONCLUSION

The findings of the draft Local Planning Strategy were to apply a density code in these areas that would maintain the prevailing development density. The R20 code when initially proposed was never intended to allow substantial re-subdivision and to bring about a change in neighbourhood character. It was, in fact, selected to give assurance for just the opposite with the principal objective being to safeguard the existing residential character and amenity of the Precincts concerned. The WAPC decision to reduce the minimum subdividable lot size from 1000m² to 900m² for a R20 code required that an alternative density code be applied to maintain the existing development density as outlined in the Local Planning Strategy. The submissions in support of Amendment 11 endorse Council's position to preserve the historic fabric and residential amenity that is highly valued by residents, as stated in the Local Planning Strategy.

The objectives of the Local Planning Strategy are based on the objectives of the 2003 Strategy, with the notable difference being the inclusion of the reference to the metropolitan planning framework outlined in *Directions 2031 and Beyond* and *Perth and Peel @3.5million*. The Town is well served by arterial roads and public transport routes and the Strategy seeks to create opportunities to optimise the use of these services and the potential and desirability for the Town Centre and other mixed use areas to address the urban consolidation objectives outlined in the State strategic documents. In



particular, the Local Planning Strategy has identified locations to try to achieve dwelling targets and for these areas to realise their optimal dwelling potential, without the need to facilitate subdivision and increased dwelling density in areas of the Town where the historic fabric and existing residential amenity is highly valued and is to be preserved. The Town has also identified other redevelopment sites that will also have the potential to increase dwelling yields under carefully controlled planning conditions.

It is therefore recommended that Amendment 11 be adopted without modification.

RECOMMENDATION

That:-

- (i) Council note the receipt of the submissions made on Scheme Amendment 11;
- (ii) adopt Scheme Amendment 11 without modification and submit it to the Minister for Planning for Final Approval pursuant with s.87 of the Planning and Development Act, 2005;
- (iii) the Scheme Maps be amended accordingly; and
- (iv) those who made a submission be notified of this decision.

Ms Chinnery (177 Petra Street), Ms Hedland (21 Walter Street), Jan Pecotich (184 Preston Point Road), Mr & Mrs Bence (23 Walter Street) and Mr Musulin (2 Philip Street) addressed the meeting objecting to the proposed Amendment given the resulting loss of subdivision potential.

Mayor O'Neill – Cr White

That:-

- (i) Council note the receipt of the submissions made on Scheme Amendment 11;
- (ii) adopt Scheme Amendment 11 without modification and submit it to the Minister for Planning for Final Approval pursuant with s.87 of the Planning and Development Act, 2005;
- (iii) the Scheme Maps be amended accordingly; and
- (iv) those who made a submission be notified of this decision.

CARRIED 4:0

T127.3

New Planning and Development Regulations 2015

By Jamie Douglas, Manager Planning Services on 20 October 2015

PURPOSE OF THIS REPORT

New Town Planning Regulations were introduced on 19 October 2015. This report outlines the proposed changes which will in part impact upon Town Planning Scheme No.3.

The changes regularise various planning processes and requirements across the State by requiring the implementation of similar mandatory scheme provisions and by streamlining processes for such things as scheme amendments and structure plans, local area plans and developer contribution schemes. Although the majority of the changes represent minor alterations to current processes and accordingly do not raise concern, some of the changes are significant. This report focuses on the significant changes which will impact on planning within the Town of East Fremantle.

BACKGROUND

The Planning and Development Act 2005 (PDA) was amended in 2010 to facilitate modifications to the Town Planning Regulations 1967 (TP Regs) which enable the Minister for Planning to apply new regulations imposing deemed (Mandatory) provisions to existing town planning schemes and to establish model provisions for the review of those schemes.



The TP Regs have been in operation for over 40 years and despite modifications over time, required significant review to deal with current planning practices and emerging issues. Following stakeholder consultations, the revised regulations were gazetted on 25 August 2015 and took effect on 19 October 2015. In preparation for the introduction of the new TP Regs the necessary changes in development control and planning practices have been identified and are discussed below.

SUMMARY OF THE NEW TOWN PLANNING REGULATIONS

The principal elements of the new regulations comprise:

General Provisions (Divisions 1-9)

- Local Planning scheme regulations on how schemes are prepared, amended and reviewed. These provisions detail requirements for a local planning strategy and scheme, preparation and adoption of a planning schemes, amendment procedures, review and consolidation of a planning scheme, development contribution plans, miscellaneous requirements and other repeal and transitional provisions (e.g. continuity of existing planning instruments).
- Of note are improvements to local planning scheme amendment processes to introduce three tracks, where 'risk based tracking provides for basic and standard applications to be dealt with faster (WAPC to determine to endorse Council approval within 60 days). While the WAPC can determine other amendments as 'complex' and determine these within 90 days.

Schedule One

This schedule contains model scheme text (MST) provisions which will operate in the same way as the current MST and to apply to the next scheme review. Variations to these provisions may be approved if justified. Standard provisions relate to reserves, zones and use of land, general development requirements, special control areas, terms and legends.

Schedule Two

- This schedule contains deemed (mandatory) provisions which apply automatically to the planning scheme on 19 October 2015. The deemed provisions prevail where there are inconsistencies with current scheme provisions. The deemed provisions, cannot be varied, although may be supplemented with additional provisions if consistent with the TP Regs. Deemed provisions relate to the local planning framework, heritage protection, structure plans, local development plans, development application and approval requirements, bush fire control, developer contribution plans, enforcement and administration and prescribed forms for making an application etc.
- It is noted that these provisions exempt single dwellings, alterations and additions which comply with the R-Codes, demolitions for other than heritage listed properties or in heritage areas and some use classes from the need for a planning application and permit.

CONSIDERATION

The new TP Regs represent the most significant change to the planning system in this State in 40 years. It is significant that this change has occurred through regulation without the rigor applicable to the introduction of an Act of Parliament or an amendment to an Act. It is likely that public awareness of the changes will therefore lag considerably behind their implementation on 19 October 2015.



From the implementation date, the structure of the Town's Planning Scheme and the way development is determined and administered changed. Additionally new processes applying to Structure Planning, Local Development Plans and Developer Contribution Schemes will impact how the Town plans for its future.

A draft of the existing TPS No. 3 has been 'converted' to be compliant with the new regulations. A copy of this draft in "track changes" is enclosed with the agenda. This copy of the Planning Scheme has been re-written to incorporate the new provisions and delete those provisions that are either redundant, in conflict, or superfluous, in respect to the mandatory scheme provisions imposed by the TP Regs. As can be seen, Parts 1-5 of the scheme have been kept largely intact while the remaining Parts 6 -11 and many of the Schedules have been replaced.

ATTACHMENT

It is intended to apply this copy of the "converted" scheme to development control for the next few months to ensure it is workable and does not require further amendment before implementing it as a "standard" scheme amendment as prescribed by the new TP Regs.

In respect to development control, the following is particularly significant for the Town:

- Single dwellings and associated development that complies with the R-Codes will be exempt from planning approval and not subject to the scheme's provisions and the Residential Design Guidelines. The effect of this may be understood by the following example; a single dwelling which required no variations could be built to the height maximum of 9 metres under the R-Codes (and subject to the new height definition which will tend to compound the effect of its height), if a discretion was required then Council's Residential Design Guidelines would be applicable and a height maximum of 8.1 metres (deemed to comply) would be applicable. Additionally, neighbours will not be informed of compliant development and may have no knowledge of a proposed development until site works commence.
- All development on Regional Reserves under the MRS is exempt. This affects (inter alia) the East Fremantle football oval reserve and for example, all signage and any other development proposed by the football club will be exempt. (It is noted however that Council's rights as a landlord pursuant to the lease area are still applicable).
- Heritage provisions have been strengthened with clauses to enhance the protection of places and areas on the Heritage List. However demolition without the requirement for a prior planning approval will now be possible for properties listed 'C' on the Municipal Inventory unless they are included within the Heritage List.
- Exemptions from the requirements for development approval, include:
 - Development on a regional reserve under the Metropolitan Region Scheme
 - Single house, outbuildings, alterations and extensions etc. where compliant with the 'deemed-to-comply' provisions of the R-Codes
 - Demolition, excluding places and buildings on the Scheme's Heritage List or within a Heritage Area
 - Development which is in accordance with a Local Development Plan
 - Internal works, excluding heritage places and building in heritage areas
 - Home office
 - Temporary works for uses which exist for less than 48 hours
 - Temporary election signage defined by the scheme
 - Any other development specified in writing by the local government

The DoP advises that the determination of R-Code compliance rests with the applicant. Accordingly, the Town's legal liability as a regulatory authority and its ability to affect compliance, is unclear at this time. However it is apparent that it will be necessary to assess all applications for Building Permits for R-Code compliance prior to issuing a Building Permit. Where R-Code compliance has not been "verified" by a private Town Planning Consultant, it will be beholden upon Council to undertake this task. However



this assessment process will no longer be funded by a planning application fee. Accordingly it is proposed that Council introduce an 'R-Code Compliance Assessment Fee' of \$147 (which equates to the basic Planning Application Fee for works under \$50,000).

RECOMMENDATION

That:

1. this report be received for information.
2. Council approves the application of a 'R-Code Compliance Assessment Fee' of \$147 for all applications for a Building Permit where verification of R-Code compliance has not been submitted.

The following additional information and revised recommendation relating to the proposed new fee was circulated to elected members:

"Local Government Act s6.19

Local Government to give notice of fees and charges

If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees and charges, give local public notice of –

- (a) its intention to do so; and
- (b) the date from which it is proposed the fees or charges will be imposed.

RECOMMENDATION

That:

1. this report be received for information.
2. Council approves the application of a 'R-Code Compliance Assessment Fee' of \$147 for all applications for a Building Permit where verification of R-Code compliance has not been submitted
3. the fee be advertised for local public notice advising of its introduction from Monday, 30 November 2015. ***Absolute Majority Resolution Required***

Mayor O'Neill – Cr White

That:

1. this report be received for information.
2. Council approves the application of a 'R-Code Compliance Assessment Fee' of \$147 for all applications for a Building Permit where verification of R-Code compliance has not been submitted
3. the fee be advertised for local public notice advising of its introduction from Monday, 30 November 2015. CARRIED 4:0

T128. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL

T128.1 Order of Business

Mayor O'Neill – Cr White

That the order of business be changed to allow members of the gallery to speak to relevant development applications. CARRIED 4:0



T128.2 **No. 64 (Lot 158 & 159) Glyde Street, East Fremantle**
Owner: Kelsall-Erickson
Applicant: Robert Allan Architect
Application No.: P104/15
By Christine Catchpole, Planning Officer, on 20 October 2015

PURPOSE OF THIS REPORT

This report considers an application for a new timber batten front fence with retractable driveway gate for a single dwelling. The issues relevant to the determination of this application are outlined below.

- *Height of front and side boundary fence in front setback area* – permitted 1.2 metres solid and 1.8 metres overall height; proposed 1.2 metres to ~2.0 metres above natural ground level (Residential Design Codes and Residential Design Guidelines).
- *Visual permeability of front fence* – above 1.2 metres in height 60% permeable evenly distributed across the fence length and area required; less than 60% proposed across the fence length and area for sections above 1.2 metres in height (Residential Design Guidelines).
- *Sight lines* - 1.5 metres x 1.5 metres setback of fence where the driveway meets the front boundary/footpath (road reserve) – nil provided (Residential Design Codes & Residential Design Guidelines).
- *Retaining wall 500mm or greater in height* – required setback from lot boundary 1.0 metre; nil setback proposed (Residential Design Codes).
- *Site works* – all excavation behind a street setback line and within 1 metre of a lot boundary to be no greater than 0.5 metres above natural ground level required; excavation up to 800mm within the front setback proposed (Residential Design Codes).

Some of the variations are considered acceptable, however, the variations to fence height and visual permeability are not and it is recommended conditions of approval be applied in this respect.

BACKGROUND

Description of Proposal

Front fence and driveway gate

The fence as it appears from the street will vary in height due to the slope of the land falling from south to north. The fence will “step” down the street and range in height from 1.2 metres to 1.8 metres at the driveway end. It will be constructed of timber battens 50mm x 40mm spaced 40mm apart (i.e. 80mm centres and 50% visual permeability at right angles to the fence). A rendered brick pillar in the centre of the site will house the letterbox. The fence will extend across the width of the site to the driveway on the northern boundary and then return along the side boundary for a distance of 3 metres ranging in height from approximately 1.9 to 2.0 metres.

The driveway gate comprises the same vertical timber battens, is retractable and will therefore sit inside the front fence line when open.

Currently a stepped brick fence approximately 1.0 metre high extends the width of the site.



Description of site

The subject site is:

- two freehold lots of 508m² each;
- zoned Residential R20;
- a single storey heritage dwelling; and
- located in the Plympton Precinct.

Statutory Considerations

Town Planning Scheme No. 3 – Residential R20 (TPS 3)

Local Planning Strategy – Plympton Precinct (LPS)

Residential Design Codes of Western Australia (RDC)

Town Planning Scheme No. 3 – Heritage List

Management Category B states the property has:

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.

Relevant Council Policies

Residential Design Guidelines 2015 (as amended) (RDG)

Impact on Public Domain

Tree in verge: No impact

Light pole: No impact

Crossover: No impact

Footpath: No impact

Streetscape: The fence will have a visual impact on the streetscape and on the dwelling.

Documentation

Plans and relevant forms date stamped received on 7 September 2015

Amended plans date stamped received on 21 September 2015

Date Application Received

7 September 2015

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

Nil in relation to this application.

CONSULTATION

Advertising

The application was initially advertised to the adjoining landowners from 8 to 22 September 2015. Revised plans have also been advertised with the closing date being 5 October 2015. A submission from the adjoining owner was submitted in regard to both sets of plans.



SUBMISSION	APPLICANT RESPONSE	OFFICER ASSESSMENT
<p><u>Submission received in response to amended plans dated 21 September 2015</u></p> <p>62 Glyde Street - located on the north side of 64 Glyde Street.</p> <p>The concerns are as follows:</p> <p>The revised proposal is for a new batten fence of 50mm x 40mm hardwood battens at 80mm centres fixed to 75 x 50 RHS framing. This will not conform to the RDG Clause 3.7.11.4 (iii) Permeable front boundary fences; or at A3 – Fence above 1.2m should be at least 60% permeable. The revised proposal will achieve a permeability of 50%.</p> <p>The height of the fence against the southern boundary has apparently been reduced in height to be at 1.060m above the existing brick wall fence constructed between the two properties, but still exceeds guidelines. The existing brick retaining wall is between 880mm and 1030mm above the ground level within our property at this point. This means that the proposed fence will be between 1940mm and 2090mm above our property. As such the fence will still exceed the guideline maximum height of 1800mm. This exceeds the height allowed as per the definition in the RDG, that is, the height of the fence is defined as the vertical distance between:</p> <ul style="list-style-type: none"> (i) The top of the fence at any point; and (ii) The ground level immediately below that point. Where the ground levels on each side of the fence are not the same the lower ground level should be chosen. <p>The following amendment to the proposal is sought:</p> <ol style="list-style-type: none"> 1. A reduction in the height of the return fence adjacent to our property along our southern boundary. The proposed fence is too high and limits permeability. This is an important aspect in keeping the neighbourhood safe and we refer to the principles of CEPTED articulated in the <i>Designing Out Crime Planning Guidelines</i> June 2006 prepared by the Department of Planning (5.1 Natural Surveillance), 	<p>The owners wish to retain the 50% permeability of the fence rather than the 60% nominated in the Council's Local Planning Policy – Residential Design Guidelines.</p> <p>The justification being that as the intent of this provision is to ensure the house can be viewed from the street they have provided for the full 1800mm height of the fence to have 50% permeability, rather than just the top 600mm allowed for in the planning provisions. The property is located on a steep slope and the allowable 1200mm high solid wall would obstruct a significant portion of the view of the house.</p> <p>The proposed street front fence extends to the northern side boundary and the preferred option of the owners is to maintain security of their property by having the 1800mm high fence returned along the common boundary. The motive for proposing the fence is to protect their property as there have been security issues. An 1800mm high fence would provide a 1200mm high addition to the height of the existing masonry dividing wall.</p> <p>The return fence would have 60% permeability, if required by the adjoining owners. The new fence could also be supported independently of the existing dividing fence as requested by the adjoining owner.</p>	<p>Matters relating to the construction and placement of the dividing fence on existing retaining structures are subject to the Dividing Fences Act 1961 and are not determined by Council.</p> <p>Comments in respect to the assessment of the fence with regard to compliance with Council's RDG and the RDC (i.e. height, visual permeability, site works, retaining walls and sight lines) are provided in the 'Assessment' section of the report.</p>



<p>amongst other relevant issues within the document.</p> <p>2. The return fence appears to be supported from the existing retaining wall. The wall is not able to sustain the fence and the fence should therefore be self-supporting.</p> <p>3. The fence should be limited in height to 1.2 metres or similar measured from our neighbour's front boundary.</p>		
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Town Planning Advisory Panel Comments

The plans were considered by the Town Planning Advisory Panel (TPAP) at its meeting of 23 June 2015 and the Panel raised no concerns with regards to the proposed development.

Site Inspection

By Planning Officer 29 September 2015.

ASSESSMENT

The subject site is an uncommon property in the Plympton Precinct in that it is a single residence constructed over two 508m² lots and therefore has a double frontage of approximately 24 metres. It is also a sloping site running uphill from north to south. The proposed front fence does not comply with the requirements of the RDG in that it is not 60% visually permeable above 1.2 metres and is over height at the northern end of the property where it returns along the side boundary. Also, it does not comply with sight line requirements of the RDC or the retaining wall/site work provisions. The visual permeability and the sight lines are the non-compliance planning matters of concern. The retaining wall and site works are considered supportable.

Front fence - visual permeability

The RDG convey that the preferred streetscape is one without fencing so as to maintain passive surveillance and open streetscapes, particularly so in Precincts where the heritage dwellings contribute significantly to the streetscape appeal and character of the area. Ideally fences should be as 'open style' as possible to maximise opportunities for passive surveillance and to increase opportunities for interaction between dwellings and the street. It is also desirable for the front door to be clearly visible from the street. The objective behind this is for security so that a person approaching a dwelling, standing on a front verandah or in a driveway is in clear view from the street.

The visual permeability of a fence relates to whether the materials used present at least as a 0.6:1 open to solid ratio. However, there are typically many factors which affect whether a structure allows for visual permeability or not. For instance, the general bulk and height of a structure and the depth, width and placement of individual slats, panels, posts and piers all effect visual permeability. The objective of a fence being 'open style' as outlined above is defeated if it is only visually permeable when standing directly in front of the fence. The greater the depth of the slats or battens used decreases the visual permeability when looking side on. The effect is such that when walking or driving up and down the street for the most part the fence appears as solid if the depth of the batten is the same as the distance the batten is spaced apart. In standard picket fences the width of the picket is usually 70mm and the depth is approximately 19mm. The timber battens to be used in this fence are almost square with a width of 40mm a depth of 50mm and spacing between the battens of 40mm. The depth being greater than the width the battens are spaced apart will effectively block most view through the fence from a side angle.



The non-compliance with visual permeability is not an issue for the sections of the fence that do not exceed 1.2 metres in height towards the southern boundary, as the RDG permit a solid front fence up to 1.2 metres. However, on the lower side of the site, the adjoining property owners have requested that the fence comply with the height and visual permeability provisions for the section of the fence abutting their property. This is considered a reasonable request from an amenity and security perspective for their lot, as well as a streetscape perspective. It is therefore considered necessary to impose a condition that restricts the height of the fence as it returns along the side boundary from exceeding a height of 1.8 metres above natural ground level on the lower side of the fence (i.e. No. 62 Glyde Street) and requiring the fence be 60% visual permeability as defined in the RDG for any portion of the fence exceeding 1.2 metres. These conditions will satisfy the aims of the RDG and the neighbour's concern about amenity, security and surveillance.

For the remainder of the fence greater than 1.2 metres in height along the frontage of the site (i.e. ~14 metres of the frontage) it is considered necessary that the fence meet the visually permeable requirements of the RDG to uphold the 'open style' fencing principles which are applied throughout the Town.

A condition should therefore be imposed requiring that the fence meet these standards. The front fence should therefore either be reduced in height to 1.2 metres above natural ground level for its entire length, or the visual permeability increased to a minimum of 60% above the 1.2 metre height. For this to occur it would be necessary for the depth of the pickets not to exceed the width and to be spaced at least 60mm apart. The applicant can address these matters at Building Permit application stage.

Sight lines

The plans do not indicate a sight line at the corner of the driveway/footpath on the northern boundary. The fencing in this section exceeds the maximum 0.75 metres (within 1.5 metres of the front boundary). It is, therefore, necessary to require a reduction in the height of the fence at this point to a maximum of 0.75 metres for a distance of 1.5 metres along the side boundary and for a length of 1.5 metres along the front boundary. This is required to comply with the requirements of Clause 5.2.5 of the RDC and Clause 3.7.11.5 of the RDG. Retraction of the gate against the fence with only 50% visual permeability will result in a fence which is not visually permeable and over 0.75 metres in height. As the timber battens to be used are almost square at any angle greater than 90° the depth of the battens makes it extremely difficult to see through the fence, particularly if the fence is double thickness with the gate retracted. This would not be considered an adequate sight line. This matter needs to be addressed by the applicant and will be imposed as a condition of approval to be addressed at Building permit application stage.

Retaining wall

Clause 5.3.8 of the RDC specifies that retaining walls greater than 500mm (proposed nil to 800mm above ground level) should be setback from lot boundaries in accordance with the setback provisions of Table 1. The required setback is therefore 6.0 metres from the front boundary and 1.0 metre from the southern side boundary. The retaining walls required along the front boundary to allow for the construction of the fence are considered acceptable with no impact on the amenity of the subject site or the adjoining property as they will not impact the streetscape.

Heritage requirements

Although the B Management Category guidelines state that a heritage impact statement is required with a planning application, it was not considered necessary in this instance. The fence is not considered to impact the overall heritage values of the property or the



desired conservation outcome. However, compliance with the RDG in respect to fencing is considered important in regard to each individual property and the contribution each place makes to the combined heritage character and amenity of the area.

Subject to the planning conditions discussed above being imposed the fence is considered supportable.

RECOMMENDATION

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

- (a) Clause 5.3.8 - Retaining Walls of the Residential Design Codes of WA to allow a nil setback for a retaining wall on the front and side boundary; and
- (b) Clause 5.3.7 - Site Works of the Residential Design Codes of WA to permit excavation behind the street setback line and within 1 metre of the lot boundary greater than 500mm above natural ground level,

for a timber front fence with a retractable driveway gate at No. 64 (Lot 158 and 159) Glyde Street, East Fremantle, in accordance with the plans date stamped received on 21 September 2015, subject to the following conditions:

1. Any part of the fence greater than 1.2 metres in height above natural ground level is not to be less than 60% visually permeable across the length and area of the fence to the satisfaction of the Chief Executive Officer.
2. The depth of the batten is not to exceed the width of the batten unless spaced more than an adequate distance apart to achieve the 60% visual permeability across the length and area of the fence.
3. A 1.5 metre by 1.5 metre truncation of the fence to be provided where the fence abuts the driveway. If the truncation is not indicated on plans submitted with the building permit application to the satisfaction of the Chief Executive Officer the fence height is not to exceed 0.75 metres at its highest point above natural ground level in this area of the required truncation.
4. The fence height along the northern boundary of the site is not to exceed 0.75 metres for a distance of 1.5 metres from the front boundary.
5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. With regard to the plans submitted with respect to the building 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, clear of all buildings and boundaries.
8. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. 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) *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 Allen (applicant) addressed the meeting in support of the proposal and sought the deletion of Conditions 1 to 4 from the officer's recommendation.

Cr Collinson – Mayor O'Neill

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

- (a) **Clause 5.3.8 - Retaining Walls of the Residential Design Codes of WA to allow a nil setback for a retaining wall on the front and side boundary; and**
- (b) **Clause 5.3.7 - Site Works of the Residential Design Codes of WA to permit excavation behind the street setback line and within 1 metre of the lot boundary greater than 500mm above natural ground level,**

for a timber front fence with a retractable driveway gate at No. 64 (Lot 158 and 159) Glyde Street, East Fremantle, in accordance with the plans date stamped received on 21 September 2015, subject to the following conditions:

- 1. **Any part of the fence greater than 1.2 metres in height above natural ground level is not to be less than 60% visually permeable across the length and area of the fence to the satisfaction of the Chief Executive Officer.**
- 2. **The depth of the batten is not to exceed the width of the batten unless spaced more than an adequate distance apart to achieve the 60% visual permeability across the length and area of the fence.**
- 3. **A 1.5 metre by 1.5 metre truncation of the fence to be provided where the fence abuts the driveway. If the truncation is not indicated on plans submitted with the building permit application to the satisfaction of the Chief Executive Officer the fence height is not to exceed 0.75 metres at its highest point above natural ground level in this area of the required truncation.**
- 4. **The fence height along the northern boundary of the site is not to exceed 0.75 metres for a distance of 1.5 metres from the front boundary.**
- 5. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 6. **With regard to the plans submitted with respect to the building 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, clear of all buildings and boundaries.**
- 8. **All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**



9. 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) *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 4:0

Note:

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

T128.3 Angwin Street No. 27 (Lot 45), East Fremantle

Applicant: Tooltime Construction P/L

Owner: Riverview Asset P/L

Application No. P90/15

By Christine Catchpole, Planning Officer on 16 October 2015.

PURPOSE OF THIS REPORT

This report considers a planning application for replacement of an existing garage/store roof at 27 (Lot 45) Angwin Street. The proposed alterations to the garage roof are compliant with the R-Codes and the Residential Design Guidelines and therefore there are no issues relevant to the assessment of the application and it can be supported subject to appropriate conditions.

BACKGROUND

Description of Proposal

The subject application proposes replacement of an existing garage/store roof. The garage is located at the very eastern end of the lot and is effectively constructed boundary to boundary. The house addresses the river and Surbiton Road with the rear of the property being Angwin Street.

Previous to this application the site was the subject of an application for minor alterations to the existing ground floor and proposed guest/study and associated bathroom on the first floor. The application was approved with modifications to ensure the wall heights complied with Council's policy. The roof of the addition was redesigned to minimise the impact of the roof shape on views from the residences to the east and the ridges of the



roof were oriented in an east-west direction to maximise view corridors between and on either side of the two roof sections.

The proposed new roof will have an east – west pitch of 22° and a north – south pitch of 30° with the ridge line running north - south. The height of the pitched roof from the top of the building wall will be 1.2 metres. The material is corrugated Colorbond sheeting.

Description of Site

The subject site is:

- a 721m² block;
- zoned Residential R12.5;
- developed with a two storey dwelling; and
- located in the Riverside Precinct.

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Residential R12.5
Residential Design Codes (R-Codes)
Fremantle Port Buffer Zone – Area 2

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (as amended) 2015 (RDG)

Impact on Public Domain

Tree in verge : No impact
Light pole : No impact
Crossover : No impact
Footpath : No impact
Streetscape : Proposed replacement roof will be visible from Angwin Street and Surbiton Road.

Documentation

Plans and relevant forms date stamp received on 4 August 2015.
Amended plans and accompanying information date stamp received on 11 September 2015.

Date Application Received

4 August 2015.

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

31 May 1985: Closure of Richmond Street road reserve from north of Lot 8 (No 21) Angwin Street to Surbiton Road.

22 October 1986: Easement registered to provide a right of carriageway over portion of Reserve 41519 (previously Richmond Street) for the purposes of providing vehicle access to 23 Angwin Street.

17 November 1986: Easement registered to provide a right of carriageway over portion of Reserve 41519 (previously Richmond Street) for the purposes of providing vehicle access to 21 Angwin Street.

20 June 1994: Council grants Planning Consent for a relaxation of setbacks for a bedroom and balcony additions at 27 Angwin Street.

19 September 1994: Council refuses to grant Planning Consent for a laundry, garage and studio addition within front setback.

April 1995: Council resolves:



- “(a) Council will not be responsible for the capital cost and maintenance cost of Surbiton Road on the northern boundary of Lot 45 nor the easement at the rear of lots 45, 46 and 47, as Council maintains Angwin Street, thus providing access to all properties, that is lots 45, 46, 47 and 8,*
- (b) that the road and easement as described in (a) be used for access only, and not for parking of any type of vehicle.*
- (c) any improvements to the road and easement be subject to Council’s approval, and any other public authority.”*

Council’s Town Planner is of the opinion that:

- *a landscape plan for road and barrier fencing/parks and recreation plan needs to be adopted prior to converting a single dwelling access into a four dwelling access.*
- *Council may require a fee for the granting of any easement.*

- 26 May 1995: Council refuses to grant Planning Consent for a laundry, garage and studio addition within the front setback at 27 Angwin Street.
- 21 August 1995: Council grants special approval for zero setbacks to the east and south boundaries and a relaxation of standards for a reduced setback for a secondary street for erection of a laundry, garage and studio.
- 16 October 1995: Building Permit issued for the laundry, garage and studio.
- 15 February 2005: Council grants conditional approval for construction of a garage with access to Surbiton Road via Reserve 41519 and a rooftop garden to the rear/western boundary.
- 15 April 2008: Council Approval for garage, swimming pool and additions.
- 9 December 2008: Council Approval for fence and barbeque by Council.
- 17 July 2012: Approval for sunshade under Delegated Authority.
- 2 July 2013: Committee acting under delegated authority resolved to defer the application for alterations/additions to allow the applicant to consider a redesign of the non-compliant elements including setback and building height and the proposed design changes to address the Angwin Street and Surbiton Road frontages.
- 5 November 2013: The Town Planning and Building Committee, under Delegated Authority, granted planning approval for second storey additions and alterations to the existing residence.

CONSULTATION

Advertising

The application was advertised to two landowners to the east, on the higher side of Angwin Street, for a two week period from 7 to 21 August 2015 after which one submission was received objecting to the proposal primarily on the basis that views from that property would be impacted. The applicant was advised of the neighbouring owner’s concerns and subsequently submitted amended plans. The same landowners were invited to comment on the amended plans from 15 to 29 September 2015. At the close of the second advertising period one submission was received. The submission on the amended proposal is summarised below as is the applicant’s response to the concerns raised by the neighbouring landowner.



SUBMISSION	APPLICANT RESPONSE	OFFICER ASSESSMENT
<p><u>Amended plans (dated 11 September 2015)</u></p> <p>We oppose the application to replace the existing garage roof.</p> <p>The revised plan indicates a roof height which is 0.59 metres higher than the original proposal and has a roof structure 1.6 metres higher than the existing roof. This will have an even greater impact on our views and amenity.</p> <p>Request the Council reject the application on the basis of height, visual impact and on the use and enjoyment of the property. It will impact on the Angwin Street streetscape and will have an impact on views of the river.</p> <p>Photographs taken from the front entertaining area, main bedroom and lounge have been attached to the letter to demonstrate how views will be affected. The positioning of the proposed replacement roof will result in loss of some of the west viewing corridor to the river from the main bedroom, lounge and entertaining areas which have been constructed to orientate and take advantage of views to the Indian Ocean, Swan River, North Fremantle district and Fremantle Harbour.</p> <p>The proposed replacement roof is purely for aesthetic reasons. It also appears to compensate for poor location of a window on the new two storey extension. The current roof is functional and we can see no reason why Council would approve a structure purely for aesthetic reasons, particularly if it impacts on neighbours.</p> <p>The property received development approvals in 1995, 2008 and 2013 and now comprises garage structures at both the rear and front of the property. The proposed new garage roof, which sits within the 7.5 metre setback, was approved in 1995 so it was not visible from the street. The submission states that if the changes made to the property were considered in one application it would</p>	<p><u>Response dated 11.9.15 to neighbour's initial comments</u></p> <p>The plans submitted show the roof height of the house additions and alterations approved and currently being completed. Also shown is the height limit for a maximum permitted pitched roof (indicated on amended plans). The replacement roof for the garage/gym is well below the maximum permitted and a significant attempt has been made to limit 'neighbour inconvenience'.</p> <p>Opted to incorporate a roof design which minimises view impact on neighbours (for the recently approved alterations and additions) notwithstanding it was not the preferred design. The roof design shown in red on the plans is the preferred layout.</p> <p>The existing garage/gym flat roof is inconsistent with that of the house constructed in the early 1900s. The proposed roof which has a pitch consistent with the additions under construction will greatly improve the appearance of the dwelling from the street and be in greater conformity to similar houses which are a feature of the East Fremantle residential areas.</p> <p>The RDG has a specific section on roof form and pitch which details the predominant nature of the Town's roofs and specifies that Council shall approve contemporary roof forms where demonstrated to be compatible with the existing and surrounding residences. The proposed roof at north-south pitch of 30° will bring the appearance of the eastern part of the buildings in conformity with the balance of the built form on the lot.</p>	<p>This application has been assessed as per the relevant Town Planning Scheme requirements, the Residential Design Codes and the Residential Design Guidelines requirements. The proposed roof replacement is considered to comply with the 'Deemed Provisions' of the R-Codes and the 'Acceptable Development Provisions' of the Guidelines and therefore is recommended for approval, subject to a number of planning conditions.</p> <p>In respect to the history of development applications on the site it should be noted that each application has been assessed on the individual merits of the proposal, site circumstances at the time and the relevant R-Codes and Council policies in force at that time. There is no restriction or limitation on the number of planning applications that can be submitted for Council's consideration.</p> <p>Which street is considered the primary and secondary street is not relevant to this application.</p> <p>Further planning comment in response to the submission is noted in the 'Assessment' section of the report.</p>



not be agreed to by Council.		
Seek that Council reject the application in order to preserve the use and enjoyment of the property, the streetscape and the character of the area.		

Town Planning Advisory Panel

This application was not referred to the Panel as it was not considered to have a significant impact on the streetscape and it complied with the RDC and with the RDG.

Site Inspection

By Planning Officer on 29 September 2015.

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 Residential Design Guidelines. 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%	As existing	A
Outdoor Living	30sqm	As existing	A
Car Parking	2	As existing	A
Site Works	Less than 500mm	As existing	A
Overshadowing	25%	<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	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	A
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15-20 Precinct Requirements	A



5.1.6 – BUILDING HEIGHT					
		Required	Provided	Complies?	Comments
Residential Design Guidelines	Hipped and/or gabled roof				
	Maximum wall height (to top of wall from NGL)	5.6 m	1.9m – 2.7m	Yes	Single storey – height varies due to slope of land.
	Maximum roof height (to top of roof from NGL)	8.1m	3.3m – 3.8m	Yes	New pitched roof – height varies due to slope of land.

ASSESSMENT

Previous planning approval for the garage

The previous planning approval relevant to this application was issued in 1995 and granted approval for a garage, laundry and studio. The approval allowed nil setbacks to the eastern and southern boundaries and a reduced setback to Surbiton Road for the garage entry. The roof constructed at that time was essentially a flat roof with a raised triangular middle section running east – west which extends approximately one metre in height above the flat section of roof and is approximately 1.5 metres in width at the base. It appears to be for the purpose of providing additional light to the building. The new roof will have a pitch of 22° east – west, 30° north – south and a height of 1.2 metres. This profile will complement the roof pitch of the new additions to the main house approved in 2013. The new roof form and pitch is considered supportable and a standard condition will be imposed which addresses any potential solar reflectivity issues from the new roof.

Streetscape

The RDG state that for the Riverside Precinct roof forms are not to be restricted to traditional roof forms and should not adversely affect the immediate locality. From a streetscape perspective the roof line of buildings contributes to the streetscape appearance. Some design principles to be considered in this regard are respect and consideration for the:

- height, massing and roof pitches of existing housing in the street and immediate locality;
- architectural styles which characterise the immediate locality; and
- the palette of materials and colours which are characteristic of housing in the immediate locality.

The proposed alteration to the garage roof is not considered to have any detrimental impact on the streetscape in respect to the above principles. From an aesthetics view point it is considered an improvement in that the garage will be visually more appealing if its roof form and construction material is consistent with the house and other houses in the locality, which are predominantly pitched roofs.

Loss of views

The neighbour's comments regarding loss of views is noted and it is probable that as the roof section will be increased by approximately 1.2 metres that sections of views that currently exist from certain positions on the neighbouring property, between buildings and vegetation, will be lost. However, substantial views will still remain over Merv Cowan Reserve and the closed western end of Surbiton Street to the north and northwest.

The Council's RDG in respect to building height, form, scale and bulk (CI 3.7.18.4.1.3 A2.4) states that:



"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 battleaxe 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 landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped and;*
 - (iii) *Subject to "Acceptable Development" standards of the R-Codes – Element 9 – Design for Climate and Element 8 – Privacy being met."*

The neighbouring landowner has primarily objected on the basis of loss of views and subsequent impact on amenity. It has long been established under town planning principles that landowners do not own the view from their land. Planning authorities may take views into account but do not base plans or decisions on the protection of views. In the case of amenity matters such as protection of views these cannot be guaranteed and each case needs to be treated on its merits and in regard to the proposal's compliance with the R-Codes and Council's planning policies. In respect to Council policy the proposal is well within the building heights permitted under the RDG as outlined above. It is acknowledged that whilst some views would be lost in the direction of the garage, views from the property still remain in other directions and therefore the overall impact on the residential amenity of the lot is not severely impacted.

Based on the above, it is considered the roof replacement as proposed in the amended plans can be approved subject to appropriate conditions.

RECOMMENDATION

That Council approve the planning application for replacement of a garage/store roof at No. 27 (Lot 45) Angwin Street, East Fremantle, in accordance with the plans date stamp received on 11 September 2015, subject to the following conditions:

1. If requested by Council within the first two years following installation, the 'Colorbond' roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
2. The 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.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. 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.
5. All storm water is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.



6. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
7. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (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) *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 Nolan (neighbour) addressed the meeting objecting to the proposed development.

It was pointed out to Mr Nolan that under the recent changes to the planning legislation, this was now a compliant development and there were no grounds to refuse it.

Cr Nardi – Cr White

That Council approve the planning application for replacement of a garage/store roof at No. 27 (Lot 45) Angwin Street, East Fremantle, in accordance with the plans date stamp received on 11 September 2015, subject to the following conditions:

1. **If requested by Council within the first two years following installation, the 'Colorbond' roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.**
2. **The 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.**
3. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
4. **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.

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

Footnote:

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

- (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) *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 4:0

Note:

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

T128.4

View Terrace No. 62 (Lot 85)

Applicant: John Chisholm Design

Owner: F & C Lupis

Application No. P134/13

By Andrew Malone, Senior Town Planner on 16 October 2013

PURPOSE OF THIS REPORT

This report considers an application for amended alterations to a garage currently under construction at an existing dwelling at 62 (Lot 85) View Terrace, East Fremantle.



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

- The proposed alterations have a 3° roof pitch;
- Building definitions; and
- Boundary wall (compliant with the Acceptable Development requirements of the RDG and 'Deemed to Comply' provisions of the R-Codes)

The proposed alteration is recommended for approval subject to conditions.

BACKGROUND

The development application proposes additions and alterations to a garage currently under construction. Council on 10 December 2013 resolved:

1. *The setback to the proposed garage be increased to 1.5m from the eastern boundary and the garage be reduced in height to a maximum of 2.8m above natural ground level.*

Council provided the following reasons for the addition of conditions to the Officer's Recommendation:

Reason for Varying Officer's Recommendation

The applicant's willingness to:

- *increase eastern setback*
- *reduce the height of the garage*
- *modify the highlight windows*
- *rectify existing retaining problems to satisfy adjoining owners' concerns.*

The applicant modified the plans to provide for a 2.8 metre high wall setback 1.5 metres from the eastern boundary. The remaining northern, southern and western garage walls are 3.2 metres. A building licence was approved for such a modification, without the application going through a planning application. This was the result of an administration miscommunication. The owners of the property progressed with the construction of the garage, as they considered they had all necessary approvals in place.

The neighbour, who originally objected to the development, raised a compliance issue on 5 October 2013. The compliance matter was investigated and it was concluded that condition 1 of the Council's approval was not being complied with. Through discussions with the owners an amended development application has been submitted to Council. The garage does form part of the previous planning approval. The approved garage area is 100.71m². The proposed garage area is 115m².

Proposed Development

The proposal is for alterations to a previously approved garage. The proposal for a 3 metre high garage, with 9 metre parapet wall, then setback 1.5 metres from the eastern boundary.

BACKGROUND

Description of Site

The subject site is:

- a 1062m² block
- zoned Residential R12.5
- developed with a single storey dwelling with rear undercroft.
- located in the Richmond Hill Precinct.
- C category on the Town's Municipal Heritage List.



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

In this instance, the proposed alterations are to the rear of the heritage dwelling and are to a detached garage. The alterations are considered to have no impact on the dwelling. Due to the nature of the development and the proposed design, a heritage assessment was considered unnecessary.

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	: Alterations to the garage to the rear of the existing dwelling. These will be partially visible from the street.

Documentation

Plans and relevant forms date stamp received on 9 October 2015.

Date Application Received

9 October 2015.

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

27 May 2010	Application for retaining wall and limestone fence approved under delegated authority.
30 October 2013	Application for swimming pool and associated pool pump approved under delegated authority.
10 December 2013	Council approve additions and alterations to the existing heritage dwelling, including rear detached garage subject to planning conditions.

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours for a two week period between 13 October 2015 and 27 October 2015. At the close of advertising one submission was received. This is summarised in the below table.



3 November 2015

MINUTES

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>We are extremely concerned about the proposed amendment for the following reasons:</p> <p>Our home is a rear home on a small block (450sq m) and the eastern boundary of our neighbour's home is where the front aspect of home is located. The proposed second garage is a very large structure and at 13.5 m long, already extends from our backyard, past the side of our house and entirely across the front of our home. If the council pass the amendment sought, it would allow our neighbour to build right on our boundary and increase the existing height of the eastern wall to 3m which would greatly impact on our visual amenity.</p> <p>Even though overshadowing is taken to mean overshadowing caused at 12pm on the 21 st of June. At 12 pm the sun is at its highest point and therefore overshadowing is at a minimum. The fact is that as day progresses into afternoon the shadowing increases considerably, this will impact significantly on plants at both the front of our house, and our back yard and swimming pool.</p> <p>Issues relating to height, bulk and amenity impacts caused by the wall are also discussed.</p> <p>(The owners of 64A View Terrace have queried the purpose and description of the building).</p>	<p>The proposed rear garage as mentioned in the submission will have minimal impact on the adjoining the neighbours.</p> <p>The parapet wall that has been requested is situated on the western side of the neighbours property which is a driveway. It has no effect on "Visual Amenity" of their property. Indeed, their asserted "Visual Amenity" is directly into our property.</p> <p>They also quote a negative effect on plants at the front of their home. The two pot plants in question are at the end of their driveway, in moveable pots, which are in shadow most of the day due to their own home, from the East, North and North-West, due to a tree on an adjoining property. The tree on the adjoining property is approximately 15-18m in height. Any claim by our neighbours that our proposed wall at 3m high has a negative effect is completely inconsequential compared to the effect of the tree. The proposal does however offer us some measure of privacy from their second storey window which heavily overlooks our rear garden and pool area.</p> <p>With regards to the over shadowing issues mentioned by the neighbour, this is completely irrelevant in the scope of the Residential Design Codes, as we do not over shadow their home at all, measured at 12pm June 21.</p> <p>The proposed garage is also misquoted throughout their submission. The Residential Design Codes allow for parapet boundary walls, up to 9m in length, up to 3m high.</p> <p>This is the extent of our design request, no more.</p> <p>The overall length of a building, correctly setback is irrelevant.</p>	<p>Any area of non-compliance or requiring Council discretion with regards to the Scheme, R-Codes or the RDG will be addressed in detail in the discussion section of this report or have been suitably addressed by the applicant.</p> <p>Whilst there may be issues raised, the assessment of this proposal can only assess the relevant requirements of the R-Codes and RDG and therefore where the development is compliant with the 'Deemed to Comply' provisions the matters are not discussed.</p> <p>A detailed assessment with regards the description of the proposal is discussed below.</p>

Town Planning Advisory Panel

The subject application was not referred to the Town Planning Advisory Panel due to the minor nature of the proposal and because it does not significantly impact the streetscape



or dwelling due to it being a belowground swimming pool and located in the rear of the subject lot.

Site Inspection

By Senior Town Planner on 6 and 12 October 2015.

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	As existing	A
Car Parking	2	3	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	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	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	A

DISCUSSION

Definitions

The neighbour has raised several issues within their letter of objection with regards the purpose/ definition of the structure within the R-Codes and therefore the assessment of the structure. The relevant definitions and explanatory notes are detailed below:

Garage:

Any roofed structure, other than a carport, designed to accommodate one or more motor vehicles and attached to the dwelling.

The explanatory guidelines for the R-Codes states:



For the purposes of the R-Codes, a carport means an unenclosed roofed structure designed to accommodate a motor vehicle. Carports are entirely open at the front, sides and rear, except where one side is physically attached to a dwelling or built-up to a side boundary. A carport may incorporate doors to provide security for vehicles. However, the door must be designed and constructed so as to allow for clear and unobstructed views through to the dwelling, such as open grille doors or wrought iron type gates. All other structures for housing vehicles, including open-sided carports with solid doors, are deemed to be garages.

Outbuilding:

An enclosed non-habitable structure that is detached from any dwelling, but not a garage.

The explanatory guidelines for the R-Codes states:

All outbuildings could, in theory, be regarded as buildings and made to comply with the same design guidelines as the main building or buildings. However, Australia has a long tradition of backyard sheds, workshops, garages and other similar buildings, including outside laundries and toilets, and these have always been regarded in a different light to the main buildings they serve. The tradition is changing because contemporary living standards have led to the demise of the outside laundry and toilet, in part because the spacious quarter acre block has since given way to smaller lots, and also because urban lifestyles have changed.

Nevertheless, there is a case for relaxed standards for some outbuildings. The criteria should be that they do not detract from the essential functions of private open space, the visual amenity of neighbours or the streetscape. This means that any outbuilding that is to be exempt from the residential or dwelling standards should be:

- relatively small in area;*
- relatively low in height;*
- sited so as to preserve the use and amenity of open space;*
- set back sufficiently from boundaries;*
- confined to single houses and grouped dwellings; and*
- excluded from street setback areas.*

Other common private garden or backyard constructions such as pergolas, cubby houses and play fixtures, and dog kennels have not been included in the definition of building and are exempted from planning control, although some decision-makers do have policies to control certain backyard constructions (for example, cubby houses).

While outbuildings of less than 60m² in area (or 10 per cent of the site, whichever is the lesser) and no more than 2.4m in wall height are deemed-to-comply, they are still required to be sited in accordance with the setback requirements of clauses 5.1.3 and 6.1.4 of the R-Codes and comply with open space requirements in table 1 of the R-Codes.

Building:

Any structure whether fixed or moveable, temporary or permanent, placed or erected on land, and the term includes dwellings and structures appurtenant to dwellings such as carports, garages, verandahs, patios, outbuildings and retaining walls, but excludes boundary fences, pergolas and swimming pools.

For the purposes of assessment the structure, even if described as a garage or outbuilding, is a building for the requirements of setback from the boundary and is



required to comply with the provisions of the setback requirements of clauses 5.1.3 or the R-Codes and where applicable the relevant provisions of the RDG.

The approved garage area is 100.71m². The proposed garage area is 115m². The previous approval assessed the structure as a garage and did not discuss the structure being an outbuilding. It is considered that whilst the subject structure is detached directly from the dwelling, the structure does accommodate provisions for the parking of vehicles and can be best described as a garage. The R-Codes explanatory guidelines state:

All other structures for housing vehicles, including open-sided carports with solid doors, are deemed to be garages.

Therefore the structure must be described as a garage. Notwithstanding the provisions and definitions of the R-Codes, the Town's Residential Design Guidelines supersede the R-Code requirements for buildings on the boundary. The RDG defines a building as:

"in relation to any land, includes any structure erected or placed on or in that land, and any part of the building or fence or other appurtenance to the building."

Building Setbacks

The Acceptable Development provisions of the RDG states:

- A3** *A wall may be situated closer to an adjoining residential boundary than the standards prescribed in Tables 1, 2a or 2b of the Residential Design Codes where the following are observed:*
- i. Walls are not higher than 3m and up to 9m in length up to one side boundary;*
 - ii. Walls are behind the main dwelling;*
 - iii. Subject to the overshadow provisions of the Residential Design Codes – Design Element 6.9;*
 - iv. In the opinion of the Council, the wall would be consistent with the character of development in the immediate locality and not adversely affect the amenity of adjoining property(s) having regard for views; and,*
 - v. Where the wall abuts an existing or simultaneously constructed wall of similar or greater dimensions.*

The garage wall (being a building) is 9.0 metres long with 3.0 metre wall height on the boundary, which is compliant with the 9.0 metre boundary wall length and 3.0 metre maximum height permissible under the 'Acceptable Development' requirements of the Residential Design Guidelines. The remaining section of wall for the garage is setback 1.5 metres from the eastern boundary as per the provisions of Tables 1, 2a or 2b of the Residential Design Codes.

Notwithstanding the above compliance with the Acceptable Development requirements, the LPP RDG Element 3.7.7 provides criteria by which to assess proposed variations to setback requirements. These are as summarised below.

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

The proposed alteration to the garage does not impact significantly on the streetscape as the proposed parapet wall is in excess of 36 metres set back from the front boundary. The prevailing street set back is maintained. There are only slight visual sightlines of the garage.



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

The subject dwelling is listed on the Town's Municipal Heritage List as a 'C' category. The proposed alteration is to the detached garage and has no impact to the heritage dwelling. The design is consistent with the previous planning approval and is sympathetic with the existing dwelling. The proposed alteration to the design of the garage is considered to have no adverse impact to the visual presence of the streetscape or to the adjoining dwellings.

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

The guidelines states where possible, garages are to be located to the side or rear of the dwelling as is illustrated in Figure 25 of the RDG. The proposed alteration to the garage is considered not to significantly impact on the streetscape. The existing dwelling and front facade is not proposed to be altered, therefore the dwelling presents as a traditional heritage dwelling to the street.

The garage boundary wall is located on the eastern boundary, adjoining the driveway and entrance to the neighbours dwelling. The orientation of the garage is considered not to overshadow any adjoining lot as per the R-Code requirements for overshadowing. There is no overshadowing issue. It is considered adjoining properties are not impacted with regard to light, ventilation or views. The boundary wall being 3.0 metres in height will not restrict the neighbour's views. The section of boundary wall is predominantly located at the entrance of the adjoining neighbour, with the parapet wall having no significant impact on the dwelling, rear garden or swimming pool. The structure is single storey and is considered to have minimal impact to the adjoining neighbours.

As noted above, the proposed dwelling complies with the Acceptable Development requirements and 'Deemed to Comply' provisions of the RDG and R-Codes respectively. The R-Codes 2.5.4 states:

The decision-maker shall not refuse to grant approval to an application where the application satisfies the deemed-to-comply provisions of the R-Codes and the relevant provisions of the scheme and any relevant local planning policy.

Therefore, the proposed alteration/ extension to the garage is appropriate and can be supported by Council.

Roof Form

The proposed garage has a skillion roof with an overall pitch of approximately 3°. The proposed roof is considered to comply with the provisions of the Performance Criteria of the RDG, which states:

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

The garage is designed to be distinct from the existing dwelling, ensuring the garage is clearly identifiable as the new structure. The proposed roof form minimises the impact to the existing dwelling. The existing dwelling is to remain, significantly concealing the garage from the street, therefore it is considered the proposed additions will not significantly impact the streetscape. The proposed roof will be hidden by the parapet wall and therefore will have no significant impact to the neighbours.



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

Conclusion

The proposed alterations to the garage comply with the Acceptable Development requirements of the RDG and 'Deemed to Comply' provisions of the R-Codes, with the exception of the proposed pitch of the roof. The alteration is of a suitable scale, bulk and design so as to have minimal impact on adjoining dwellings and the streetscape.

The application is considered to have had due regard for the Town's requirements relating to residential developments, as well as the requirements outlined within the R-Codes.

The application is recommended for approval.

RECOMMENDATION

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

(a) element 3.7.8 of the Residential Design Guidelines: Roof pitch;
for amended alterations to a garage currently under construction at an existing dwelling at 62 (Lot 85) View Terrace, East Fremantle, in accordance with the plans date stamp received on 9 October 2015, subject to the following conditions:

1. This application is only for alterations to the garage. Any other changes to the previously approved development are required to be approved by Council. The previously approved development is to comply with all previous conditions, unless altered by this approval.
2. 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.
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
9. This planning approval to remain valid for a period of 24 months from date of this approval.



Footnote:

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

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

The email, referred from Late Correspondence (MB Ref T125.1) was tabled.

Mr & Mrs Radaich (neighbours) addressed the meeting objecting to the proposal and submitting further documentation regarding their argument that the development did not constitute a deemed compliant application. Mrs Radaich advised that they would prefer the existing wall with a setback of 1.5m to their boundary to remain.

Mr & Mrs Lupis (owners) addressed the meeting in support of their proposal.

Mayor O'Neill – Cr White

The adoption of the officer's recommendation.

Amendment

Cr Nardi

That the matter be held over to the November Council Meeting to allow a site visit of the subject property to give elected members a better perspective of the possible impact on the neighbours' amenity.

LAPSED FOR THE WANT OF A SECONDER

The substantive motion was put.

Mayor O'Neill – Cr White

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

- (a) **element 3.7.8 of the Residential Design Guidelines: Roof pitch;**
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 - 2. 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.**
 - 3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than**



where varied in compliance with the conditions of this planning approval or with Council's further approval.

4. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
6. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
7. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
8. 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.
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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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- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*

CARRIED 3:1

T129. ADJOURNMENT

Cr Collinson – Cr Nardi

That the meeting be adjourned at 8.44pm for a short break.

CARRIED 4:0



T130. RESUMPTION

Cr Nardi – Mayor O'Neill

That the meeting be resumed at 8.47pm with all those present prior to the adjournment, in attendance. CARRIED 4:0

T131. REPORTS OF OFFICERS – STATUTORY PLANNING/DEVELOPMENT CONTROL (CONTINUED)

T131.1 Preston Point Road No. 56A (Lot 101)

Owner / Applicant: Kensington Design

Application No. P1/14

By Andrew Malone, Senior Town Planner on 5 October 2015

PURPOSE OF THIS REPORT

This report considers an application for Planning Approval for a 3-level dwelling comprising an undercroft garage, ground floor with living areas and upper floor bedrooms / retreat on a vacant lot located at 56A (Lot 1) Preston Point Road, East Fremantle.

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

- Front and rear boundary setback;
- Site fill;
- Building/ wall height;
- Garage width; and
- Overlooking

The proposed dwelling is recommended for approval subject to conditions.

BACKGROUND

Description of Site

The subject site is:

- a 334m² block
- zoned Residential 12.5
- vacant lot
- 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)

Impact on Public Domain

Tree in verge: No impact.

Light pole: No impact.

Crossover: New crossover.

Footpath: No impact.

Streetscape: New dwelling to Preston Point Road.

Documentation

Amended plans and relevant forms date stamp received on 17 August 2015.

**Date Application Received**

17 August 2015

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

17 July 2001	Council decides to advise the WAPC that it conditionally supports the subdivision of 56 Preston Point Road into 3 survey strata lots;
18 March 2003	Council grants approval for demolition of dwelling and outbuilding on 56 Preston Point Road;
20 August 2004	WAPC grants final approval to Strata Survey Plan 44512;
19 September 2006	Council grants conditional approval for a 2-storey house at 56B Preston Point Road.
17 October 2006	Council grant conditional approval for construction of a 3-level house comprising an under-croft with double garage, bedroom, guest room and cellar, ground floor with living, kitchen study and balcony, and upper floor with lounge, bedroom and balcony at 56A Preston Point Road.
23 September 2008	Council grants a two year extension to the planning approval for construction of a 3-level house comprising an under-croft with double garage, bedroom, guest room and cellar, ground floor with living, kitchen study and balcony, and upper floor with lounge, bedroom and balcony.
9 November 2010	Council refuses a further request for an extension of the above planning above for 56A Preston Point Road.

CONSULTATION**Advertising**

The application was advertised to surrounding neighbours and a sign was erected on-site for a two week period between 27 August 2015 and 11 September 2015. Council has received one submission.

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
We are concerned about the parking difficulties that may occur with this development.	No response provided.	A detailed assessment with regards the development has been undertaken and is discussed below.
There is little or no parking available at this site and we would like to know what steps will be taken to ensure that residents access their property is assured.		A discussion was had with the applicant with regards car parking and tradespersons. This is a standard concern throughout the Town. A Condition has been included in the Officer's Recommendation to address car parking and tradespersons.

Town Planning Advisory Panel

The application was originally determined by Council in 2008.

This application was considered by the Town Planning Advisory Panel at its meeting held on 26 August 2008 and the following comments were made:

- contemporary 60's look appropriate to the area;
- height variation supported for subject property.

The proposed application is consistent with the previous development approval. The development was not referred to the Panel due to the consistency in design between the current application and previous approval.

**Site Inspection**

By Senior Town Planner on 6 October 2015.

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	-	25sqm	A
Car Parking	2	3	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	As existing	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	A
3.7.15-20 Precinct Requirements	D

DISCUSSION**Building Setbacks**

The proposed dwelling requires a front and rear setback variation.

- Proposed front setback: 6.0 metres. Required front setback 7.5 metres (1.5 metre setback variation to Acceptable Development provisions).
- Proposed upper floor setback (bedroom balcony): 5.0 metres. Required front setback 6.5 metres (1.5 metre setback variation to Acceptable Development provisions).
- Proposed rear setback: 1.16 metres. Required setback 1.2 metres (0.04 metre setback variation to Acceptable Development provisions).

With regard to boundary setbacks, specifically the front and rear setbacks, it is considered the proposal significantly complies with the Acceptable Development provisions based on a density code of R30. When 56 Preston Point Road was subdivided



to create 56A, B and C the resultant lot sizes were more applicable to an R30 density code. The current density for the subject lot is R12.5. This subdivision was supported by Council. Strictly applying the provisions of the R-Codes for a R12.5 dwelling would restrict a dwelling to be built on the non-conforming lot with respect to overall lot area.

It is considered the variation to the front set back proposed in this application will not negatively impact on the streetscape. The setback is greater than the R30 density front setback requirements.

The proposed rear boundary setback variation is also considered relatively minor and does not impact on the adjoining property.

Notwithstanding the above, the LPP RDG Element 3.7.7 provides criteria by which to assess proposed variations to setback requirements. These are as summarised below.

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

The subdivision of the lot occurred at an R30 density. The adjoining developments to the west have been developed at a R30 density and as such the primary street setback is consistent with the traditional setback of the immediate area. The zoning of the area is now R12.5 and therefore requires a greater front setback than the adjoining developments at 7.5 metres rather than 4.0 metres as required under the R30 density.

The proposed front setback is staggered, with a minimum setback of 5.0 metres to the balcony and a maximum setback of 7.0 metres. The proposed dwelling will be located behind the front setback of the adjoining northerly dwelling 58A Preston Point Road. The southern property is setback approximately 7.5 metres from the front boundary, therefore the two adjoining properties and the subject dwelling will form a staggered and stepped streetscape. The proposed dwelling and streetscape is appropriate for the area and it is therefore considered it can be supported by Council.

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

The subject lot is vacant. There are no heritage implications with respect to the development of the lot. The design of the dwelling is consistent with the previous planning approval for the subject lot and is consistent with the design of the adjoining R30 developments within the immediate locality.

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

The proposed rear setback is to bedroom 3. The proposed variation to the Acceptable Development Criteria is 0.04 metres, a very minor variation. There will be no impact to adjoining neighbours. The proposed side (northern and southern) setbacks comply with the Acceptable Development Criteria of the RDG.

The proposed development is consistent with the previous development approval on the subject lot and is considered to be an appropriate development that can be supported.

Site Fill / Retaining Wall

Two areas of the lot, being the pedestrian access legs to the rear courtyard are proposed to be filled by a maximum of 0.8 metres. The applicant is proposing a level rear courtyard, therefore fill is required on the lot.



The maximum fill permitted under the 'Deemed to Comply' provisions of the R-Codes allows for 0.5 metres. There are no criteria with regard to excavation works.

The Performance Criteria of the R-Codes with regard to Element 5.3.7 Site Works states:

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

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

It is proposed to fill / grade to approximately a maximum of 0.8 metres to the rear of the dwelling. The proposed fill will establish new finished ground levels to the dwelling (court yard and pedestrian access) enabling a level pad / ground level for the dwelling and courtyard, with both excavation and fill being proposed on the lot.

The impact on the subject lot and adjoining lots is considered minimal, as the proposed fill only assists in establishing a suitable finished floor level for the proposed dwelling/courtyard. It is considered the proposed fill / retaining wall significantly respects the natural ground level at the boundary of the site and the adjoining properties as viewed from the street. The rear strata lot and adjoining (northern) neighbour have both significantly retained the lots and are substantially higher than the subject lot. The proposed retaining is consistent with other retaining in the locality. The front of the lot will be excavated to provide for a basement garage. It is considered the proposed fill suitably addresses the overall streetscape and is sympathetic with adjoining dwellings.

The design of the retaining is considered of a suitable scale and bulk to maintain the streetscape character. The adjoining northern neighbour's wall is substantially bulky and therefore is considered to have a greater impact than the proposed dwelling. There is no overlooking as a result of the fill. The proposed fill is considered appropriate can be supported.

Building Height

The upper floor front portion of the proposed dwelling has a wall height of 6.16 and 6.2 metres above natural ground level. For sites where views are a consideration (this includes the subject lot), the RDG limits overall wall heights to a maximum height of 5.6 metres. The Acceptable Development Provisions of the RDG for the building height in the Richmond Precinct states:

A1.5 *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 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 dwelling is partially excavated into the lot, with the remaining dwelling stepping up to facilitate the proposed basement. The proposed height variations are only to certain sections of the dwelling, primarily the western elevation (front elevation). The maximum wall height to the western elevation is approximately 6.2 metres above natural ground level (0.6 metre variation to the Acceptable Development Criteria). The dwelling is considered to be of a compatible form, bulk and scale to adjoining development in the immediate locality.

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

- The overall height of the building is compliant with the Acceptable Development Criteria of the RDG.
- The wall height variation (maximum height of 5.6 metres) is considered relatively minor at 0.6 metres from natural ground level.
- The 0.6m variation is not considered to impose a noticeable reduction in views from adjoining properties as the roof height of the dwelling is compliant.

Overall the proposed dwelling is of a compatible form, bulk and scale to the adjoining northern, western and eastern 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, especially when compared with the adjoining solid retaining on the northern adjoining lot.

The dwelling is partially 'cut' into the lot. A streetscape analysis has been provided to Council, illustrating the potential impact to the street. The streetscape analysis illustrates a consistent design with the adjoining dwellings. There are no significant adverse impacts to adjoining neighbours, including no overshadowing issues or significant impact to views of adjoining neighbours. It is considered the proposed wall heights of the western elevation comply with the Performance Criteria of the RDG and can be supported.

Privacy Requirements

The front balcony to the master bedroom incorporates a variation to the privacy setback requirements of the R-Codes to the northern boundary.

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 master bedroom balcony overlooks from an oblique view into the northern neighbour's lot. The viewing cones fall over areas within the front setback area. However it is noted the northern neighbour has a high retaining wall and a relatively private front entertaining area. The front setback area is not deemed to be a directly habitable area as usually this area is readily visible from the street. Notwithstanding the above, the oblique views from the balcony are considered not to significantly impact on the adjoining neighbour. The adjoining neighbours swimming pool is significantly screened.

The 'Design Provisions' as noted above, are considered to be adequately addressed by offsetting the location of the windows so that viewing is oblique away from any habitable/entertainment area. The bedroom balcony is also only 3m² and therefore is not a usable balcony, more so it is a 'Juliet Balcony', utilised for articulation and design purposes. The design and area of the proposed balcony limits its use, therefore limiting any potential overlooking. The overlooking is considered minor and therefore can be supported in this instance.

Garage

The Acceptable Development and Performance Criteria of the RDG state the following:

- A2** *Plans, elevations and section drawings are to be provided to demonstrate the impact of the garage or carport on the new dwelling.*
- P2** *Garages and carports are designed to be incorporated into, and compatible with, the design of the dwelling.*

The Performance Criteria identified above is that garages are designed to be *incorporated into, and compatible with, the design of the dwelling.*

Regarding the garage, 50% of the frontage is garage, however this is excavated into the lot and therefore forms an undercroft, minimising the potential street impact. The design of the undercroft garage is incorporated into, and compatible with, the design of the dwelling.

The proposed dwelling has been designed to limit any potential scale and bulk issues through articulating the building. The garage has been stepped, staggering the impact of the garage over the front of the dwelling.

With respect to the specific garage design, the garage is proposed to be located as an undercroft, cut into the lot at a minimum of 1.7 metres and a maximum of 2.5 metres. The proposed landscaping (see below) will restrict views of the garages and will also protect the streetscape. The dwelling sits atop the garage and through design of the upper floors



and the articulation of the building the overall scale and bulk is minimised. It is considered the proposed design can be supported.

Landscaping

The applicant has submitted a front fence and landscaping plan. The proposed landscaping is considered to minimise the potential impact the garage and wall heights may have to the street.

CONCLUSION

The proposal as a whole is consistent with the previous planning approval and with the approved subdivision residential density. The development is surrounded by R30 density development and has been designed to be consistent with the surrounding design of development in the immediate area. The proposed development is well designed and suitably articulated to minimise any potential bulk, scale and height issues.

The proposed design of the dwelling is considered sympathetic with the diversified character of the locality. The development, while still requiring Council discretion, is considered an appropriate design for the locality. The proposal does not significantly visually interfere with the streetscape or with the adjoining neighbours. It is considered the proposal can be supported as proposed.

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 front boundary setback requirements (western elevation) – required setback 7.5 metres. Proposed setback 6.0 metres;
 - (b) variation to the front boundary setback (upper floor balcony) requirements (western elevation) – required setback 6.5 metres. Proposed setback 5.0 metres;
 - (c) variation to the rear setback requirements (eastern elevation) – required setback 1.2 metres. Proposed setback 1.16 metres;
 - (d) variation to Element 5.3.7 of the Residential Design Codes Site Works;
 - (e) variation element 3.7.17 of the Residential Design Guidelines – Building Height; and
 - (f) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy
- for a 3-level dwelling comprising an undercroft garage, ground floor with living areas and upper floor bedrooms / retreat on a vacant lot located at 56A (Lot 1) Preston Point Road, East Fremantle, in accordance with the plans date stamp received on 17 September 2015 subject to the following conditions:

1. 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.
2. Any new crossovers which is constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.
3. The maximum height of the fence along Preston Point Road not to exceed a maximum height of 1.2 metres solid above natural ground level and not to exceed a height of 1.8 metres overall height above natural ground level.
4. The vertical and/or horizontal infill panels of any front fence are not to extend above the height of the piers. 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.



5. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
6. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the Building 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.
8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
11. A Site and Traffic Management Plan for trades persons and delivery vehicles / site storage to be approved by the Chief Executive Officer in consultation with relevant officers, prior to a Building Permit being submitted. Applicant to ensure the access leg to the battle-axe dwellings is not blocked so as to limit or restrict access / egress of the rear dwellings/ lots.
12. 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)
13. 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”.*

Mr Whetters (owner) addressed the meeting in support of his proposal, however requested consideration for the removal of Condition 1 of the officer's recommendation.

Mayor O'Neill – Cr White

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

- (a) **variation to the front boundary setback requirements (western elevation) – required setback 7.5 metres. Proposed setback 6.0 metres;**
- (b) **variation to the front boundary setback (upper floor balcony) requirements (western elevation) – required setback 6.5 metres. Proposed setback 5.0 metres;**
- (c) **variation to the rear setback requirements (eastern elevation) – required setback 1.2 metres. Proposed setback 1.16 metres;**
- (d) **variation to Element 5.3.7 of the Residential Design Codes Site Works;**
- (e) **variation element 3.7.17 of the Residential Design Guidelines – Building Height; and**
- (f) **variation to Element 5.4.1 of the Residential Design Codes Visual Privacy for a 3-level dwelling comprising an undercroft garage, ground floor with living areas and upper floor bedrooms / retreat on a vacant lot located at 56A (Lot 1) Preston Point Road, East Fremantle, in accordance with the plans date stamp received on 17 September 2015 subject to the following conditions:**
 - 1. **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.**
 - 2. **Any new crossovers which is constructed under this approval are to be a maximum width of 3.0m, the footpath (where one exists) to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Policy on Footpaths & Crossovers.**
 - 3. **The maximum height of the fence along Preston Point Road not to exceed a maximum height of 1.2 metres solid above natural ground level and not to exceed a height of 1.8 metres overall height above natural ground level.**
 - 4. **The vertical and/or horizontal infill panels of any front fence are not to extend above the height of the piers. 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.**
 - 5. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.'**
 - 6. **The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance**



- with the conditions of this planning approval unless otherwise amended by Council.
7. With regard to the plans submitted with respect to the Building 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.
 8. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 9. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 10. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 11. A Site and Traffic Management Plan for trades persons and delivery vehicles / site storage to be approved by the Chief Executive Officer in consultation with relevant officers, prior to a Building Permit being submitted. Applicant to ensure the access leg to the battle-axe dwellings is not blocked so as to limit or restrict access / egress of the rear dwellings/ lots.
 12. 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)
 13. 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 4:0

Note:

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

T131.2 En-Bloc Recommendation

Mayor O'Neill – Cr Nardi

That the following officer recommendations in respect to Items MB Ref: T131.2(A), T131.2(B) & T131.2(C) be adopted.

CARRIED 4:0

Note:

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

(A) Preston Point Road No. 27 (Lot 101)

Owner / Applicant: D Gaspar

Application No. P1/14

By Andrew Malone, Senior Town Planner on 5 October 2015

PURPOSE OF THIS REPORT

This report considers an amended development application to P1/14 comprising of rear additions and alterations to an existing heritage listed dwelling at 27 (Lot 101) Preston Point Road, East Fremantle.

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

- Side boundary setback to western elevation is proposed at nil set back;
- The proposed additions have a 20° roof pitch; and
- The proposed additions and existing dwelling will occupy 51% of the subject lot. 55% open space is required.

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

BACKGROUND

Description of Site

The subject site is:



- a 776m² block
- zoned Residential 12.5
- developed with a single storey dwelling
- located in the Riverside Precinct.
- Management Category A[^] on Heritage Survey 2006 and Listed on the Town's Heritage List, which states

High heritage significance at a local level, and having potential State Heritage significance; informed consideration should be given to nomination for State Register listing prior to or at the time of consideration for further development, and prior determination of any significant development application for the place. Places to be generally retained and conserved, and worthy of a high level of protection. Conservation Plans may be required depending on relative significance and apparent impact of development on the place; detailed Heritage Assessments otherwise required as corollary to any development application. Strong encouragement to the owner under the Town of East Fremantle Planning Scheme to conserve the significance of the place. Incentives to promote heritage conservation should be considered where necessary to achieve desirable conservation outcomes in context of permissible development.

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: The addition of proposed new upper floor balcony will be seen from Bolton Street. New rear additions will be significantly screened from the street by an existing garage.

Documentation

Amended plans and relevant forms date stamp received on 17 August 2015.

Date Application Received

17 August 2015

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

14 January 2002	Building Licence approval for proposed additions and alteration to existing dwelling including alterations to the laundry and new first floor room.
15 October 2002	New titles created for 27 and 27A Preston Point Road.
3 June 2014	The Town Planning and Building Committee under delegated authority grant planning approval for demolition of garage and proposed additions and alterations to an existing heritage dwelling.

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours and a sign was erected on-site for a two week period between 27 August 2015 and 11 September 2015. Council has not received any submissions.

Town Planning Advisory Panel

The application was referred to the Panel by email, as the September TPAP meeting was not convened. The Panel did not choose to comment on this application.

Site Inspection

By Senior Town Planner on 16 May 2014. The subject lot was revisited by the Senior Planner on 6 October 2015.

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%	51%	A
Outdoor Living	30sqm	38.5sqm	A
Car Parking	2	2	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	As existing	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	A
3.7.15-20 Precinct Requirements	A



DISCUSSION

Heritage

The proposed development is for amendments to previously approved additions and alterations to an existing dwelling. The dwelling is listed on the Town's Municipal Heritage Inventory as a category A^.

The existing dwelling is single storey with loft. The heritage consultant as part of the original development application noted:

The existing dwelling is a two-storey, brick and tile, 1920's Federation style house with its primary frontage to Preston Point Rd.

Previous significant additions and alterations have occurred over time to the rear of the dwelling, including construction of the rear garage. It would appear the previous additions and alterations were undertaken in a number of phases. In 2002 additions approved by Council considered amendments to the garage and loft in the existing dwelling.

This loft addition was designed to integrate with the existing dwelling. The applicant is proposing to increase the first floor balcony by 10.8m². The proposed addition is at the rear of the dwelling and maintains the existing design of the loft. It is proposed to retain the tiled roof and existing pitch of the roof.

The proposed first floor addition is considered minor in nature and will not have a negative impact on the existing dwelling, as it has been designed to integrate with the existing loft addition previously approved by Council.

The consultant has noted:

The rear of the house has had various alterations carried out - one of these is the garage off Bolton Street with twin gables. The style of this is not strictly Federation and is not an extension to the original house.

The proposed front elevation to the original dwelling has been significantly maintained.

The report concludes:

There appears to be no reason why the garage rear of this house cannot be demolished and the extension to it built as proposed.

The heritage of the existing building will be maintained.

The proposed garage to Bolton Street is proposed as a present day style extension and is not trying to mimic or copy any building in the area.

It is noted that the garage is no longer proposed to be demolished. The rear addition has been amended to rearrange the internal living areas. It is considered the existing dwelling does make a positive contribution to the streetscape, as the dwelling is located at the top of a crest of a hill. The proposed additions and alterations involve the retention of the dwelling, the additions proposed will replace existing additions to the rear of the subject lot and will connect to the heritage dwelling, therefore the primary streetscape elevation will not be altered.

The amended additions propose changes to the previous development application. These changes are considered to be consistent with the intent of the original 2014



development application. Whilst the proposal does change an A listed dwelling, the proposed changes are considered to be sympathetic to the character of the heritage dwelling and streetscape and therefore can be supported.

Side Boundary Setbacks

The R-Codes specifies:

The term 'up to a lot boundary' means a wall, on or less than 600mm, from any lot boundary, other than a street boundary.

As such the existing garage is located 0.5 metres from the western boundary and therefore is considered to be constructed on the boundary.

The alfresco wall is 8.3 metres long, which is less than the 9.0 metre permissible under the 'Deemed to Comply' requirements, however when considered with the garage (5.5 metres long), the overall length of buildings on the boundary will be 13.8 metres, which exceeds the 9.0 metre permissible under the 'Deemed to Comply' requirements. The overall maximum height of the wall at 2.8 metres and does comply with the 'Deemed to Comply' requirements of the R-Codes.

Notwithstanding the above, the alfresco wall/ boundary set back will be addressed below. The LPP RDG Element 3.7.7 provides performance criteria 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 proposed alfresco is located to the rear of the existing dwelling (western boundary), located behind an existing garage on a secondary street (Bolton Street). The proposed alfresco is to be located on a similar building footprint as the existing outbuildings. The extent of the boundary wall is less than the development previously approved by Council.

The proposed additions and alterations are considered to match the traditional setback of the existing dwelling and the immediate locality. There is no change proposed to the primary street (Preston Point Road).

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

The existing dwelling is listed on the Town's heritage list as an A[^] category dwelling. A[^] category dwellings hold a significance at a local level and potential State level. The proposed additions are proposed to replace an existing structure and are to be located to be significantly consistent with the previously approved rear additions (P43/14).

It is considered the proposed development does not adversely affect the visual presence of the streetscape, adjoining neighbours, or the heritage character of the dwelling. The additions have been designed to be contemporary having had regard to the Burra Charter and therefore form a distinct rear element of the dwelling that is easy recognisable as a modern addition. The additions are considered to complement the existing dwelling.

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



With regard to the proposed side set back to the alfresco, the overall length (8.3 metres) and height (2.8 metres), comply with the 'Deemed to Comply' maximum parapet wall requirements of the RDG. However taken as a whole, the existing garage and proposed garage will have a combined length of 13.8 metres, and therefore as a whole the proposal does not comply with the length requirements for building on the boundary (maximum length of 9.0 metres on one boundary only). The existing garage is considered to screen/ hide the alfresco area from Bolton Street. The alfresco is considered to have a side setback that is complementary and consistent with other additions in the surrounding locality and with the previous development approval.

The addition not considered to impact on the secondary street, as the existing garage screens the Alfresco from Bolton Street, therefore based on the proposed design, the additions including the loft area are considered not to significantly impact on the streetscape.

It is considered the western wall will not impact on the amenity of the adjoining neighbour. The proposal is consistent with a previous approval for additions on the boundary. The proposed height of the wall does not significantly impact on the scale or bulk of the dwelling. It is considered the western boundary walls have no negative impact to the streetscape or adjoining neighbour.

It is considered that the nil setback to the western alfresco wall can be supported by Council.

Roof Pitch

The roof form of the existing dwelling is a pitched roof and tiled. The loft addition and proposed rear additions, including the alfresco area maintains the existing roof material and pitch. It is considered the proposed addition integrates with the heritage dwelling and therefore can be supported. Whilst the materials are consistent with the existing dwelling, the proposed loft been designed with a 20° pitch, thereby forming a visual distinction with the main heritage dwelling.

The Performance Criteria states:

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

The existing dwelling is single storey and is listed on the Town's Municipal Heritage Inventory. The dwelling is elevated above Preston Point Road located at the crest of a hill. The proposed additions are to the rear of the dwelling and will not be overtly visible from the primary street.

The proposed addition has been designed to be distinct from the existing dwelling and do not attempt to replicate the heritage listed roof design. The design and material of the proposed additions form are separately identifiable structures to the existing dwelling, while the loft balcony addition increases the existing gable. The loft is considered to integrate with the existing tiled roof of the heritage dwelling.

The proposed addition is designed to be sympathetic and simplistic in design, therefore the additions complement the existing dwelling and traditional form of the surrounding locality. It is considered there is minimal impact to the primary and secondary streetscape and no impact to surrounding neighbours, therefore proposed roof is considered appropriate for the area and therefore can be supported by Council.

**Open Space**

The proposed open space for the lot is 51%. The subject lot is required to have 55% open space. The applicant is requesting a 4% variation to the 'Deemed to Comply' provisions of the R-Codes. The 4% variation is less than the variation to open space previously approved by Council.

It is noted however that only 50m² of space under verandahs and patios can be utilised as open space, as per the R-Codes requirements. In this instant the whole dwelling is surrounded by an extensive verandah, therefore the verandah, even though it is appropriate usable outdoor habitable area, cannot be considered for the purposes of the R-Codes as open space. The verandah itself is approximately 150m² and habitable rooms within the dwelling can access the verandah.

The Design Principles of 5.1.4 Open Space of the R-Codes states:

P4 Development incorporates suitable open space for its context to:

- *reflect the existing and/or desired streetscape character or as outlined under the local planning framework;*
- *provide access to natural sunlight for the dwelling;*
- *reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;*
- *provide an attractive setting for the buildings, landscape, vegetation and streetscape;*
- *provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and*
- *provide space for external fixtures and essential facilities.*

With regard to the above, the proposed additions are to the rear of the dwelling and include the alfresco area, which also cannot be considered as open space as it exceeds the required 50m² as noted above.

It is considered the character of the dwelling and locality is being maintained. The applicant was granted approval for a swimming pool in 2013, adjoining the proposed alfresco area. The existing wrap around verandah is also considered an active usable outdoor area. Furthermore the additional 10.8m² of first floor balcony is considered usable outdoor area. While the alfresco, balcony and verandah cannot be utilised as open space as defined within the R-Codes, as in total they exceed 50m², it is considered these areas provide for the residents to use space external to the dwelling for outdoor pursuits and entertaining.

The open space provided is considered acceptable and is considered appropriate for the lot and therefore can be supported by Council.

CONCLUSION

The proposed additions to the existing heritage dwelling are considered acceptable. The original heritage report is acceptable and does not identify any significant heritage aspect the proposed additions may have to the existing heritage dwelling. Furthermore, the proposed variations as noted above are considered minor and are appropriate for the subject lot.

It is considered the proposed design of the additions is sympathetic with the heritage dwelling and character of the locality. The proposal has been designed to minimise the scale, bulk and height of the addition and has been designed to have minimal impact to the existing dwelling and 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 setback (northern elevation) – required setback 1.0 metre. Proposed setback Nil;
 - (b) element 3.7.8 of the Residential Design Guidelines – Roof Form and pitch; and
 - (c) element 5.1.4 Open Space of the Deemed to Comply Provisions of the R-Codes;
- for additions and alterations, including extension of the upper loft, to an existing single storey (with loft) dwelling, at 27 (Lot 101) Preston Point Road, East Fremantle, in accordance with the plans date stamp received on 17 August 2015 subject to the following conditions:
1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
 2. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
 5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 6. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
 7. 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.
 8. 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 (e) below)
 9. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) 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”.

(B) Duke Street No. 39 (Lot 374)

Applicant / Owner: C & J Huston

Application No. P102/15

By Andrew Malone, Senior Town Planner on 21 October 2015

PURPOSE OF THIS REPORT

This report considers an application for planning approval for additions and alterations to an existing dwelling at 39 (Lot 374) Duke Street, East Fremantle.

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

- Heritage;
- Building forward of the heritage dwelling;
- Building Setback from boundary: South elevation (proposed setback 1.0 metre; required setback 1.5 metres); and

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

Proposed Development

39 Duke Street is a 508m² lot. The existing dwelling is listed on the Town's Municipal Heritage Inventory. The existing dwelling is single storey. The proposed single-storey addition is located to the south of the existing MHI listed dwelling. The additions comprise of demolition of side additions, front porch store and rear section of existing dwelling, which has been previously altered. Proposed new additions to the south of the lot will comprise of kitchen, dining, living, four bedrooms and outdoor entertaining areas.

BACKGROUND

Description of Site

The subject site is:

- a 508m² block
- zoned Residential R20
- developed with a single storey dwelling.
- located in the Plympton Precinct.
- Municipal Heritage Inventory – Management Category C^.

Some heritage significance at a local level; places to be ideally retained and conserved; endeavour to conserve the significance of the place through the standard provisions of the Town of East Fremantle Planning Scheme and associated design



guidelines; a Heritage Assessment / Impact Statement may be required as corollary to a development application, particularly in considering demolition of the place. Full documented record of places to be demolished shall be required. Further development needs to be within recognised design guidelines. Incentives should be considered where the condition or relative significance of the individual place is marginal but where a collective significance is served through retention and conservation.

Statutory Considerations

Town Planning Scheme No. 3 (TPS3) – Residential R20
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 : Minimal Impact. The proposed additions and alterations are located to the southern boundary of the lot, however are located forward and to the rear of the existing built form of the dwelling. The proposal will retain the existing front rooms of the existing dwelling and provide an 'open' front façade.

Documentation

Plans and relevant forms date stamp received on 4 September 2015.

Date Application Received

4 September 2015.

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

Nil

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 8 September and 22 September 2015. At the close of advertising no objections were received, however concerns were raised by an adjoining neighbour. These are summarised below.

Neighbour	Applicant	Officer
<p>In regards to the purposed alterations and additions to 39 Duke Street East Fremantle. After viewing the plans last week Brian and I would have concerns about a few things And would like our concerns noted</p> <p>1.How close to the boundary 39 would be to us at 41 (700) 2.over shadowing. 3.fire hazard 4.loss of amenity</p> <p>As we are aware set back he is</p>	<p>1. The proposed setback of 0.7 metres to the south boundary is not compliant. It has been suggested that the neighbour would accept 1.0 setback. We would agree to accepting the 1.0 metre setback to the south boundary.</p> <p>2. The current proposal is compliance with allowable overshadowing. Increasing the setback as proposed and agreed by both parties decreases the overshadowing further.</p> <p>3. Fire hazard is not a planning</p>	<p>A full assessment of the proposed development has been undertaken and proposed variations to the 'Deemed to Comply' and Acceptable Development Criteria are detailed below.</p> <p>The applicant's response is considered to suitably address the concerns of the adjoining neighbour.</p>



proposing is 700 and to meet the building code should be 1.5. However we would have no problem in suggesting a 1 metre setback which may be acceptable to both parties.	matter. The building will be built to a high standard and meet all BCA requirements. 4. Much consideration has gone into the design of this proposal with respect to the southern neighbour; low wall heights to the south, compliant overshadowing, no major openings, and no 2 storey development. We believe there to be no loss of amenity to the southern neighbour, only an improved condition.	
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Town Planning Advisory Panel

The application was referred to the Panel by email, as the September TPAP meeting was not convened. The Panel did not choose to comment on this application.

Site Inspection

By Senior Town Planner on 19 October 2015.

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	50%	76%	A
Outdoor Living	30sqm	38sqm	A
Car Parking	2	As existing (1)	A*
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	25%	A
Drainage	On-site	On-site	A

* Note: The subject lot has one off street car parking bay. The proposed additions and alterations do not require any additional car parking. The subject lot is non-compliant with in site car parking provisions, however the proposal is considered to have street car parking as well.

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	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	A

DISCUSSION

Heritage

The applicant has not been requested to submit a Heritage Impact Statement for the proposed works, however the applicant has submitted a justification letter with the application.

Phil Griffiths in July 2012 recommended conservation only of the two front rooms and chimney, acknowledging the later rear additions have no heritage significance. The applicant is retaining the front two rooms and the chimney.

The following can be stated with respect to the proposal:

Aspects that Enhance Heritage Significance

The following aspects of the proposal respect or enhance the heritage significance of the place:

- The addition respects the heritage significance of the 39 Duke Street, George Street Heritage Precinct and Royal George Hotel by being well set back from the street frontage and of modest size so as not to compete with the original structure or other structures in the vicinity.
- The addition is of contemporary design so it is recognisable as an addition and does not attempt to mimic the original heritage fabric
- The materials chosen, whilst different from the original structure, are neutral and natural finishes in keeping with the general palette of the Plympton area.

Aspects that Detract from Heritage Significance

The following aspects of the proposal could detrimentally impact on the heritage significance of the place for the reasons as explained.

- The development proposal results in the loss of some fabric in the rear two rooms of the existing house, however as noted by Phil Griffiths, these have no heritage significance.
- The proposal is to be constructed forward of the built form of the existing dwelling.

Measures to Minimise Adverse Impact

The following measures have been taken to reduce the adverse impact on heritage significance:

- Front store is being removed from the verandah.
- Front façade of the existing dwelling is being 'opened' to the streetscape.
- Proposal is single storey and is clearly distinguishable from existing dwelling.

The proposed works, as outlined above, detail the extent of the potential impacts both positive and negative to the dwelling, however the overall result of the proposed development is considered to have minimal impact to the existing dwelling and streetscape.

The proposal as a whole is considered to merit the support of Council.

**Building Setbacks**

The applicant is seeking Council discretion with regard to the Acceptable Development Criteria of Element 3.7.7 of the Residential Design Guidelines - Building Setbacks and Orientation for:

- Building Setback from boundary: South elevation (proposed setback 1.0 metre; required setback 1.5 metres)

The applicant has stated:

The proposed setback of 0.7 metres to the south boundary is not compliant. It has been suggested that the neighbour would accept 1.0 setback. We would agree to accepting the 1.0 metre setback to the south boundary.

Therefore a condition to require a 1.0 metre setback has been included in the Officer's Recommendation. All further assessment of the southern boundary setback is based on a 1.0 metre setback.

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.*

The addition is proposed forward of the existing dwelling, however this is 8.5 metres from the front boundary and therefore compliant with the 'Deemed to Comply' provisions of the R-Codes. Therefore, there are no significant planning implications with regard to the front or street setback for this development. The existing dwelling is setback 16.0 metres from the front boundary. The proposed additions maintains the existing front two rooms of the dwelling, with the additions located to the side of the existing dwelling, thereby retaining views of the dwelling from the street. The proposal is well designed and retains the existing dwelling.

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

The existing dwelling is listed on the Town's Municipal Heritage Inventory as a C^A category dwelling. A heritage impact statement has not been undertaken, however in 2007 Phil Griffiths provided information with regard to the dwelling. The proposed additions are distinct from the original structure and therefore will not impact significantly on the existing dwelling. The development has been designed to be located on the southern boundary to retain the existing façade of the dwelling. Whilst the location is 1.0m from the southern boundary the proposed overshadowing is compliant with the Deemed to Comply provisions of the R-Codes.

It is proposed to demolish some of the rear walls to facilitate the addition, however this demolition is to previous alterations to the dwelling and will have minimal impact on the overall heritage value of the dwelling. Whilst only two rooms are being retained, the front store located under the existing front verandah is being removed, with the verandah being restored. The proposed works are sympathetic to the original dwelling and have been designed in a contemporary nature to highlight the character of the heritage dwelling and adjoining dwellings, with the setbacks consistent with the immediate locality.



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

The proposed addition is 22.2 metres in length (total) separated by a 3.3 metre separation of the two sections of the addition. The proposed setback is 1.0 metre. The required setback is 1.5 metres. The wall height to the southern boundary is 2.455 metres. Whilst the southern elevation does require a 1.5 metre variation, the impact is considered to be minor.

The proposed height of the wall is 2.45 metres. This height is not considered excessive, however due to the location of the neighbours northern elevation of the dwelling, the proposed development will impact on light received to the dwelling. The overshadowing to the southern neighbour is compliant with the 'Deemed to Comply' provisions of the R-Codes. The increase setback from 0.7 metres to 1.0 metre minimises the perceived scale and bulk as experienced by the southern neighbour.

The proposed set back variation as mentioned above to the Acceptable Development Provisions of the RDG is considered minor. There will be no significant negative impact to the streetscape. The proposed design is considered to complement the character and value of the existing heritage dwelling. The proposed side setback to the parapet wall can be supported.

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 Nil; and for addition and alterations to an existing dwelling at 39 (Lot 374) Duke Street, East Fremantle, in accordance with the plans date stamp received on 4 September 2015, subject to the following conditions:

1. Southern addition to kitchen, dining and living room to be setback a minimum of 1.0 metre from the southern boundary.
2. A/C unit to be setback 1.0 metre from the boundary and be located so as not to cause nuisance to the adjoining southern neighbour.
3. Deck to rear of proposed addition (adjoining bedrooms) not to exceed 0.5 metres above natural ground level.
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 chimney is not to be removed or the structure altered in any manner. The chimney to be indicated on the plans submitted with the building permit application.
6. The alterations/ modifications are permitted to the front façade of the dwelling or to the front fence without the prior approval of Council.
7. The finishes, colours and materials proposed for the alterations and additions are to be approved by the Chief Executive Officer in consultation with relevant officers prior to the building permit being issued and the details are to be submitted at building permit application stage.
8. 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.
9. The proposed works are not to be commenced unless there is a valid building permit and the building permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.



10. 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.
11. The proposed alterations are not to be utilised for habitable until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
12. 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.
13. 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.
14. 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.
15. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (h) below)
16. 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".

(C) Canning Highway No. 147 (Richmond Quarter)

Applicant: NS Projects

Owner: Establish Property

Application No. P111/15

By Andrew Malone, Senior Town Planner on 20 October 2015

BACKGROUND

Purpose of this Report

This report considers an application for the overall signage plan for the Richmond Quarter to be erected / displayed throughout the whole development at 147 Canning Highway, East Fremantle.

The issue raised by this application which is relevant to its determination is the impact upon the streetscape and the building considering the Council's signage policy. The proposed signage plan is considered to be acceptable and is recommended for conditional approval.

Statutory Considerations

Town Planning Scheme No. 3

Relevant Council Policies

Draft Local Planning Policy – Design Guideline Signage

Impact on Public Domain

Tree in verge : No impact

Light pole : No impact

Crossover : No impact

Footpath : No impact

Streetscape : The proposed signs address the street and internal pedestrian access ways of the Richmond Quarter and accordingly impact upon the streetscape/ Canning Highway/ Silas Street.

Documentation

Plans and relevant forms date stamp received on 23 September 2015.

Date Application Received

23 September 2015

CONSULTATION

The proposed signage was not advertised. A condition has been included in the Officer's Recommendation to require the applicant to seek Main Road WA approval for all illuminated signage to ensure the proposed signage does not detrimentally impact on vehicle safety on the Canning Highway.

DESCRIPTION OF THE PROPOSAL

The application is for a signage regime to all relevant internal and external facades of the Richmond Quarter. The proposed signage will ensure a consistency of design of signage throughout the Richmond Quarter. The proposed overall plan will eliminate individual signage applications being submitted to Council for each tenancy, however the plan will approve the location, type and dimension of the signage. The individual advertising for each sign is then solely at the discretion of the occupant, subject to the conditions as outlined in the Officer's Recommendation.

**DISCUSSION****Town Planning Scheme No. 3**

The following clauses of the Scheme apply:

12.2 Matters to be considered by local government

The local government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the local government relevant to the use or development the subject of the application —

- (g) any local planning policy for the Scheme area;*
- (m) the compatibility of the development with its setting including the relationship of the development 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 development;*
- (n) the amenity of the locality including the following —*
 - (i) environmental impacts of the development;*
 - (ii) the character of the locality;*
 - (iii) social impacts of the development;*

It is considered the proposed signs have been designed having due regard to the Town's Local Planning Policy and the relevant sections of Clause 12.2 of the Town Planning Scheme (as amended by the Town Planning Regulation October 2015).

Local Planning Policy – Design Guidelines - Signage

Council adopted the Local Planning Policy – Design Guidelines - Signage (LPP) pursuant with the TPS No. 3 at its meeting on 21 June 2011. The policy clarifies the range and extent of signage that is allowable.

Council must have regard to a Policy but is not bound by any provision of a Policy and may vary or disregard a Policy provision where it is considered that it is consistent with the Scheme provisions to do so.

The proposed signs are assessed pursuant to the relevant provisions of the LPP as follows:

SIGN TYPE	ACCEPTABLE SOLUTION (PERMITTED)	ALTERNATIVE PERFORMANCE CRITERIA (DISCRETIONARY)	COMPLIANCE
Awning Fascia Sign	Shall not project beyond the fascia line of an approved or existing awning. Shall not project above or below the fascia of the awning. Maximum height 450mm.	Shall not project beyond the fascia line of an approved or existing awning. Maximum height of 500mm.	Discretion
Pole or Pylon Sign	To be considered under Alternative Performance Criteria.	Total height should not exceed 5m. Total area of each sign face should not exceed 6m ² . Double sided signs should be identical in dimension and both sides should be less than 300mm apart. Only one pole or pylon sign per site (land parcel). May be internally illuminated.	Complies with Acceptable Solution



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Wall Sign	A single sign per building. Maximum height 1m. Maximum length 3m.	Multiple wall signs or wall signs exceeding the acceptable solution provisions shall only be considered as part of an approved signs regime. Signs must face a primary space. Maximum height equivalent to 10% of height of building wall or 2m, whichever is greater. Maximum length 5m.	Discretion
Window Sign	Exempt – see Clause 7	Signs shall occupy less than 50% of the surface area of a window. May be located on other than ground floor/street level windows.	Complies with Acceptable Solution (Conditioned)

Awning Signage: 27 awning signs are proposed. These are 750mm wide, 750mm high and 200mm deep. The proposed height exceeds the proposed Acceptable Solution (maximum height 450mm) and Alternative Performance Criteria (maximum height 500mm). The awnings are 750mm in height. The majority of the awnings are internal to the development and therefore will not impact the streetscape. The proposal provides for uniformity throughout the development of awning signage. The proposed signage plan provides visual consistency throughout the development. The scale of the building and the height of the ground floor tenancy windows provide a suitable area for the awning signage without the signage becoming the dominant streetscape/ pedestrian thoroughfare feature.

Wall Signage:

Rooftop bar: The proposed development is a high rise development with seven storeys. The proposed signage is 1 metre in height by 3 metres. The required signage is to be 1 metres in height by 3 metre, therefore the signage is compliant with the design specifications, however more than one sign is proposed per building. The advertising signs for the rooftop bar are located on Building B, fronting the northern, eastern and western facades (Canning Highway). It is conditioned no third party advertising is permitted. Due to the height and scale of the building, smaller signage would be lost on the building and therefore would not serve any purpose. The height and scale of the roof advertising is considered appropriate. The proposed signage is proposed to be illuminated. The proposed impact is considered to be minimal.

Entrance Wall signage: Two forms of entrance wall signs are proposed, one above the main entrances to the development indicating the development name 'Richmond Quarter. Two of these are proposed. The second type of wall sign is the wall sign/informational signage providing a locational sign to the entry to the access lobby for the apartments and a separate locational sign to the entry to the access lobby for the rooftop bar. These are proposed to be located on Silas street. All the above entrance wall signs are proposed to be illuminated. The proposed impact is considered to be minimal.

It is considered that the overall extent and scale of the proposed signage throughout the Richmond Development will not conflict with the fabric of the building, streetscape or the intent of the design of the overall development and will not detract from the overall character of the area. Accordingly, the proposed signs will comply with the "Alternative Performance Criteria" of the Signs Policy.



It is considered that discretionary approval under the Performance Criteria of the Policy in respect to the proposed signage plan is supported and it is considered that the signage plan would be consistent with Clause 12.2 of the Scheme.

RECOMMENDATION

That Council exercise its discretion in granting development approval pursuant to the provisions of the Local Planning Policy 'Design Guideline Signage' in respect to the proposed signage plan

for the Richmond Quarter at 147 (Lot 18) Canning Highway, East Fremantle in accordance with the Application for Planning Approval received on 23 September 2015, subject to the following conditions:

1. All signage shall be constructed and installed in accordance with the Local Planning Policy 'Design Guideline Signage' – Part 4 'General Requirements for Signage'.
2. Window signage shall not occupy more than 10% of the surface area of the window or door.
3. Signs shall relate directly to the activity undertaken on the premises. No 'Third party signage' is permitted.
4. All signage is to be kept clean and free of graffiti and vandalism at all times and any such graffiti or vandalism to be remedied within 24 hours of notification by Council to the satisfaction of the Chief Executive Officer.
5. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
6. The works are to be constructed in conformity with the written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
7. The sign and sign structure is to be placed on private property and shall not over hang or encroach upon the road reserve (outside of awning).
8. Main Roads agreement is to be obtained prior to any modifications to the signage. All illuminated signage is to require approval for Main Road WA prior to erection to ensure compliance with their technical specifications.
9. If the signage is illuminated it must be of low-level not exceeding 300cd/m², not flash, pulsate or chase.
10. The device shall not contain fluorescent, reflective or retro reflective colours or materials.
11. The type of sign and location must comply with all relevant by-laws and planning schemes made by Council.
12. No other unauthorised signage is to be displayed.
13. No offensive or nuisance advertising is permitted within any approved signage plan and shall be removed/ deleted if requested by Council within 24 hours of notification by Council to the satisfaction of the Chief Executive Officer.
14. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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



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- (b) a copy of the approved signage as stamped by Council are attached. Individual graphics are to be wholly within the area of only the approved signage as per the plans date stamped 23 September 2015. No 'third party signage' is permitted.
- (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).

T132. CONFIDENTIAL BUSINESS

Nil.

T133. URGENT BUSINESS WITHOUT NOTICE BY PERMISISON OF THE MEETING

Nil.

T134. CLOSURE OF MEETING

There being no further business, the meeting closed at 8.55pm

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **3 November 2015**, Minute Book reference **T119. to T134.** were confirmed at the meeting of the Council on*

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Presiding Member