



Town Planning & Building Committee

**4 November 2014
6.35pm**

MINUTES

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 4 NOVEMBER, 2014 COMMENCING AT 6.35PM.

T123. OPENING OF MEETING

T123.1 Present

T124. ACKNOWLEDGEMENT OF COUNTRY

T125. WELCOME TO GALLERY

T126. APOLOGIES

T127. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

T128. CONFIRMATION OF MINUTES

T128.1 Town Planning & Building Committee – 7 October 2014

T129. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T129.1 Angwin Street No 14 (Lot 3) – Pinnacle Planning

T130. REPORTS OF COMMITTEES

T130.1 Town Planning Advisory Panel – 28 October 2014

T131. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL

T131.1 Receipt of Reports

T131.2 Order of Business

*T131.3 Pier Street 26b (Lot 2)
Owner: C A Holmes
Applicant: Gerard McCann Architect
Application No. P127/2014*

*Page 2
Agenda Item 9.1*

*T131.4 King Street No. 76 (Lot 357)
Applicant: Kensington Design Australia
Owner: P & A Mann
Application No. P128/14*

*Page 17
Agenda Item 9.6*

*T131.5 Duke Street No. 54 (Lot 506)
Applicant: John Chisholm Design
Owner: J Atkinson & L Westbrook
Application No. P123/14*

*Page 23
Agenda Item 9.2*

*T131.6 Sewell Street No. 34 (Lot 401)
Applicant: Huston & Associates
Owner: S & N Andersen
Application No. P130/14*

*Page 30
Agenda Item 9.3*

MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 4 NOVEMBER, 2014 COMMENCING AT 6.35PM.

T123. OPENING OF MEETING

T123.1 Present

Cr Siân Martin	Presiding Member
Cr Julie Amor	
Cr Cliff Collinson	
Cr Matthew Handcock	
Cr Michael McPhail	
Mayor James O'Neill	
Cr Maria Rico	
Mr Jamie Douglas	Manager – Planning Services
Mr Andrew Malone	Senior Town Planner
Ms Janine May	Minute Secretary

T124. 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.”

T125. WELCOME TO GALLERY

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

T126. APOLOGIES

Mr Gary Clark CEO

T127. PRESENTATIONS/DEPUTATIONS/PETITIONS/SUBMISSIONS

Nil.

T128. CONFIRMATION OF MINUTES

T128.1 Town Planning & Building Committee – 7 October 2014

Mayor O'Neill – Cr Collinson

That the Town Planning & Building Committee minutes dated 7 October 2014 be confirmed. CARRIED

T129. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)

T129.1 Angwin Street No 14 (Lot 3) – Pinnacle Planning

Email supporting application and requesting Committee adopt the officer's recommendation.

Cr Collinson – Cr Rico

That the correspondence be received and held over for consideration when the matter comes forward for discussion later in the meeting (MB Ref T131.8).

CARRIED

T130. REPORTS OF COMMITTEES

T130.1 Town Planning Advisory Panel – 28 October 2014

Cr Martin – Cr McPhail

That the minutes of the Town Planning Advisory Panel meeting held on 28 October 2014 be received. CARRIED

T131. REPORTS OF OFFICERS - STATUTORY PLANNING/DEVELOPMENT CONTROL

T131.1 Receipt of Reports

Cr Amor – Cr Handcock

That the Reports of Officers be received. CARRIED

T131.2 Order of Business

Cr Amor – Cr Handcock

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

T131.3 Pier Street 26b (Lot 2)

Owner: C A Holmes

Applicant: Gerard McCann Architect

Application No. P127/2014

By Andrew Malone, Senior Town Planner on 8 October 2014

PURPOSE OF THIS REPORT

This report considers an application for proposed 2 storey dwelling on a vacant lot at 26b (Lot 2) Pier Street, East Fremantle.

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

- Crossover width
- Overlooking
- Front and side setback
- Building wall height

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

The proposed dwelling is recommended for approval subject to conditions.

BACKGROUND

Description of Site

The subject site is:

- 445m²
- zoned Residential R12.5
- Vacant lot.
- located in the Richmond Hill Precinct

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Impact on Public Domain

- Tree in verge : conditioned to be retained
- Light pole : No impact
- Crossover : New crossover
- Footpath : No impact
- Streetscape : 2 storey single dwelling

Documentation

Plans and relevant forms date stamp received on 9 September 2014.
Amended plans date stamp received on 8 October 2014

Date Application Received

9 September 2014

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

There are no relevant previous decisions of Council relating to the subject site.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between 18 September 2014 and 2 October 2014. At the close of advertising Council received comments from two adjoining neighbours.

SUBMISSION	ARCHITECTS RESPONSE	OFFICER COMMENT
<p>With regards to the proposed development at 26B Pier St, our concerns centre on the overall height of the dwelling. This lot was created by sub dividing the original block into two to create 26A & 26B. As a consequent the overall height of the new residence should conform to the height rulings that were applied when we constructed our residence.</p> <p>On the plans viewed it mentions natural ground level, it should be noted that the existing ground level is not the natural ground level but rather the result of fill being placed on that side of the original block when it was being prepared for subdivision.</p>	<p>The height of the ridge at the highest point above Natural Ground Level is now at 54.100 AHD. The ground below this apex point is in fact Natural Ground Level. The site has indeed been filled as the neighbours have mentioned. This has only affected the western side of the lot as now shown on the northern elevation (PA06A). The main floor level of the house has been set at 46.50 AHD which, when looking at the Feature Survey, can be seen as the main contour across the middle and back of the site. The fill that has been put on the site of Strata Lot 2 (26B) does not materially affect the overall height or calculation of the building height. We are proposing to cut and fill the site as the neighbours at 26A have done. The difference will be that the subject lot (26B) is solid limestone along its eastern side (and thus natural ground level) and so we propose to minimise cutting into the stone and plan to sit the house on the prevailing contour of 46.50 AHD.</p> <p>Viewing the streetscape west of the subject lot, it is evident most houses have built over several stories at the primary setback line. This has produced a dominant aesthetic which this proposal does not subscribe to. We have positioned the upper floor well back from the street so that the house (Garage and Bedroom 1) on the front setback line is in fact lower than the neighbours on 26A. The southern elevation</p>	<p>A full assessment of the proposed development has been undertaken.</p> <p>This assessment with regard to Council discretions in relation to dwelling height is addressed in detail in the discussion section of this report.</p>

	<p>(PAS05A) makes the building look high, but in fact the upper floor (Level 3) is set back some 16.7 metres from the front boundary.</p> <p>In summary, the proposed design minimises the visual dominance that could have occurred had the house been built to its full height on the front setback line. Instead, a softer approach has been taken to present a gentler image to the streetscape by setting the upper floor well back from the street. The ridge height is 7.8 metres above NGL at its highest point. It has been established that the point under this maximum apex is in fact natural ground level and has not been subject to fill.</p>	
<p>It is not considered that the proposed development achieves the objective of the Residential zone in that:</p> <ul style="list-style-type: none"> • The development has not considered our client's property and the loss of significant views from the property. • The most recent developments along Pier Street adjoining the subject site have all been created to create a consistent streetscape. • The new dwellings on the southern side of Pier Street also create a consistent streetscape. <p>Site Works: The development does not achieve the Performance Criteria as the proposed dwelling is not consistent with the immediate locality and will have a significant impact on the streetscape given that:</p> <ul style="list-style-type: none"> • An established streetscape has been created; • The proposed dwelling encroaches into the front setback; and • The proposed dwelling will be significantly higher than dwellings to the west and south. <p>Construction of new building: The dwelling will not fit within the streetscape context. The performance criteria states that new dwellings are to be compatible with the buildings styles and do not adversely impact view shed. The proposed dwelling does not fit within the established streetscape and to our knowledge a view shed has not been submitted.</p> <p>Building setback and orientation: The development does not achieve that ADP provisions as the front setback is in front of the setback established by the dwelling to the west and is forward of the average of</p>	<p>The streetscape along the southern side of Pier St is not relevant to the streetscape on the northern side of the street. Even so, the proposed house design has stayed low at the front and is in fact lower than its neighbour at 26A Pier St. The upper floor is set back 16.7 metres from the street to maintain a simple low-profiled semi sunken two-storey construction on the front setback line.</p> <p>The proposed design is more or less consistent with the designs of the houses further west on Pier St. However, rather than present a three-storey facade to the street, it has been decided to present a two-storey facade on the setback line, and in so doing attempt a softer intrusion into the streetscape.</p> <p>The views to the west from No. 28 Pier St could only be preserved were my client to build a single storey, low-pitched roofed dwelling over the main part of the site. This is clearly an unacceptable proposition.</p> <p>The analyst for TPG states that the average floor level between 26A and 28 Pier St should be 46.155 metres. There are no provisions in the Codes for an interpretation on a particular lot to be the average of the levels of the lots on either side. This is an unacceptable methodology. However, this proposal is for a floor level of 46.500 which is only 350mm above the suggested average. The subject lot has outcrops of capstone and limestone on the 46.50 contour. It is only logical that a fair and reasonable design builds on that contour line, notwithstanding that doing so complies with all other height issues.</p> <p>In terms of bulk and scale, assertions that this development is not consistent is difficult to understand. The houses to the west present a streetscape of monumental scale the street. This proposal presents a soft, staggered facade that is the opposite of the monumental scaled dwellings to the west. In</p>	<p>TPG's and the applicant's comments are noted.</p> <p>A full assessment of the proposed development has been undertaken in relation to the concerns raised by TPG. Any area of noncompliance is addressed in detail in the Discussions section of this report.</p>

<p>the dwelling to the west and east. The development does not achieve the performance provisions, as the front setback does not match the traditional setback of the immediate locality.</p> <p>Building Height, form, scale and bulk: The Performance Criteria states that 'New development, additions and alterations to be of a compatible form, bulk and scale to traditional development in the immediate locality.' Therefore the proposed development does not meet the desired outcome, the ADP or the Performance Criteria and the height needs to be considered in the context of the Category A provisions of the Residential Design Codes.</p> <p>The plans do not indicate the open space percentage and based on the proposed built form it is questionable whether the proposed dwelling achieves the appropriate level of open space.</p>	<p>fact, this proposal on the subject lot has a front setback elevation with a lower gutter line than its immediate neighbour to the west at 26A Pier St.</p> <p>The front setback of the main body of this proposal is 8.06 metres, which is the prevailing setback of the adjoining house at 26A Pier St. In this regard, this proposal respects the bulk of its adjacent building. It is acceptable under the R-Codes to have minor intrusions into the front setback zone. This proposal is for an open-sided porch to protrude 660mm into the front setback zone, and for an open sided, glazed balcony to also cantilever 660 mm into the setback zone. This is entirely consistent with the intentions of the methodology of 'minor intrusions,' especially given the main bulk of the building is 560mm behind the front setback line.</p> <p>The TPG analysis attempts to derive an 'average' setback between 26A and 28 Pier 5t and states that this should be the determining factor in establishing a setback for the subject lot. No. 28 Pier 5t is in fact set back 23 metres from the front boundary. To suggest an average be struck is a peculiar request.</p> <p>The same report states that the building is 11.0 metres high from the Pier 5t frontage. This is a peculiar assertion. Building heights are not determined this way. To suggest otherwise is difficult to comprehend. The proposal is consistent in every way with adjoining houses to the west, and no doubt in the future, 28 Pier 5t will also be subdivided and the same rules applied. That 28 Pier 5t is an old house set well back and relatively low on its land is not an issue that can be discussed here. Whilst it is sad that the views from 28 Pier 5t will be compromised, it must be suggested that were they to build at the front setback as well, those views would be restored. It is not the intention of the Planning Codes to restrict my client to a single storey house so that the views from 28 Pier 5t are preserved.</p> <p>The TPG report also states that there is doubt that the proposal achieves open space requirements under the Code. The proposal in fact has a Site Coverage of 45% and Open Space of 55%. This does not include alfresco outdoor living areas. When these are taken into account, open space approaches 60%.</p>	
--	--	--

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting held on 8 April 2013 and the following comments were made:

COMMENTS	APPLICANT RESPONSE	OFFICER COMMENT
<p>The Panel commends the streetscape impact of the design and use of materials and general quality of the design, however the overall width of the garage is queried.</p>	<p>The doorway is shown at 5.00 metres wide. These doorways are usually 4.8 metres wide. The extra width is called up in this instance because, as explained above, of the manoeuvring required from the narrower crossover.</p> <p>I am aware that large garage openings can tend to overly dominate the facades of narrow block residences. They can also contribute to unbalanced facades. Both of these problems tend therefore to create the impression that the garage is the most important part of the house. I find this fact culturally problematical. I thus have attempted in this house on a narrow lot to minimise the potential impact of the wider garage door by the following measures:-</p> <ol style="list-style-type: none"> 1. The garage is excavated into the hillside so that there is a minimal rise in the forecourt paving from the lot boundary to the garage opening. This results in the garage door appearing 'sunken' relative to the garage door on the adjacent house to the west. 2. The garage doorway is sunken even further into the building by having a 350mm deep reveal depth in the opening. This means that the garage door itself is further back than normal, creating less of a visual Presence and so enhancing the object of achieving the 'sunken' appearance described above. 3. The bedroom structure above the garage is positioned so that it is symmetrical above the garage door opening. The symmetry of the design is intentional, as it draws one's attention away from the opening and focussing the viewer's gaze on the whole structure, not just a single component. This can be compared with the house adjacent to the west. The upper floor balcony and the garage doorway are positioned as symmetrically to one another, setting up what is called in the theory of aesthetics as a dynamic relationship. The garage door therefore competes with the balcony for the viewer's attention. This is a design device that can be used creatively to create movement and interest in a facade. In the case of the adjacent house, this potential is defeated by the fact that one doesn't want the wide garage doorway opening featured as a dynamic element in the facade. 4. The bedroom above the garage has been designed with a cantilevered roofed balcony. This will create a strong visual element in the facade. The balcony has been positioned, as mentioned above, centrally over the garage door opening so that the garage doorway appears subservient to the design element of the balcony. The cantilevered balcony will further enhance the perception of the garage doorway being sunken back into the building and the hillside. 	<p>The support of the Panel is noted.</p> <p>The applicant's comments are noted and are considered appropriate.</p> <p>The proposed garage is considered to be incorporated into the proposed dwelling design. The RDG states: <i>Plans, elevations and section drawings are to be provided to demonstrate the impact of the garage or carport on the new dwelling.</i></p> <p>Due to the location of the garage behind the cantilevered balcony and porch, the garage is considered to have a minimal impact on the streetscape and therefore can be supported.</p>

	5. The height of the garage door opening has been kept as low as possible to again minimise its impact in the overall configuration of the building. The height of the opening is 2.2 metres as compared to 2.5 metres on the garage door opening of the adjacent house to the west.	
--	--	--

Site Inspection

By Senior Town Planner on 9 October 2014.

STATUTORY ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
Open Space	55%	55%	A
Outdoor Living	30sqm	32sqm	A
Car Parking	2	2	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. Residential Design Guidelines	Status
3.7.2 Additions and Alterations to Existing Buildings	N/A
3.7.3 Development of Existing Buildings	N/A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	A
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	D
3.7.15-20 Precinct Requirements	D

DISCUSSION

Crossover

The applicant has requested a wider crossover than permitted within the Town's RDG to facilitate access and egress from the proposed garage. The proposed site conditions do not warrant a wider crossover, therefore a condition has been included in the Officer's Recommendation to require any new crossover to have a maximum width of 3.0 metres and to be designed to Council's specifications.

The proposed crossover will result in the crossover being positioned very close to a mature street tree. The applicant has requested the tree be removed. Access to the lot may require the street tree be removed, however as the crossover has been conditioned to be smaller, it is considered the proposed crossover can be constructed without it being necessary to remove the verge tree. It is therefore considered necessary for the applicant to seek approval from the Town's Operations Manager for the crossover and to ensure the street tree is retained. This should be determined prior to the submission of the Building Permit application. The street tree concerned is a mature specimen, therefore, it is considered necessary to apply a planning condition stipulating that the street tree be retained in its current state and position.

Verge Paving

It is considered necessary for the applicant to seek approval from the Town's Operations Manager for any such paving on Council's verge. This verge paving has not been assessed and is conditioned so that it does not form part of this development approval.

Visual Privacy

The 'Deemed to comply' provisions for Element 5.4.1 Visual privacy of the R-Codes requires major openings which have their floor level more than 0.5 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.

There is minor overlooking into the adjoining dwelling from Bedroom 4 and the balcony attached to bedroom 1. Bedroom 4 requires 4.5 metres to the boundary, 3.2 metres has been provided. The balcony to bedroom 1 requires 7.5 metres to the boundary, 1.5 metres is provided.

Both areas overlooked are to the front setback areas of adjoining properties.

The proposed development does not comply with the 'Deemed to Comply' provisions of the R-Codes.

The 'Design Provisions' of 5.4.1 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 proposed bedroom and balcony does overlook the front setback areas of the adjoining lot to the east and west, however these areas are not currently considered as active habitable spaces. It is not necessary to screen the bedroom window or the balcony. The front setback area of the adjoining properties is clearly visible from the

streetscape and therefore offers no privacy protection, therefore the proposed bedroom window and balcony are considered acceptable and can be supported. The neighbour's amenity is considered to be protected. Additionally it is considered the proposed bedroom window and balcony improves the passive surveillance of the street. It is considered the proposed design complies with the Design Principles of Element 5.4.1 Visual privacy of the R-Codes.

Front Setback

The proposed development incorporates a front setback variation to the Acceptable Development Provisions of Element 3.7.7 of the RDG (front boundary) setback requirements. The proposed set back from the front boundary is required to be 7.5 metres.

The proposed main built form of the dwelling is located 8.06 metres from the front lot boundary. The proposed porch and first floor cantilevered balcony encroach into the front setback area. The porch and cantilevered balcony are set back 6.86 metres from the front boundary.

The porch and cantilevered balcony while set forward of the required 7.5 metre street set back are considered to have been designed so as to minimise street impact and integrate with the existing built form, minimising the overall impact of the garage. The balcony and porch articulate the front of the dwelling.

The LPP RDG Element 3.7.7 provides performance criteria by which to assess proposed variations to the setback requirements. This is summarised below.

Side Boundary Setbacks

Boundary Setbacks							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Side (East)							
First floor	Dwelling	5.5m	12.3m	N	1.6m	1.5m	D
Side (West)							
First floor	Dwelling	6.3m	14.5m	N	2.0m	1.5m	D

The eastern elevation wall is 12.3 metres in length (including privacy screen) and is 5.5 metres at a maximum height. The wall is set back 1.5 metres from the eastern boundary. The minimum wall setback required under the R-Codes is 1.6 metres, therefore a 0.1 metre variation to the 'Deemed to Comply' provisions of the R-Codes is required.

The western wall is 14.5 metres in length and is 6.3 metres at a maximum height. The wall is set back 1.5 metres from the western boundary. The minimum wall setback required under the R-Codes with screening to major openings is 2.0 metres, therefore a 0.5 metre variation to the 'Deemed to Comply' provisions of the R-Codes is required.

The eastern and western first floor elevations, as outlined in the table above, require Council to vary the Town's Acceptable Development Criteria of the RDG. The proposed set back will be assessed in detail 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 built form of the dwelling is set back to match the set back of the immediate recent dwelling to the west. This proposal is for an open-sided porch



(significantly visually permeable) and for an open sided, balcony (visually permeable) to protrude 0.6 metres into the front setback zone. This is entirely consistent with the intentions of a 'minor intrusions' constructed into the front setback as described under the R-Codes. The main bulk of the building is 560mm behind the front setback line. The proposed built form of the dwelling is set back to match the setback of the immediate recently constructed dwelling to the west.

The proposed porch and cantilevered balcony are set back 6.8 metres from the front boundary. Whilst this is forward of the building line, the porch and the balcony act to articulate the garage, integrating it into the overall design of the dwelling, thereby minimising any potential impact the garage might have to the streetscape.

The overall dwelling has a contemporary design that is sympathetic with the adjoining dwellings. The design of the dwelling is articulated to minimise any perceived scale and bulk, with the upper floor at its highest point set back 16.6 metres from the front boundary. The design has attempted to have minimal impact to surrounding neighbours and to the streetscape.

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

The subject lot is currently a vacant lot.

The proposed dwelling front setback variation has been assessed as per P1.1 above. It is considered the proposed development has been designed to ensure the neighbours amenity where possible is not adversely affected, however due to the location of the neighbouring lot at No. 28, viewing vistas will be lost. The proposed dwelling complies with the overall ridge height as required in the RDG. The proposed design is considered to have no significant impact on the visual presence of the streetscape or adjoining neighbours and has been articulated to minimise any perceived scale and bulk issues associated with a front set back variation.

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

The proposed set back to the eastern and western elevations require Council to assess the side set back as per Performance Criteria of the RDG.

The dwelling is proposed to be 'cut' into the lot, with the garage and porch located below natural ground level. The upper floor of the dwelling is located 16.6 metres from the front boundary.

The eastern boundary (side) wall including privacy screen requires a "Deemed to Comply" set back of 1.6 metres from the boundary, however the applicant is proposing a 1.5 metre setback. The proposed 0.1 metre set back is considered minor. There is no overlooking from the eastern elevation of the dwelling. There are no overshadowing issues. The proposed eastern elevation side boundary set back is considered to have no significant impact to the western adjoining neighbour. It is noted the adjoining neighbour had submitted a letter of objection, however the main issue of concern is the loss of views and this will be dealt with separately, later in the report.

The western boundary (side) wall requires a "Deemed to Comply" set back of 2.0 metres from the boundary, however the applicant is proposing a 1.5 metre set back. Due to the nature and slope of the lot, the proposed dwelling is required to have high dwelling walls at certain locations. The required set back is against these higher sections of wall. There is no overlooking from the western elevation of the dwelling. There are no overshadowing issues. Whilst the proposed building is higher than the adjoining western dwelling, this is dependent on the natural ground level and not the proposed dwelling. There is a

significant streetscape gradient at the subject lot. The dwelling is a two storey dwelling at any point over the natural ground level. The proposed western elevation side boundary set back is considered to have no significant impact to the western adjoining neighbour. The proposed setbacks to the eastern and western lot boundaries are consistent with the area. The adjoining dwelling at 26A has a set back from the boundary of 1.0 metres from the boundary. The adjoining dwelling at no. 28 has a set back from the boundary of approximately 0.6 metres (elevated deck) from the boundary. Therefore the proposed dwelling is considered to have a built form and side set back that is consistent to other structures in the locality.

It is considered the proposed side set backs are consistent with the adjoining dwellings with regard to wall lengths. Both adjoining dwellings are two storey. The proposed dwelling (2 storey) has been designed to significantly match the overall roof heights of the adjoining dwellings, therefore the proposed impact to the street is considered minor. It is also considered the side set back variation does not impact on the bulk and scale of the dwelling as viewed by adjoining neighbours, as vegetation and building articulation breaks up the proposed structure.

In conclusion, the proposed dwelling has been designed to mitigate any adverse impact with regard to scale or bulk of the dwelling as it has been designed to be articulated vertically and horizontally along the side and front boundaries. The proposed front set back has resulted from the prevailing street set back to the west. The proposal does not significantly negatively impact on the streetscape or adjoining neighbours and therefore it is considered that the reduced front and side setback can be supported by Council.

Building Height

Wall Height Requirement	Required	Proposed	Status
Building Height (wall height) (Council Policy)	5.6m	6.3m	D

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

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

- 8.1m to the top of a pitched roof
- 6.5m to the top of an external wall (concealed roof)
- 5.6m to the top of an external wall; and where the following apply.

- i. *The proposal demonstrates design, bulk and scale that responds to adjacent development and the established character of the area or other site specific circumstances;*
- ii. *The provision of a landscaping plan demonstrating a minimum of 50% of the effective lot area being landscaped; and,*
- iii. *Subject to the „Acceptable Development“ standards of Residential Design Codes – Element 9 – Design for Climate and Element 8 – Privacy being met.*

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

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

The subject lot slopes approximately 4.0 metres from north to south of the lot, with an approximate 1.0 fall from east to west. The proposed height variation is only to the west

of the building with an overall wall height of 6.3 metres proposed, located on the downward side of the slope.

As is illustrated by the streetscape elevation, the proposed wall and roof height has an overall height consistent with the adjoining recently constructed dwellings as it responds to the slope in the ground level to the west. The proposed dwelling has been designed to minimise potential impacts to surround dwellings as the proposal is 'cut' into the lot. The first floor level (highest point of the dwelling) is 16.6 metres from the front boundary. The overall dwelling design is considered consistent with the adjoining dwellings recently constructed dwellings.

Sections of the western elevation wall require Council discretion to the Acceptable Development Criteria, however it is considered the majority of the wall complies with the Acceptable Development Criteria. The overall height of the dwelling is considered to comply with the Acceptable Development Criteria of the R-Codes.

Overall the proposed dwelling is of a compatible form, bulk and scale to the adjoining western dwellings in the immediate locality. There is a mix of dwelling types and heights on Pier Street, however it is considered the proposed dwelling integrates well with the built form of the adjoining dwellings and does not present as an over height development, as the proposed discretion is to the middle of the subject lot. The dwelling is 'cut' into the lot, with the larger heights of the dwelling located to the middle of the lot, articulating the dwelling and minimising any potential adverse impact to the streetscape.

Viewing Vistas

The adjoining neighbours at 28 Pier Street have objected to the proposed development, one of the main reasons being a loss of the views. It is noted that 28 Pier Street is located in excess of 23 metres from the front boundary of the lot. The proposed dwelling is two storey and is considered height compliant with the Acceptable Development Criteria of the RDG on the eastern elevation.

The applicant has lowered the overall ridge height of the dwelling. It is considered the neighbours at 28 Pier Street have enjoyed large viewing vistas over the current vacant lot. The proposed development will block these views, however the location of the dwelling at 28 Pier Street is considered to exacerbate the loss of views. The proposed dwelling has been articulated with the upper floor set back 16.6 metres from the front boundary, however this location restricts the view from 28 Pier Street. The proposed height, scale and bulk of the dwelling are considered appropriate. The dwelling is two storey. The applicant has attempted to mitigate any potential impacts to 28 Pier Street, however due to the gradient of the lot and locations of the existing and proposed dwellings, there will be a loss of views. The loss of view while unfortunate, it considered acceptable.

CONCLUSION

The dwelling (as conditioned) has been designed to be consistent with the prevailing recent design of dwellings in the area. The adjoining neighbour's comments have been considered, however the loss of viewing vistas is considered unavoidable without significantly limiting the development potential of the subject lot.

The proposed development is considered to be an appropriate design for the area. While there are variations to the 'Deemed to Comply' provisions of the R-Codes and Acceptable Development Criteria of the RDG, the proposed development is considered to comply with the Performance Criteria of the RDG and the Design Principles of the R-Codes as outlined in detail above. 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:



4 November 2014

MINUTES

- (a) variation to front setback Element 5.1.2 Lot boundary setback of the R-Codes (south elevation) – required setback 7.5 metres. Proposed setback is 6.8 metres for minor incursions of the porch and cantilevered balcony;
- (b) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (east elevation) – required setback 1.6 metres. Proposed setback is 1.5 metres;
- (c) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (west elevation) – required setback 2.0 metres. Proposed setback is 1.5 metres;
- (d) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy;
- (e) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements;
- (f) element 3.7.14 of the Residential Design Guidelines: Crossover Width;

for proposed 2 storey dwelling on a vacant lot at 26b (Lot 2) Pier Street, East Fremantle, in accordance with plans and information date stamped received on the 8 October 2014, subject to the following conditions:

1. 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.
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 existing street tree to the front of the subject lot being retained in its current state and location and not damaged in the construction of the relocated crossover should it be approved by the Operations Manager.
4. Approval for the relocation of the crossover and driveway being obtained from the Town's Operations Manager prior to the submission of a building permit application.
5. The proposed paved verge does not form part of this approval. Approval for the paved verge is required to be obtained from the Town's Operations Manager.
6. 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.
7. No front fence is approved as part of this planning application.
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 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.
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. 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.
12. 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.
13. 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



4 November 2014

MINUTES

- of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
14. 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*).
 15. 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".*

Ms P Bannister (neighbour at 30 Pier Street) addressed the meeting opposing the pitched roof of the proposed residence and requesting the whole development be lowered if a change to the roof was not supported.

Mr P Zioti (neighbour at 28 Pier Street) addressed the meeting advising he had photographs from the previous owner of his property which indicated the subject property had been filled when the original lot had been subdivided and requested that the development be lowered by approx. 500mm.

Mr G McCann (architect for project) addressed the meeting in support of the proposal. Mr McCann acknowledged that the rear section of the subject lot had be filled however explained how he had addressed this in the design.

Cr Martin made the following impartiality declaration in the matter of 26B Pier Street: "As a consequence of the architect for this project being known to me due to having served on a Board together many years ago and then recently both having served on the East Fremantle Oval Recreation Precinct Community Reference Group, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

Cr Rico made the following impartiality declaration in the matter of 26B Pier Street: "As a consequence of the architect for this project being known to me due to having served together on the East Fremantle Oval Recreation Precinct Community Reference Group, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits in terms of the benefit to the Town and vote accordingly".

Mayor O'Neill – Cr Collinson

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

- (a) variation to front setback Element 5.1.2 Lot boundary setback of the R-Codes (south elevation) – required setback 7.5 metres. Proposed setback is 6.8 metres for minor incursions of the porch and cantilevered balcony;**
- (b) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (east elevation) – required setback 1.6 metres. Proposed setback is 1.5 metres;**
- (c) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (west elevation) – required setback 2.0 metres. Proposed setback is 1.5 metres;**
- (d) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy;**
- (e) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements;**
- (f) element 3.7.14 of the Residential Design Guidelines: Crossover Width;**

for proposed 2 storey dwelling on a vacant lot at 26b (Lot 2) Pier Street, East Fremantle, in accordance with plans and information date stamped received on the 8 October 2014, subject to the following conditions:

- 1. 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.**
- 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 existing street tree to the front of the subject lot being retained in its current state and location and not damaged in the construction of the relocated crossover should it be approved by the Operations Manager.**
- 4. Approval for the relocation of the crossover and driveway being obtained from the Town's Operations Manager prior to the submission of a building permit application.**
- 5. The proposed paved verge does not form part of this approval. Approval for the paved verge is required to be obtained from the Town's Operations Manager.**
- 6. 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.**
- 7. No front fence is approved as part of this planning application.**
- 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 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.**
- 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. 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.
12. 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.
13. 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.
14. 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*).
15. 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 6:1

Note:

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

T131.4 King Street No. 76 (Lot 357)
Applicant: Kensington Design Australia
Owner: P & A Mann
Application No. P128/14

By Andrew Malone, Senior Town Planner on 21 October 2014

PURPOSE OF THIS REPORT

This report considers an application for planning approval for additions and alterations comprising partial demolition of existing rear extensions and construction of new additions comprising kitchen/ dining/ living, laundry and store at ground floor and four bedrooms and bathroom at first floor level and swimming pool at 76 (Lot 357) King Street, East Fremantle.

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

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

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 B-

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

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. Additions are two storey, however first floor addition is located 11.3 metres from the front boundary and will not be directly visible from the streetscape.

Documentation

Plans and relevant forms date stamp received on 9 September 2014.
Amended plans date stamp received on 24 September 2014.
Signed copy of plans by neighbour stamp received on 20 October 2014

Date Application Received

9 September 2014

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

Nil.

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 11 September 2014 and the 25 September 2014. At the close of advertising, Council has received no submissions relating to this development application.

The adjoining neighbour at 78 King Street requested a copy of the plans to be forward to them as they were not in the State at the time. The applicant undertook to forward the plans. No further submission was received from this neighbour.

A copy of the plans signed by the neighbour at 74 King Street was submitted to Council on 20 October 2014, indicating no objection to the proposal.

Town Planning Advisory Panel

This application was considered by the Town Planning Advisory Panel at its meeting held on 11 March 2014 and the following comments were made:

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
The plot ratio compliance is queried. The Panel commends the articulation of the old from the new elements.	We advise that the open space for the proposal is 59% which is well in excess of the minimum requirement of the 50% prescribed in the R-Codes. We also take this opportunity to thank the panel for their positive comment in regard to the proposed addition.	The Panels and applicants comments are acknowledged A detailed assessment of the proposal has been undertaken and is addressed below. The proposed development complies with the 'Deemed to Comply provisions for the open space requirements of the R-Codes.

Site Inspection

By Senior Town Planner on 21 October 2014.

ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	50%	59%	A
6.4.2 Outdoor Living	30sqm	54sqm	A

6.5 Car Parking	2	1	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	25%	A
6.9.2 Drainage	On-site	On-site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	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	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

DISCUSSION

Density

The Town Planning Advisory Panel queried the plot ratio compliance of the proposal. The proposed development is not subject to the plot ratio provisions under the R-Codes. It is noted the proposal does exceed the required 50% open space requirements of the R-Codes. The proposed development provides 59% open space.

Heritage

The impact of the proposal is considered to be minor. The applicant has designed the additions and alterations to be compliant with the Acceptable Development Criteria of the RDG and 'Deemed to Comply' provisions of the R-Codes. The proposed additions have been designed to be sympathetic to the overall heritage dwelling.

Whilst it is proposed to demolish the rear section of the dwelling, it is clear this structure is a later addition constructed of weatherboard. The removal of this element of the dwelling is considered to have no significant heritage impact.

The panel has supported the proposal and has commended the applicant on the design of the additions. The rear additions are to be excavated into the rear of the lot, thereby minimising any street impact. The rear additions will not be overtly visible from the street. The heritage structure (random limestone block with red brick) will remain the dominant feature to the street, with the rear additions designed to be sympathetic and discreet.

In this instance, due to the nature of the development and the compliance with the Acceptable Development Criteria of the RDG and 'Deemed to Comply' provisions of the R-Codes, and the Panels comments of support, a heritage assessment was not considered necessary. As such a heritage impact statement was not considered warranted in this instance as the proposal as conditioned is not considered to impact on the style or heritage status of the dwelling.

Car Parking

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



4 November 2014

MINUTES

This additional bay can be provided in tandem to the proposed car parking bar. The proposed gate located 8.3 metres is required to be relocated. No structure is permitted within the front 11.2 metres of the lot, 2.5 metres in width on the driveway. The driveway is to be extended to encompass this area. The above area will adequately accommodate two car parking bays in tandem on-site. A condition has been included in the Officer's Recommendation to facilitate two car parking bays to be provided on-site.

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

CONCLUSION

The proposed design of the additions and alterations as conditioned are sympathetic with the character of the existing dwelling and with adjoining dwellings and the overall character of the locality. As conditioned the proposed development complies with all the Acceptable Development Criteria of the RDG and 'Deemed to Comply' provisions of the R-Codes. The proposed additions and alterations do not impact on the streetscape.

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 car parking standards for additions and alterations comprising partial demolition of existing rear extensions and construction of new additions comprising kitchen/ dining/ living, laundry and store at ground floor and four bedrooms and bathroom at first floor level with associated swimming pool at 76 (Lot 357) King Street, East Fremantle., in accordance with the plans date stamp received on 9 September and 24 September 2014 subject to the following conditions:

1. 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.
2. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
3. The existing rear trees identified as be retained on site to the rear of the subject lot are to be retained in their current state and location with measures undertaken during the construction of the additions to be undertaken to ensure the trees are protected.
4. Two car parking spaces are to be provided on-site. No structure is permitted within the front 11.2 metres of the lot, 2.5 metres in width, located on the proposed driveway (extension of driveway). Amended plans are to be lodged with Council demonstrating the provision of two car parking bays being provided prior to a Building Permit being submitted to Council.
5. Pool equipment to be located a minimum of 1.0 metre away from all boundaries to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all pool equipment shall comply with noise abatement regulations.
6. 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.
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.



4 November 2014

MINUTES

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. 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".*

Ms S Pearse (Kensington Design) addressed the meeting advising that she supported the officer's recommendation.

Mayor O'Neill – Cr Collinson

That Council exercise its discretion in granting approval for car parking standards for additions and alterations comprising partial demolition of existing rear extensions and construction of new additions comprising kitchen/ dining/ living, laundry and store at ground floor and four bedrooms and bathroom at first floor level with associated swimming pool at 76 (Lot 357) King Street, East Fremantle., in accordance with the plans date stamp received on 9 September and 24 September 2014 subject to the following conditions:

1. **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.**



4 November 2014

MINUTES

2. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
3. The existing rear trees identified as be retained on site to the rear of the subject lot are to be retained in their current state and location with measures undertaken during the construction of the additions to be undertaken to ensure the trees are protected.
4. Two car parking spaces are to be provided on-site. No structure is permitted within the front 11.2 metres of the lot, 2.5 metres in width, located on the proposed driveway (extension of driveway). Amended plans are to be lodged with Council demonstrating the provision of two car parking bays being provided prior to a Building Permit being submitted to Council.
5. Pool equipment to be located a minimum of 1.0 metre away from all boundaries to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all pool equipment shall comply with noise abatement regulations.
6. 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.
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. 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 7:0

Note:

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

T131.5

Duke Street No. 54 (Lot 506)

Applicant: John Chisholm Design

Owner: J Atkinson & L Westbrook

Application No. P123/14

By Andrew Malone, Senior Town Planner on 9 October 2014

PURPOSE OF THIS REPORT

This report considers an application for additions comprising of studio for the purpose of ancillary accommodation to an existing dwelling at 54 (Lot 506) Duke Street, East Fremantle.

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

- Building Setback/Parapet wall height: South elevation (proposed setback 1.0 metres; required setback 1.5 metres); and
- Roof Pitch: 5.0° roof pitch, a variation to the Acceptable Development Criteria of the RDG.

The proposed ancillary accommodation (studio) in all other respects is considered to comply with the Residential Design Codes and RDG. The studio is recommended for approval subject to conditions.

Proposed Development

The development application proposes a separate 49sqm studio for the purpose of ancillary accommodation to the rear of an existing heritage dwelling.

BACKGROUND

Description of Site

The subject site is:

- a 517m² block
- zoned Residential R20
- developed with a single storey dwelling.

- located in the Plympton Precinct.
- Municipal Heritage Inventory – Management Category B.

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

In this instance, due to the minor nature of the development and the proposed design of the studio being a separate structure and located to the rear of the lot adjoining Stirling Highway, a heritage assessment was not considered necessary. The proposed studio will have minimal impact to the existing dwelling and the streetscape.

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 : No Impact. Ancillary accommodation located to the rear of the subject lot.

Documentation

Plans and relevant forms date stamp received on 4 September 2014.

Date Application Received

4 September 2014.

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

26 June 1998 - Building Licence No.2305 was issued for additions

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 11 September 2014 and 25 September 2014. At the close of advertising no objections were received.

Town Planning Advisory Panel

The application was not referred to the Town Planning Advisory Panel as it is not considered to impact the streetscape or detract from the heritage dwelling. The studio is a separate structure located approximately 10 metres from the dwelling.

Site Inspection

By Senior Town Planner on 10 October 2014.

Other Authorities

The application was referred to Main Roads WA as the development abuts a Primary Regional Road Stirling Highway. Main Roads WA has no objection to the proposal, however their advice has been included in the Officer's Advice Notes.

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%	66%	A
Outdoor Living	30sqm	N/A	A
Car Parking	3	3	A
Site Works	Less than 500mm	Less than 500mm	A
Overshadowing	25%	22%	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	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

Description of Proposal

The proposal is for ancillary accommodation (studio) to the south eastern corner of the lot, comprising bedroom, living and bathroom. The total area of the ancillary accommodation is 49m².

The ancillary accommodation is a single storey solid cedar clad studio located separate to the existing dwelling in the south-east portion of the lot. The applicant proposes a 2.3 metre setback from the rear (eastern) boundary wall and 1.0 metre from the side (southern) boundary. The studio will have a skillion form roof.

Side Boundary Setbacks

The southern wall is 10.6 metres in length, 2.4 metres in height and is located 1.0 metre from the southern boundary. The proposal does not comply with the 'Deemed to Comply' requirements of the R-Codes and the Acceptable Development Criteria of the RDG. The southern wall is required to be 1.5 metres from the boundary.

The LPP RDG Element 3.7.7 provides performance criteria by which to assess proposed variations to the setback requirements. This is summarised below.

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

There are no planning implications with regard to the front or street setback for this proposal. The proposal is located wholly to the rear of the subject lot.

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 B category dwelling.

The proposed location of the ancillary accommodation is considered to have no impact to the heritage character of the dwelling and will not adversely affect the visual presence of the streetscape or adjoining neighbours.

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

With regard to the proposed side set back to the south, the proposal is located 1.0 metre from the southern boundary. The wall height varies in height from 2.4 metres to 3.1 metres, however the wall is screened by an existing solid limestone wall (boundary wall). The ancillary accommodation as such will be significantly screened from the adjoining southern neighbours.

It is considered the proposed southern wall setback 1.0 metre from the southern boundary will not significantly impact on the amenity of the adjoining neighbour. The neighbour to the south has an existing ground level that is in excess of 1.0 metre above the natural ground level of the rear of the subject lot. The adjoining land to the rear of the lot (east) adjoins Stirling Highway. The proposed ancillary accommodation is not considered to impact on neighbours.

The proposed height of the wall does not significantly impact on the scale or bulk to the existing dwelling or adjoining neighbours, therefore it is also considered the proposed wall setback 1.0 metres from the boundary has minimal negative impact. The proposed character of the heritage dwelling is also maintained. The proposed ancillary accommodation has a simple design that is sympathetic to the existing heritage dwelling.

It is considered the proposed ancillary accommodation can be supported by Council.

Roof Pitch

The proposed roof pitch is approximately 5°. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

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

The Performance Criteria states:

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



4 November 2014

MINUTES

The roof material is consistent with the existing dwelling. The roof form is a contemporary skillion roof form that minimises the scale and bulk of the structure to surrounding neighbours and to the heritage dwelling. The roof form is considered to complement and sympathetic with the existing roof form of the dwelling.

The design of the ancillary accommodation also ensures the addition cannot be viewed from the street.

The proposed roof is considered appropriate for the area and therefore can be supported by Council.

Conclusion

The proposed ancillary accommodation has been designed to significantly comply with the relevant legislation with the exception of the side setback and the roof pitch. These variations are considered minor, with no significant impact to the streetscape, heritage dwelling and to adjoining neighbours. The proposal is considered acceptable with regard to height, scale and bulk.

It is considered the proposal can be supported and recommended for approval subject to conditions.

RECOMMENDATION

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

- (a) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (south elevation) – required setback 1.5 metre, proposed setback 1.0 metre; and
- (b) variation to 3.7.8 Roof Form and Pitch of the Residential Design Guidelines for an addition comprising of ancillary accommodation (studio) to an existing dwelling at 54 (Lot 506) Duke Street, East Fremantle, in accordance with the plans date stamp received on 4 September 2013, subject to the following conditions:

1. Prior to the installation of externally mounted air-conditioning plant to the ancillary accommodation, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (Refer footnote (i) below)
2. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
5. 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. 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.
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) 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”.*
- (f) Main Road WA note that modifications are proposed to Stirling Highway at the rear of this property and therefore it is likely that noise transport will increase in the future. The final design and timing of this work is not available at this time. It is highly recommended that the applicant undertakes and implements the recommendations (at the owners expense) the findings of a transport noise assessment in accordance with the WAPC States Planning Policy 5.4 ‘Road and Rail Transport and Freight Considerations in Land Use Planning’.*

Cr Collinson – Cr Rico

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

- (a) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (south elevation) – required setback 1.5 metre, proposed setback 1.0 metre; and**
- (b) variation to 3.7.8 Roof Form and Pitch of the Residential Design Guidelines for an addition comprising of ancillary accommodation (studio) to an existing dwelling at 54 (Lot 506) Duke Street, East Fremantle, in accordance with the plans date stamp received on 4 September 2013, subject to the following conditions:**
 - 1. Prior to the installation of externally mounted air-conditioning plant to the ancillary accommodation, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (Refer footnote (i) below)**
 - 2. The proposed works are not to be commenced until Council has received an application for a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
 - 3. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council’s attention.**
 - 4. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
 - 5. 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. 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.
7. This planning approval to remain valid for a period of 24 months from date of this approval.
8. The landowner shall lodge a Notification under Section 70A pursuant to the Transfer of Land Act on the Certificate of Title(s) relating to the development site, prior to the issue of a Building Permit. This notification shall be sufficient to alert prospective landowners that the dwellings/premises are located within Area 2 of the Fremantle Port Buffer Zone where new development is to meet the built form requirements as specified in the Town of East Fremantle Local Planning Policy – Residential Design Guidelines.

WORDING FOR 'NOTIFICATION' OR 'MEMORIAL' ON TITLE

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

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”.*
- (f) *Main Road WA note that modifications are proposed to Stirling Highway at the rear of this property and therefore it is likely that noise transport will increase in the future. The final design and timing of this work is not available at this time. It is highly recommended that the applicant undertakes and implements the recommendations (at the owners expense) the findings of a transport noise assessment in accordance with the WAPC States Planning Policy 5.4 'Road and Rail Transport and Freight Considerations in Land Use Planning'.*

CARRIED 7:0

Note:

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

T131.6 Sewell Street No. 34 (Lot 401)
Applicant: Huston & Associates
Owner: S & N Andersen
Application No. P130/14

By Andrew Malone, Senior Town Planner on 6 October 2014

PURPOSE OF THIS REPORT

This report considers an application for additions which comprises an ancillary accommodation (studio) to the rear of an existing dwelling at 34 (Lot 401) Sewell Street, East Fremantle.

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

- Building Setback/Parapet wall height: South elevation (proposed setback 0.2 metres; required setback 1.0 metres); and
- Roof Pitch: Flat roof; variation to the Acceptable Development Criteria of the RDG.

The proposed ancillary accommodation (studio) in all other respects is considered to comply with the Residential Design Codes and RDG and it is recommended for approval subject to conditions.

Proposed Development

The development application proposes a separate 47sqm studio for the purpose of ancillary accommodation to the rear of an existing heritage dwelling.

BACKGROUND

Description of Site

The subject site is:

- a 509m² block
- zoned Residential R20
- developed with a single storey dwelling
- located in the Plympton Precinct.
- Municipal Heritage Inventory – Management Category B-

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

In this instance, due to the minor nature of the development, and the proposed design of the studio being a separate structure and located to the rear of the lot, a heritage assessment was not considered necessary. Rear additions to the dwelling have previously been constructed to the rear of the heritage dwelling, therefore the proposed ancillary accommodation will not impact on the heritage dwelling.

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 : No Impact. Ancillary accommodation located to rear of the subject lot.

Documentation

Plans and relevant forms date stamp received on 11 September 2014.

Date Application Received

11 September 2014.

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

Nil

CONSULTATION

Advertising

The application was advertised to surrounding neighbours for a two week period between the 11 September 2014 and 25 September 2014. At the close of advertising no objections were received.

Town Planning Advisory Panel

The application was not referred to the Town Planning Advisory Panel as it is not considered to impact the streetscape or detract from the heritage dwelling. The studio is a separate structure located to the rear of the lot. It is single storey and will not be visible from the street.

Site Inspection

By Senior Town Planner on 13 October 2014.

ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

Design Element	Required	Proposed	Status
6.4.1 Open Space	50%	55%	A
6.4.2 Outdoor Living	30sqm	N/A	A
6.5 Car Parking	3	2	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	Less than 25%	A
6.9.2 Drainage	On-site	On-site	A

Local Planning Policies Assessment

LPP Residential Design Guidelines Provision	Status
3.7.2 Additions and Alterations to Existing Buildings	A
3.7.3 Development of Existing Buildings	A
3.7.4 Site Works	A
3.7.5 Demolition	N/A
3.7.6 Construction of New Buildings	N/A
3.7.7 Building Setbacks and Orientation	D

3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	N/A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15-20 Precinct Requirements	A

DISCUSSION

Description of Proposal

The proposal is for ancillary accommodation to the south east corner of the lot, comprising bedroom, living / dining room and bathroom. The total area of the ancillary accommodation is 47m².

The ancillary accommodation is a single storey weatherboard structure with brick parapet wall, located separate of the existing dwelling in the south-east portion of the lot. The applicant proposes a nil setback boundary wall of 3.2 metres in height on the south boundary. The structure is located 1.0 metre from the eastern boundary. The proposed southern boundary wall will abut the existing southern boundary fence of 1.8 metres in height. The studio will have external decking associated with it, approximately 7.3m².

Two car parking spaces are currently provided on-site. Additional car parking is available on the street, however this is public parking and the subject lot is located within close proximity to George Street commercial area. No additional car parking is required, as the subject lot is located within 250 metres of a high frequency bus route.

Side Boundary Setbacks

The ancillary accommodation is proposed to be located 0.2 metres from the southern boundary (located on the existing boundary fence) for a total length of 8.4 metres. The studio is proposed to be located 1.0 metre from the eastern boundary for a total length of 6.0 metres (complies with the setback requirements of the R-Codes). The term 'up to a lot boundary' with the R-Codes means a wall, on or less than 600mm, from any lot boundary, other than a street boundary, therefore the southern parapet wall is considered to be located on the boundary.

The wall located on the boundary is 3.2 metres in height. It is noted the existing dwelling has a parapet wall currently located on the northern boundary for approximately 15.8 metres. As the proposed boundary walls exceed the Acceptable Development Criteria requirements of 9.0 metres in length on only one boundary and the overall height exceeds 3.0 metres, the application will be required to be assessed under the Performance Provisions of the RDG. 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.*

There are no planning implications with regard to the front or street setback for this proposal. The proposal is located wholly to the rear of the subject lot located approximately 31.0 metres from the front boundary.

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



4 November 2014

MINUTES

The existing dwelling is listed on the Town's Municipal Heritage Inventory as a B-category.

The proposed location of the ancillary accommodation is considered to have no impact to the heritage character of the dwelling and will not adversely affect the visual presence of the streetscape or adjoining neighbours. Rear additions to the dwelling have previously been constructed to the rear of the heritage dwelling, therefore the proposed ancillary accommodation will not impact on the heritage dwelling.

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

The proposed side set back to the east complies with the Acceptable Development provisions of the RDG. The proposal is located on the southern boundary (0.2 metres set back from the boundary) and the overall height is 3.2 metres from ground level at the subject lot. This exceeds the 3.0 metre required maximum parapet wall height and exceeds the requirement for a parapet on one boundary only (existing dwelling already located on the boundary).

It is considered the proposed parapet walls will not significantly impact on the amenity of the adjoining neighbour (88 George Street), a mixed use development. 88 George Street is a three storey development. The proposed development is considered to have minimal impact to the adjoining neighbours. The proposed development will enhance the privacy of both buildings.

The proposed ancillary accommodation is located to the rear of the lot. The proposal is single storey. It is considered the proposed development will have no impact to the streetscape. Other structures within the area have been constructed with a boundary wall. The proposed height of the wall does not significantly impact on the scale or bulk of the existing dwelling or adjoining neighbours, therefore it is also considered the boundary wall has minimal negative impact.

It is considered the proposed boundary wall can be supported by Council.

Roof Pitch

The proposal has a flat roof, designed in two sections, with minimal pitch sloping in towards a central box gutter. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

A4.1 Roof forms of new developments should be pitched between 28° and 36° and are of consistent scale and form with the prevailing building typology in the immediate locality.

The Performance Criteria states:

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

The proposed roof material is a 'Colorbond' roof (red). The proposed roof to the ancillary accommodation is considered consistent with the existing dwelling.

The proposed roof form minimises the scale and bulk of the structure to surrounding neighbours. The proposed flat roof minimises the height of the structure. The roof form is considered to complement the existing roof form of the dwelling. The design of the ancillary accommodation also ensures the addition cannot be viewed from the street.

The proposed roof is considered appropriate for the area and therefore can be supported by Council.

Conclusion

The proposed ancillary accommodation has been designed to significantly comply with the relevant legislation. The impact of the parapet wall on the adjoining neighbour to the south is considered acceptable with regard to height, scale and bulk and the structures abutting the proposal.

It is considered the proposal can be supported and recommended for approval subject to conditions.

RECOMMENDATION

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

- (a) variation to side setback Element 5.1.3 Lot boundary setback of the R-Codes (south elevation) – required setback 1.0 metre. Proposed setback is nil; and
- (b) variation to 3.7.8 Roof Form and Pitch of the Residential Design Guidelines for ancillary accommodation at an existing dwelling at 34 (Lot 401) Sewell Street, East Fremantle, in accordance with the plans date stamp received on 11 September 2014 subject to the following conditions:
 1. 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.
 2. Prior to the installation of externally mounted air-conditioning plant to the ancillary accommodation, 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)
 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. 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. 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.
 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.*



4 November 2014

MINUTES

- (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”.*

Cr Rico - Cr Martin

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 1.0 metre. Proposed setback is nil; and

(b) variation to 3.7.8 Roof Form and Pitch of the Residential Design Guidelines for ancillary accommodation at an existing dwelling at 34 (Lot 401) Sewell Street, East Fremantle, in accordance with the plans date stamp received on 11 September 2014 subject to the following conditions:

- 1. 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.**
- 2. Prior to the installation of externally mounted air-conditioning plant to the ancillary accommodation, 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)**
- 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. 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. 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.**
- 7. This planning approval to remain valid for a period of 24 months from date of this approval.**
- 8. The landowner shall lodge a Notification under Section 70A pursuant to the Transfer of Land Act on the Certificate of Title(s) relating to the development site, prior to the issue of a Building Permit. This notification shall be sufficient to alert prospective landowners that the dwellings/premises are located within Area 2 of the Fremantle Port Buffer Zone where new development is to meet**

the built form requirements as specified in the Town of East Fremantle Local Planning Policy – Residential Design Guidelines.

WORDING FOR 'NOTIFICATION' OR 'MEMORIAL' ON TITLE

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

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”.*

CARRIED 7:0

Note:

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

T131.7

Fraser Street No. 71 (Lot 1/S48302)

Applicant: Best Value Patios

Owner: T & L Adams managed by David Thorne Associates

Application No. P119/14 and P120/14

By Andrew Malone, Senior Town Planner on 9 October 2014

PURPOSE OF THIS REPORT

This report considers a development application for a rear patio and side carport at 71 (Lot 1/S48302) Fraser Street, East Fremantle.

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

- variation to the setback requirements of the side (northern and western elevation) setback (Required : 1.5 metres - Proposed : 0.5 metres);
- Roof pitch; and
- Carport

The proposed patio and carport are recommended for approval subject to conditions.

Description of Site

The subject site is:

- a 399m² block plus common property
- zoned Residential R12.5
- developed with a single storey dwelling
- located in the Richmond Hill Precinct.

- assigned C Management Category in the Municipal Heritage Inventory. The Municipal Heritage Inventory states:

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

Statutory Considerations

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

Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

Documentation

Plans and relevant forms date stamp received on 26 August 2014.

Date Application Received

26 August 2014

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

21 October 2004 WAPC I grants conditional approval for survey strata subdivision with conditions that were fulfilled.
21 October 2004 Council grants approval for alterations and additions.
21 September 2004 Council grants approved for a home occupation 'Hypnosis Clinic'.

CONSULTATION

Advertising

As part of the strata S48302 the neighbour of 71A Fraser Street has inspected the plans and has no objection to the proposed patio (signed form). Council has not received any comment with respect to this development application.

Town Planning Advisory Panel Comments

The application was considered by the Town Planning Advisory Panel at its meeting of 23 September 2014. The Panel made the following comments:

PANEL COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
<p>More detailed and accurate plans are required. The proposed access and egress to the proposed carports is not specified. The applicant has provided insufficient information to enable an assessment of the proposal.</p> <p>Access to the proposed right hand carport should be via the common use driveway and existing crossover.</p> <p>The Panel also queries the structure on the right hand side of the house, is this a garage which has been converted for accommodation and if so was the development approved?</p>	<p>The applicant did not provide a written response to the Panel's comments.</p> <p>It is noted revised plans were submitted.</p>	<p>Amended plans were submitted indicating access/ egress to the proposed car port. Access is via the common property.</p> <p>The structure on the right hand side of the dwelling is a 1980s addition of a habitable room. This location was never utilised as a garage.</p>

Site Inspection

By Senior Town Planner on 7 October 2014.

STATUTORY ASSESSMENT

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

Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	A
4.3 Zoning Table	A

Residential Design Codes Assessment

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

Local Planning Policies Assessment

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

DISCUSSION

Heritage

The impact of the proposed carport and patio to the existing C category MHI dwelling and associated roof is considered minimal. The proposed additions are not considered to significantly impact on the overall character of the dwelling. The patio is located to the rear of the lot. The carport is located to the side of the lot, located behind an existing verandah.

As such a heritage impact statement was not considered warranted in this instance as the proposal as conditioned is not considered to impact on the style or heritage status of the dwelling.

Roof

The proposed roof of the carport is a pitched roof which is sympathetic in design to the existing roof form. The proposed rear patio roof is a lean-to roof to be located from the rear of the existing dwelling. The proposed additions are considered sympathetic with the



roof pitch of the existing dwelling. The Acceptable Development Provisions of Element 3.7.8 Roof Form and Pitch states:

A4.1 Roof forms of new developments should be pitched between 28° and 36° and are of consistent scale and form with the prevailing building typology in the immediate locality.

There is no modification to the existing material of the roof. The proposed roof forms are simple and therefore consistent with the existing roof. The proposed roof forms and pitches minimise any potential impact and maintain the dominance of the dwelling to the streetscape, therefore can be supported by Council.

Carport

The proposed carport complies with the RDG 'Acceptable Development' requirement to be less than 30% of the width of the total frontage of the lot, however the carport is not located 1.2 metres behind the existing building line, as required by the RDG. The dwelling is located 8.2 metres from the front boundary, with the verandah located 6.7 metres from the front boundary. The proposed carport is also located 8.2 metres from the front boundary. The LPP RDG Element 3.7.15.3.3 Performance Criteria P3 states:

P3 *For existing buildings where there are no alternatives, carports may be located forward of the building line, provided they:*

- i. Do not visually dominate the streetscape or the buildings to which they belong; and,*
- ii. Do not detract from the heritage character of a contributory building. Street elevations are to be included including a minimum of the subject lot and two neighbouring lots.*

There are limited alternatives available with regard to the location of the proposed carport in this instance, therefore the proposed location of the carport is considered an appropriate location. The carport has minimal impact to the visual character of the dwelling or the streetscape. The carport does not significantly detract from heritage character of the dwelling.

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

- The predominant front setback of the dwelling is 8.2 metres with the verandah located 6.7 metres from the front boundary. The proposed carport on the subject lot is to be set back 8.2 metres from the front boundary, in alignment with the front wall of the dwelling. The proposed carport is considered to be obscured from view by the existing verandah.
- Whilst the carport is to be located adjoining the existing building line of the dwelling, the proposed carport is visually permeable and integrates with the existing dwelling/verandah, as the structure incorporates a pitched roof and is considered a lightweight design, therefore minimising any potential dominance the carport may have.
- Alternative locations were considered however due to the existing built form, relocating the proposed carport to the rear of the dwelling would reduce the residential amenity of the existing dwelling, without significantly improving the streetscape or heritage character of the dwelling.

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



Side Boundary Setbacks

The carport is proposed to be located 0.5 metres from the western boundary for a total length of 6.0 metres. The patio is proposed to be located 0.5 metres from the northern boundary for a total length of 12.4 metres. The term 'up to a lot boundary' with the R-Codes means a wall, on or less than 600mm, from any lot boundary, other than a street boundary, therefore both structures are considered to be located on the boundary.

As the proposed boundary walls exceeds the Acceptable Development Criteria requirement of 9.0 metres in length on only one boundary. 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 front façade/verandah of the dwelling will not be significantly impacted by the carport or the rear patio. The carport will have a pitched roof. The carport is considered a lightweight structure that will match the traditional setback of the dwelling and that of the immediate locality.

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

The existing dwelling is listed on the Town's Municipal Heritage Inventory as a C category dwelling. The existing dwelling is set back approximately 8.2 metres from the front boundary, with the verandah setback 6.7 metres. The existing dwelling is consistent with the prevailing front setback of the immediate locality.

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

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

The proposed carport and patio are considered minor structures, significantly open on two sides and setback 0.5 metres from their respective boundaries. The proposed side setbacks to the boundary of the carport and patio do not significantly impact on the streetscape or the adjoining neighbours to the north and west. There is no overshadowing impact.

The carport is significantly open (lightweight structure) and is considered to integrate with the dwelling and existing verandah.

The height, scale and bulk of the carport and patio are consistent with the existing dwelling, with the overall height integrating with the eaves of the verandah and dwelling. Both structures have been designed to be simple structures that are consistent with the design of the dwelling.

A 1.8 metre high fence also separates the carport and neighbours property. The carport has a maximum post height of 2.6 metres. A 1.8 metre high fence also separates the patio and neighbours property to the north. The patio has a maximum post height of 2.3 metres.

In conclusion the proposed carport and patio have been designed to have minimal adverse impacts with regard to scale or bulk of the dwelling. The proposal does not



4 November 2014

MINUTES

significantly negatively impact on the streetscape or adjoining neighbours and therefore it is considered the proposal can be supported by Council.

CONCLUSION

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

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

RECOMMENDATION

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

- (a) variation to the setback requirements of the side (northern and western elevation) setback (Required : 1.5 metres - Proposed : 0.5 metres);
- (b) element 3.7.8 of the Residential Design Guidelines : Roof pitch; and
- (c) element 3.7.15.3.3 of the Residential Design Guidelines : Carports

for a carport (western elevation) and patio to the rear of an existing single storey dwelling at 71 (Lot 1/S48302) Fraser Street, East Fremantle, in accordance with the plans date stamp received on 26 August 2014 and 7 November 2014, subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. The proposed carport is to remain open. No door to the carport is permitted.
3. No new or modified crossover is permitted under this development application. A works to the exiting crossover are first to be approved by Council.
4. 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. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
9. 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.

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).*

Cr Collinson – Cr McPhail

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

- (a) **variation to the setback requirements of the side (northern and western elevation) setback (Required : 1.5 metres - Proposed : 0.5 metres);**
- (b) **element 3.7.8 of the Residential Design Guidelines : Roof pitch; and**
- (c) **element 3.7.15.3.3 of the Residential Design Guidelines : Carports**
for a carport (western elevation) and patio to the rear of an existing single storey dwelling at 71 (Lot 1/S48302) Fraser Street, East Fremantle, in accordance with the plans date stamp received on 26 August 2014 and 7 November 2014, subject to the following conditions:

1. **The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
2. **The proposed carport is to remain open. No door to the carport is permitted.**
3. **No new or modified crossover is permitted under this development application. A works to the exiting crossover are first to be approved by Council.**
4. **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. **Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without**

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

9. 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.
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).***

CARRIED 7:0

Note:

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

Cr McPhail declared a pecuniary and proximity interest in the matter of 14 Angwin Street as the subject property is located opposite his family home and left the meeting at 7.33pm.

T131.8 **Angwin Street No. 14 (Lot 3)**
Applicant: Giorgi Exclusive Homes
Owner: L & C Archibald
Application No: P18/2014

By Andrew Malone, Senior Town Planner, on 16 October 2014

PURPOSE OF THIS REPORT

This report considers a Section 31 State Administrative Tribunal Order for Council to reconsider an application for proposed demolition of existing dwelling and for proposed new two storey single dwelling with basement and swimming pool at 14 (Lot 3) Angwin Street, East Fremantle.

The applicant has appealed Council's conditions, specifically conditions 1-5 of the Town's resolution dated 10 June 2014, which ultimately result in an overall building height reduction of 0.47 metres.

Only the issues relating to the appeal will be discussed within this report.

The proposed demolition of existing dwelling and construction of new dwelling is recommended for approval subject to conditions.

DISCUSSION

Appeal of Council Conditions

The reason for the appeal of Council's conditions was the Applicant and Builder of the dwelling indicating the unsuitable nature of the initial conditions imposed on the Planning Approval. The imposed conditions would have lowered the whole dwelling by 0.47 metres. The applicant and builder contend that lowering the entire dwelling would compromise the gradient and design of the undercroft garage, and render it difficult to use for certain types of vehicles, in turn creating a long term functionality issue for the

dwelling. An Amended proposal has been submitted only proposing the front of the dwelling on Angwin Street be reduced.

Mediation

On-Site mediation was held on 26 August 2014 between the applicant and the Town. Two Councillors present at the mediation. As discussed at the mediation, there are several ways in which to reduce the overall bulk and scale of the dwelling as presented to the Angwin Street frontage.

The applicant states that lowering the finished floor level of the entire dwelling compromises the undercroft garage gradient. It was agreed amended plans be submitted to address the wall height of the dwelling.

Amended Plans

An amended proposal has been lodged by the applicant that relates primarily to reducing the wall heights at each level of the dwelling only at the Angwin Street frontage, maintaining the height to the rear of the dwelling, thereby facilitating the undercroft garage.

The applicant has proposed:

To this end, please see attached a set of amended plans and elevations which depict the lowering of the dwelling at the aspects facing Angwin Street. We confirm the following key changes to the proposal, which are visible on all plans and elevations, specifically drawing attention to elevation 4 on the set of drawings:

- Lowering of ground floor at Angwin Street frontage by 1 course height;
- Lowering of upper floor at Angwin Street frontage by 2 courses.

This in turn provides compliance with the advice of the Respondent to look, were possible to 'step' the height of the proposal, so that it is softened at the Angwin Street frontage, and goes some way to more closely responding to the slope of the site (i.e. down towards Angwin Street).

The applicant has proposed lowering the front of the dwelling fronting Angwin Street by 0.258 metres, 0.21 metres less than that required by the conditioned approval. The below table outlines Council's wall height requirements, the conditioned wall heights and the amended proposed wall heights.

Wall Height Requirement	Required	Conditioned	Proposed	Status
Building Height (wall) (Council Policy)	5.6m	7.23m	7.44m	D
Building Height (ridge) (Council Policy)	8.1m	8.1m	8.1m	A

The overall wall height of the dwelling as presented to Angwin Street is approximately 7.4 metres, 1.8 metres above the required 5.6 metres eaves height and 0.21 metres above that conditioned by Council. The maximum wall height of the dwelling is approximately 7.4 metres in height an overall proposed front wall height reduction of 0.258 metres.

The applicant has requested Council to reconsider a height variation to the Acceptable Development Provisions of the RDG based on reducing the wall height to the front of the dwelling.

Importantly, it is noted that the dwelling does comply with the overall height to ridge at 8.1 metres.

The applicant has provided photomontages from Angwin Street illustrating the potential impact the proposed dwelling will have. As is illustrated by the streetscape images the proposed dwelling will have a similar height as the existing dwelling.

The digital photomontages illustrate the ground floor deck/cabana and the first floor alfresco area articulates the western elevation of the dwelling, reducing the overall mass and scale of the building as it presents to Angwin Street. The photomontages give an indication of the dwelling as it presents to the neighbouring dwelling. The existing and proposed dwellings are considered to be of a similar maximum height. Whilst the amended proposal does lower the front of the dwelling fronting Angwin Street by 0.258 metres, it is still 0.21 metres above that required by the conditioned approval. However it is considered that the additional 0.21 metres reduction in wall height to comply with Council's requirements will be negligible, considering the overall design and scale of the development. The applicant has provided additional information supporting their amended plans. The proposed 7.4 metre dwelling wall, while articulated through the use of various retaining walls, the cabana and alfresco area / first floor balcony, is over height, however as noted the overall height of the dwelling is compliant with the Acceptable Development Criteria. The bulk of the built form of the building and proposed fill is considered to impact on the street scape, however the permeability of the north western elevation and articulation of the dwelling design is considered to minimise any potential impact the overall wall height will have on the streetscape.

The dwelling is visually permeable to the north western elevation, allowing slight lines through the lower level cabana / pool area and upper alfresco area. This visual permeability is illustrated in the photomontages. The proposed wall height has been reduced by 0.258 metres. The reduced height will reduce any potential streetscape impact and as discussed the north western elevation does have a high degree of visual permeability.

The topography of the lot slopes approximately 5 metres from the north east corner of the lot to the southwest corner of the lot. This gradient change is considered significant and is more pronounced towards Angwin Street. The proposed amended design steps the height of the proposal by 0.258 metres, so that it is softens the streetscape at Angwin Street. The proposed building height, scale and built form have attempted to address Council's conditions to reduce the wall height of the dwelling to appropriately adhere with the topography of the subject lot.

It is considered the proposed variation to the wall height does attempt to address Council's previous conditions. While the overall height still requires Council to consider the application under the Performance Provisions of the RDG, the applicant has provided justification appealing Council's conditions. The applicant states:

on the basis that lowering the entire dwelling would compromise the gradient of the undercroft garage, and render it difficult to use for certain types of vehicles, in turn creating a long term functionality issue for the dwelling.

The changes would also have resulted in height reductions at the southern frontage that would not be required, given the highly compliant nature with height requirements

This justification is considered warranted. The amended proposal reducing the wall height to Angwin Street only.

CONCLUSION

In conclusion the overall building height does not exceed the Acceptable Development Criteria of the RDG at 8.1 metres. The wall height is 7.4 metres. The applicant has reduced the overall wall height by 0.258 metres. It is considered appropriate justification has been provided for this reduction. It is considered the dwelling as conditioned, while still requiring a variation to the wall height, can be supported.

The density, scale and wall height of the proposal (as conditioned) are considered acceptable due to the reduced overall impact the site fill and wall height will have to the streetscape. A landscaping plan to the satisfaction of the Chief Executive Officer has been requested to ensure the fill and retaining walls do not dominate the streetscape.

The amended wall heights will reduce the scale and bulk of the building as viewed from Angwin Street (primary streetscape). The overall height of the dwelling complies with Council Acceptable Development Criteria.

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 Element 5.3.7 Site Works of the Residential Design Codes and Element 3.7.4 of the Residential Design Guidelines Site Works;
- (b) variation to Element 5.4.1 of the Residential Design Codes Visual Privacy;
- (c) variation to element 3.7.8 Roof Form and Pitch of the Residential Design Guidelines;
- (d) variation to element 3.7.14.4 of the Residential Design Guidelines: Crossover;
- (e) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements; for proposed demolition of existing dwelling and construction of new two storey with basement single dwelling and swimming pool at 14 (Lot 3) Angwin Street, East Fremantle, in accordance with the plans date stamp received on 6 October 2014 subject to the following conditions:
 1. The maximum amount of fill introduced to the subject site not to exceed 1.6 metres.
 2. A landscaping plan for the front setback area to Angwin Street to be submitted indicating proposed species and estimated maximum height to be submitted to Council, which is to be to the satisfaction of the Chief Executive Officer prior to an application for a Building Permit being submitted to Council.
 3. No front fence is approved under this planning application. A separate development application is required to be submitted to Council as assessed per the requirements of the Acceptable Development Provisions of Element 3.7.11 of the Town's Residential Design Guidelines.
 4. No front fence/ pool fencing is to be constructed without the prior approval of Council to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 5. The maximum height of any boundary or retaining wall not to exceed 0.75 metres within 1.5 metres of the southern elevation located at the basement driveway.
 6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)
 7. The 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.
 8. The proposed works are not to be commenced until Council has received an application for a Demolition Licence and Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 9. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 10. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to Council to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor.

11. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
13. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
14. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

The email from Pinnacle Planning, referred from Correspondence (MB Ref T129.1) was tabled.

Cr Amor – Cr Handcock

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

- (a) **variation to Element 5.3.7 Site Works of the Residential Design Codes and Element 3.7.4 of the Residential Design Guidelines Site Works;**
- (b) **variation to Element 5.4.1 of the Residential Design Codes Visual Privacy;**
- (c) **variation to element 3.7.8 Roof Form and Pitch of the Residential Design Guidelines;**



4 November 2014

MINUTES

- (d) variation to element 3.7.14.4 of the Residential Design Guidelines: Crossover;
(e) element 3.7.17 of the Residential Design Guidelines: Building Design Requirements;
- for proposed demolition of existing dwelling and construction of new two storey with basement single dwelling and swimming pool at 14 (Lot 3) Angwin Street, East Fremantle, in accordance with the plans date stamp received on 6 October 2014 subject to the following conditions:
1. The maximum amount of fill introduced to the subject site not to exceed 1.6 metres.
 2. A landscaping plan for the front setback area to Angwin Street to be submitted indicating proposed species and estimated maximum height to be submitted to Council, which is to be to the satisfaction of the Chief Executive Officer prior to an application for a Building Permit being submitted to Council.
 3. No front fence is approved under this planning application. A separate development application is required to be submitted to Council as assessed per the requirements of the Acceptable Development Provisions of Element 3.7.11 of the Town's Residential Design Guidelines.
 4. No front fence/ pool fencing is to be constructed without the prior approval of Council to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
 5. The maximum height of any boundary or retaining wall not to exceed 0.75 metres within 1.5 metres of the southern elevation located at the basement driveway.
 6. Prior to the installation of externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (refer footnote (i) below)
 7. The 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.
 8. The proposed works are not to be commenced until Council has received an application for a Demolition Licence and Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
 9. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
 10. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to Council to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor.
 11. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
 12. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without

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

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

Footnote:

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *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 6:0

Note:

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

Cr McPhail returned to the meeting at 7.40pm and it was noted he did not speak or vote on the previous item.

T132. REPORTS OF OFFICERS – STRATEGIC PLANNING

- T132.1** *Proposed Amendment to the Residential Design Guidelines – Roof Materials*
By Jamie Douglas, Manager Planning Services, on 28 October 2014 **B/DG1**

PURPOSE OF THIS REPORT

This report considers proposed amendments to the Residential Design Guidelines so that 'the like for like' requirements in respect to replacement of tiled roofs apply only to properties included on the Municipal Inventory and Heritage List.

BACKGROUND

At its meeting on 21 October 2014 Council resolved as follows:

That an officer's report be prepared to address the suggestion that the Local Planning Policy – Residential Design Guidelines be amended so that the requirement for the retention of tiled roofs only be for Municipal Inventory/ Heritage listed properties.

Statutory Process for Amending a Local Planning Policy

Local Planning Policies are amended under the Part 2 of TPS No. 3. Clause 2.4 of the Scheme requires that a proposed policy amendment is advertised for 2 consecutive weeks in a local newspaper and that submissions may be made during a period of not less than 21 days. Subsequent to the closure of the submission period, Council is then required to review the proposed amendment in the light of any submissions made and resolve whether or not to adopt the amended Policy with or without modification. If the amended Policy is adopted, a notice must be advertised once in a local paper and it comes into force on the date of this advertisement.

Relevant RDG Provisions:

The following provisions of the RDG guide the assessment of replacement roofing materials. Proposed changes are shown in 'track changes' in red colour text:

Materials and Colours

Statement

Residences in the Policy Area are predominantly of timber, brick and limestone construction with corrugated iron and Marseille tiled roofs. Face brick, rendered brick and painted brick finishes are evident throughout the Policy Area. Some corrugated iron roofs have been replaced with Colorbond or Zincolume.

For a specific existing material palette for each Precinct refer to the Town of East Fremantle Precinct Survey.

External face brick or stone walls are defining elements or characteristics of a building and should not be coated, rendered or painted. Full authentic restoration of original colour schemes is not required in the Policy Area. Original cladding materials should not be removed. Where repairs or replacement are necessary, this should be undertaken using materials consistent with the existing fabric. NOTE: Asbestos removal should be carried out in accordance with statutory regulations.



Desired Development Outcomes

- i. For existing contributory buildings, retain original materials where possible. Where materials require replacement, the policy of replacing 'like for like' should be applied;
- ii. External colour schemes to existing buildings should be appropriate to the architectural period and style of the building, based on historical evidence where possible;
- iii. New materials and colours that are compatible but distinguish the addition and alteration from the existing building are preferred; and,
- iv. New materials should be easily distinguishable from existing materials without detracting from the character and heritage significance of the Precinct.

Performance Criteria and Acceptable Development Provisions

Performance Criteria	Acceptable Development Provisions
<p>Existing Buildings:</p> <p>P1 Where possible existing materials should be retained. For contributory buildings, where original materials require replacement, the policy of replacing 'like for like' should be applied.</p> <p>P2 Replacement of existing materials with new materials shall be approved if demonstrably compatible with the immediate locality.</p>	<p>Existing Buildings:</p> <p>A1 Existing face brick and stonework is retained.</p> <p>A2.1 Original cladding materials should not be removed. Where repairs or replacement is necessary, this should be undertaken using materials consistent with existing fabric.</p>

P3 Reinstatement of original colour is encouraged for contributory buildings. Where possible this should be informed by historical evidence including photos and paint scrapes.

Additions and Alterations:

P4.1 Materials and colours to additions and alterations should either match the original or be compatible with the immediate locality. New materials and colours that are compatible but distinguish the addition and alteration from the existing building are

A2.2 Existing timber joinery retained or replaced with new timber joinery to match existing where required.

A2.3 Existing roof material is retained or replaced as required. Replacement materials should match existing for contributory buildings. New materials will have to be demonstrated as compatible with the immediate locality.

A3 Retain or reinstate original colour(s) of the residence.

Additions and Alterations:

A4.1 For alterations to existing dwellings the materials should match the materials of the original dwelling.

A4.2 For additions to existing dwellings the materials should be compatible but distinguishable from the existing. This to be



4 November 2014

MINUTES

preferred.

P4.2 Roofs of alterations or additions should be clad in materials that do not detract from the built form of the existing dwelling.

New Developments:

P5 Materials incorporated in to new developments are to be compatible with the colour and finishes of existing materials in the immediate locality.

demonstrated in relevant elevations.

New Developments:

A5 Assessment will be case-by-case based on the Performance Criteria.

DISCUSSION

Council resolved that consideration be given to amending the RDG “so that the requirement for the retention of tiled roofs only be for Municipal Inventory/Heritage listed properties”.

It is considered that such an amendment is consistent with the Statement of ‘Desired Development Outcomes’. Clause (i) of this section states:

- (i) *For existing contributory buildings, retain original materials where possible. Where materials require replacement, the policy of replacing ‘like for like’ should be applied;*

A *Contributory building* is defined under the RDG as “A building that appears on the Town of East Fremantle’s Municipal Heritage Inventory” (logically this should also include properties on the Heritage List and the definition should be amended to clarify this). Accordingly it is the current intent of the RDG that ‘the like for like provision’ in respect to the replacement of tiled roofs (and other building materials) should only apply to properties on the Municipal Inventory (and the Heritage List).

To better clarify the application of the ‘like for like material’ requirement a number of minor changes are proposed to the ‘Acceptable Development Provisions and Performance Criteria of the RDG. These are shown as ‘tracked changes’ in the above provisions. It is also proposed to make the following minor amendment to the definition of a ‘contributory building’ to clarify that a contributory building is a building contained on either the Municipal Inventory or the Heritage List.

Contributory Building - A building that appears on the Town of East Fremantle’s Municipal Heritage Inventory or Heritage List.

CONCLUSION

The proposed minor amendments to the RDG will better clarify that the ‘like for like materials’ design guideline (which relates to the replacement of tiled roofs and external cladding) applies to buildings on the Municipal Inventory or Heritage List.

RECOMMENDATION

It is recommended that Council endorse the proposed amendments to the Local Planning Policy - 'Residential Design Guidelines, September 2012' included in this report and pursuant to clause 2.4 of the Town of East Fremantle Town Planning Scheme No.3, the Council resolves to publicly advertise the proposed amendments to the Local Planning Policy -'Residential Design Guidelines, September 2012'.

Mayor O'Neill – Cr Amor

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

CARRIED UNANIMOUSLY

T133. CONFIDENTIAL BUSINESS

Nil.

T134. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING

T134.1 Council Decision 21/10/14 – Reroofing of 9 Irwin Street

Cr Handcock – Cr Amor

That the matter be heard.

CARRIED

Cr Handcock raised the issue of the outdated photograph of this property which the recent Council decision on the reroofing proposal was based and sought information on how this matter could be revisited.

Elected members were advised of the process for seeking a revocation to a Council decision.

T135. CLOSURE OF MEETING

There being no further business the meeting closed at 8.06pm

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **4 November 2014**, Minute Book reference **T123. to T135.** were confirmed at the meeting of the Committee on*

.....

Presiding Member