



# Town Planning & Building Committee

**2 April 2013  
6.36pm**

## MINUTES

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 2 APRIL, 2013 COMMENCING AT 6.36PM.**

**T29. OPENING OF MEETING***T29.1 Present***T30. ACKNOWLEDGEMENT OF COUNTRY****T31. WELCOME TO GALLERY****T32. APOLOGIES****T33. CONFIRMATION OF MINUTES***T33.1 Town Planning & Building Committee – 5 March 2013***T34. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)****T35. REPORTS OF COMMITTEES***T35.1 Town Planning Advisory Panel – 12 March 2013***T36. REPORTS OF OFFICERS – STRATEGIC PLANNING****T37. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL***T37.1 Receipt of Reports**T37.2 Order of Business*

*T37.3 Pier Street No. 20 (Lot 232)  
Applicant: Solar Dwellings  
Owner: K Elks & D Watson  
Application No. P112/12*

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Agenda Ref. 9.1*

*T37.4 Hubble Street No. 65 (Lot 185)  
Applicant/Owner: Tania & Brian Toole  
Application No. P195/12*

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*T37.5 Fletcher Street 1A (Lot 100)  
Applicant and Owner: Barry & Lynette Toms  
Application No: P148/10*

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Agenda Ref. 9.6*

*T37.6 King Street No.15 (Lot 429)  
Applicant: Roberto Carlos DeSousa  
Owner: R & M DeSousa  
Application No. P5/13*

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*T37.7 Canning Highway No. 235 (Lot 1851)  
Applicant: Paintessa Development Pty Ltd  
Owner: Paintessa Development Pty Ltd  
Application No. P16/13*

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Agenda Ref. 9.8*

- T37.8**      *Allen Street No. 28 (Lot 1 SP47255)*  
*Applicant: Dale Alcock Homes*  
*Owner: I G Handcock*  
*Application No. P146/12*  
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*Agenda Ref. 9.3*
- T37.9**      *Canning Highway No. 55 (Lot 1)*  
*Applicant: Lendis Golic*  
*Owner: L Srhoy*  
*Application No. P1/13*  
*Page No. 82*  
*Agenda Ref. 9.4*
- T37.10**    *View Terrace No. 1 (Lot 237)*  
*Applicant: David Weir for Arccon Mining Services*  
*Owner: Paul Kreppold*  
*Application No. P194/12*  
*Page No. 92*  
*Agenda Ref. 9.5*
- T38.**      **CONFIDENTIAL BUSINESS**
- T39.**      **URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**
- T40.**      **CLOSURE OF MEETING**

**MINUTES OF A TOWN PLANNING & BUILDING COMMITTEE MEETING, HELD IN THE COMMITTEE MEETING ROOM, ON TUESDAY, 2 APRIL, 2013 COMMENCING AT 6.36PM.**

**T29. OPENING OF MEETING**

**T29.1 Present**

Cr Alex Wilson	Presiding Member
Cr Cliff Collinson	
Cr Dean Nardi	
Cr Maria Rico	
Mr Jamie Douglas	Manager – Planning Services
Mr Andrew Malone	Senior Town Planner
Mrs Peta Cooper	Minute Secretary

**T30. 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.”*

**T31. WELCOME TO GALLERY**

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

**T32. APOLOGIES**

Mayor Alan Ferris  
Cr Barry de Jong  
Cr Siân Martin

**T33. CONFIRMATION OF MINUTES**

**T33.1 Town Planning & Building Committee – 5 March 2013**

Cr Nardi – Cr Rico

That the Town Planning & Building Committee minutes dated 5 March 2013 as adopted at the Council meeting held on 19 March 2013 be confirmed. CARRIED

**T34. CORRESPONDENCE (LATE RELATING TO ITEM IN AGENDA)**

Nil.

**T35. REPORTS OF COMMITTEES**

**T35.1 Town Planning Advisory Panel – 12 March 2013**

Cr Wilson – Cr Rico

That the minutes of the Town Planning Advisory Panel meeting held on 12 March 2013 be received and each item considered when the relevant development application is being discussed. CARRIED

**T36. REPORTS OF OFFICERS – STRATEGIC PLANNING**

Nil.

## T37. REPORTS OF OFFICERS - STATUTORY PLANING/DEVELOPMENT CONTROL

### T37.1 *Receipt of Reports*

Cr Rico – Cr Collinson

That the Reports of Officers be received.

CARRIED

### T37.2 *Order of Business*

Cr Rico – Cr Collinson

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

CARRIED

### T37.3 *Pier Street No. 20 (Lot 232)*

*Applicant: Solar Dwellings*

*Owner: K Elks & D Watson*

*Application No. P112/12*

By Andrew Malone, Senior Planning Officer, on 13 March 2013

#### **PURPOSE OF THIS REPORT**

This report considers a Section 31 State Administration Tribunal Order for Council to reconsider an application for Planning Approval for a development application for a two-storey plus loft single dwelling at 20 (Lot 232) Pier Street, East Fremantle.

#### **BACKGROUND**

##### **Description of Proposal**

The proposed development is a two-storey plus loft single dwelling. The ground floor includes two guest bedrooms, sitting room, bathroom, theatre, garage /store and cellar. The first floor comprises the main living areas of the house, including four bedrooms, study, activity room with associated balcony, study, office, nook, bathroom, laundry, and an open plan kitchen, meals and living area. The main living area has access to a rear deck and alfresco area. The loft comprises master suite, ensuite, walk in robe and retreat.

##### **Description of Site**

The subject site is:

- .. a 891m<sup>2</sup> freehold block
- .. zoned Residential R12.5
- .. vacant
- .. located in the Richmond Hill Precinct.

##### **Statutory Considerations**

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

Residential Design Codes (R-Codes)

##### **Local Planning Policies (LPP)**

- Local Planning Policy 066 : Roofing (LPP 066)
- Local Planning Policy No. 142 : Residential Development (LPP 142)
- Local Planning Policy No. 143 : Fencing (LPP 143)

##### **Impact on Public Domain**

- Tree in verge : No impact
- Light pole : No impact
- Crossover : New crossover proposed
- Footpath : No impact
- Streetscape : New dwelling

**Documentation**

- .. Plans and relevant forms date stamp received on 3 July 2012.
- .. Written submissions from applicant date stamped received on 6 August 2012 and 29 August 2012.
- .. 2 submissions received during public consultation.
- .. Revised plans date stamped received on 12 October 2012.
- .. Revised plans date stamped received on 26 November 2012.
- .. State Administrative Tribunal Notice of Direction Hearing date stamped 15 January 2013

**Date Application Received**

3 July 2012

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

- |                  |   |
|------------------|---|
| 18 March 2003    | Council refuses to grant development approval for demolition of existing dwelling.  |
| 17 June 2003     | State Administrative Tribunal upholds an appeal against Council's refusal to grant development approval for demolition.   |
| 31 January 2005  | WAPC advises Council that it has refused an application for subdivision of the lot.   |
| 15 December 2009 | Council approves development application for construction of two-storey dwelling (not acted on).  |
| 4 September 2012 | Town Planning and Building Committee deferred the decision to facilitate the applicant address the Planning and the Town Planning Advisory Panel's concerns.  |
| 4 December 2012  | Development application is refused based on the following reasons: <ol style="list-style-type: none"> <li>1. <i>The proposed development does not comply with the requirements 6.3.1 Building setback from the boundary of the Residential Design Codes:</i> <ol style="list-style-type: none"> <li>(a) eastern elevation (Bed4/ Bath/ Drying Court); and</li> <li>(b) western elevation (Pantry/ Alfresco).</li> </ol> </li> <li>2. <i>The proposed development does not comply with the requirements of 6.4.1 Open space of the Residential Design Codes.</i></li> <li>3. <i>The proposed development does not comply with the requirements of 6.8.1 Visual Privacy of the Residential Design Codes cone of vision from the northern, southern and western openings.</i></li> <li>4. <i>The proposed development exceeds the maximum building height requirements of Local Planning Policy 142 Residential Development.</i></li> <li>5. <i>The proposed development conflicts with Local Planning Policy Residential Design Guidelines on over-width crossover.</i></li> <li>6. <i>The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (c), (o) and (p) because it is incompatible with adjoining development and would detrimentally impact upon the amenity of the area.</i></li> </ol> |
| 7 January 2013   | Application lodged with the State Administrative Tribunal.  |
| 25 January 2013  | State Administrative Tribunal Directions Hearing.   |
| 18 February 2013 | State Administrative Tribunal mediation: On-Site visit and Council Offices.   |
| 7 March 2013     | State Administrative Tribunal mediation held at Council Offices.  |
| 22 March 2013    | State Administrative Tribunal Directions Hearing.   |

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours for a two week period between the 9 July 2012 and the 25 July 2012. At the close of advertising 2 submissions had been received and are attached to this report. These submissions were included in the report presented at the Town Planning and Building Committee on 4 September and are summarised in the following table alongside the applicant’s response. The officer’s comments have been amended based on a re-assessment of the amended plans date stamped 13 March 2013. The revised plans have not been advertised to the adjoining neighbours as the modifications to the dwelling are to reduce the number of variations being requested by the applicant.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p><b>D &amp; S Gurr</b> <b>22A Pier Street</b></p> <p>Concerned that the east window on the third floor would adversely affect our privacy as it overlooks our property</p>	<p>Appreciate neighbours concerns regarding overlooking. We consider that the submitted plans are, on the eastern side, consistent with the Acceptable Development provisions of the R-Codes in that they do not provide for overlooking of the active habitable spaces and outdoor living areas of the adjoining properties.</p>	<p>Revised plans have been submitted to Council. Overlooking now only occurs from: <i>Master Bedroom</i> <i>Bed 4; and</i> <i>Balcony.</i></p> <p>The extent of overlooking is minimal. The Master bedroom does not overlook any active habitable space or major opening. Bed 4 and the Balcony overlook areas of the front setback and are considered acceptable.</p> <p>It is agreed that these openings meet the Performance Criteria (PC) of the R-Codes and can be supported by Council</p>
<p><b>J Fitzgerald,</b> <b>18 Pier Street</b></p> <p>All windows on the western side have a cone of view directly into the property at 18 Pier Street (back sliding doors; study windows; kitchen windows; master suite windows)</p> <p>Study windows are only set back 2.5m from the fence line</p> <p>Roof line is only 0.7m from the fence, should this be set back 4.0m?</p> <p>Height of the building is 9.5m, is this above the approved maximum height of 8.1m?</p>		<p>Revised plans have been submitted to Council. Overlooking now only occurs from: <i>Master Bedroom</i> <i>Bed 4; and</i> <i>Balcony.</i></p> <p>The extent of overlooking is minimal. The Master bedroom does not overlook any active habitable space or major opening. Bed 4 and the Balcony overlook areas of the front setback and are considered acceptable.</p> <p>Study windows have been modified and now comply with the Acceptable Development Provisions of the R-Codes.</p> <p>Planning setback requirements are based on the distance between the boundary and the building wall in this instance</p> <p>The building exceeds the maximum height requirements of LPP 142. This is discussed in the Assessment Section of this report.</p>

Modifications have been made to the proposed development. Proposed variations will be discussed further in the Statutory Assessment section of this report.

**Town Planning Advisory Panel Comments**

This application was first considered by the Town Planning Advisory Panel at its meeting held on 14 August 2012. The application was subsequently reconsidered by the Town Planning Advisory Panel at its meeting held on 13 November 2012. The Panel noted the following:

- Panel finds it difficult to establish the proposed height of revised application.
- Panel reiterates previous comments.
- Application should be height compliant.

The Panel's, applicant's and Planning Officer's comments from the report dated 14 August 2012 are summarised in the table below.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
Proposed development is out of proportion with the existing streetscape	<p>Front elevation is consistent with the height of the houses to the east.</p> <p>Note that neighbouring dwellings are three stories high, the third storey in this house has been designed as a loft and set back from the front boundary.</p> <p>Roof line is consistent with streetscape.</p> <p>Front street elevation has been articulated to more closely reflect the proportions and rhythms of existing adjoining residences that have been subdivided.</p> <p>Design does not incorporate any parapet walls and maintains a visual break.</p>	<p>During the mediation process a site visit was carried out by the Town, the applicant and the presiding member of the State Administrative Tribunal. It was considered that the prevailing streetscape adjoining 20 Pier Street is not consistent with the traditional form of East Fremantle and that the proposed development is consistent with the neighbouring dwellings.</p>
Development doesn't appear to follow topography of site.	<p>House and external works have been designed to step up the site</p> <p>Similar approach to the only other two-storey neighbouring dwelling.</p>	<p>The proposed development has been 'cut' into the subject site. The natural form of the development does not exceed 2 storey at any one point above natural ground level.</p>
Fill requirement appears excessive in order to articulate ground floor across the lot	<p>Fill requirements have resulted from limiting the extent of cutting</p> <p>Garage has been lowered 5 courses from the undercroft floor level to minimise build up</p> <p>Build-up to SW corner is consistent with existing neighbor.</p>	<p>See above.</p>
Roof forms should be simplified to reflect the rhythm of the existing streetscape and to reduce the overall massing of the building	<p>A more homogenous roof form would accentuate the horizontal visual aspect to the roof instead of the vertical pattern established by the existing residences</p>	<p>Modified roof forms have been submitted to Council. It is considered the proposed roof form and pitch is consistent with the prevailing roof forms in the area.</p>
Query over-height elements	<p>The proposed ceiling heights (2.743m) are similar to homes of this size</p> <p>The roof is 28 degrees in accordance with Council policy. While this provides opportunity for loft the overall size of the ground floor plan has resulted in the ridge</p>	<p>Proposed development exceeds maximum height requirements. Refer assessment section of this report.</p>

PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
	being over-height. This portion of the roof does not have any major impact on streetscape or restricting views from neighbours.  Note that there are several existing developments in the Precinct that are over-height.	

It is noted the proposed development has been modified. No fill will occur. The Officer's comments have been amended to reflect the revised plans date stamped 13 March 2013. Proposed variations will be discussed further in the Statutory Assessment section of this report.

**Site Inspection**

Senior Planning Officer, 16 November 2012

State Administrative Tribunal site visit prior to mediation, 18 February 2013.

**Amended Plans**

As per an Order by the State Administrative Tribunal amended plans were lodged with Council on 13 March 2013. These plans were as an outcome of mediation between the applicant and the Town. The proposed development has been amended to comply with the Acceptable Development Provisions (ADP) of the R-Codes, except as identified below.

**STATUTORY ASSESSMENT**

The proposal has been assessed against the provisions of TPS3, the R-Codes and the Town's LPP. A summary of the assessment is provided in the following tables.

Note 1

*This application was lodged prior to the adoption of the Town's Residential Design Guidelines and has been assessed as per the previous Town's policies.*

Note 2

*For the purposes of this assessment, only the areas that are to be assessed under the Performance Criteria of the R-Codes (see below) are discussed and variations to the Town's other relevant policies are also discussed.*

Note 3

*Residential Design Codes Explanatory Guidelines:*

*Part 6 and 7 contain the core design elements of the R-Code provisions. These use a performance approach and are set out as follows:*

- *First the aim or objective of the design element or special provision is stated;*
- *Second a set of performance criteria is provided that must be satisfied if the objective is to be met;*
- *Third, a set of acceptable development provisions related to the performance criteria is established.*

*The performance criteria are general statements of the means of achieving the objective. They are not meant to be limiting in nature.*

*The acceptable development provisions illustrate one way of satisfactorily meeting the corresponding performance criterion, and are provided as examples of acceptable design outcomes. Acceptable development provisions are intended to provide a straightforward pathway to assessment and approval; compliance with an acceptable development provision automatically means compliance with the corresponding performance criterion, and thus fulfilment of the objective.*

The codes have been designed to provide a clear choice for applicants to select either a performance criteria approach for assessment, as acceptable development provision approach or a combination of the two.

**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	490m <sup>2</sup> (55%)	491m <sup>2</sup> (55%)	A
6.4.2 Outdoor Living	30m <sup>2</sup>	60.74m <sup>2</sup>	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	400mm	A
6.9.1 Overshadowing	25% of adjoining lot	Orientation north/ south	A
6.9.2 Drainage		To be conditioned	A

**Setbacks**

Setbacks:								
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status	
<i>Front (south)</i>								
<i>Undercroft</i>	Dwelling	N/A	N/A	N/A	7.5m	9.7m	A	
<i>Ground</i>	Dwelling	N/A	N/A	N/A	7.5m	8.5m	A	
<i>Upper</i>	Dwelling	Behind ground floor main roof						A
<i>Rear (north)</i>								
<i>Ground</i>	Dwelling	N/A	N/A	N/A	6.0m	7.5	A	
<i>Upper</i>	Dwelling	Behind ground floor main roof						A
<i>Side (east)</i>								
<i>Ground</i>	Bed4/ Bath/ Drying Court	4.0m (max)	15.5m	N	1.7m	1.7m	A	
	Family	4.3m (max)	8m	N	1.1m	2.0m	A	
<i>Loft</i>	Retreat	8.m (max)	4.75m	Y	4.0m	5.5m	A	
<i>Side (west)</i>								
<i>Ground</i>	Bed 5 / Activity/ Balcony	7.5m (max)	9.7m	N	1.5m	1.5m (min)	A	
	Study	5.0m (max)	4.0m	N	2.0m	2.6m	A	
	Pantry / Alfresco	4.2m (max)	11.5m	N	1.5m	1.5m	A	
<i>Loft</i>	Master Bedroom	7.2m (max)	4.4m	N	1.3m	2.1m	A	

The applicant has agreed to a modification to the drying court, so as the proposed setback to the drying court complies with the ADP of the R-Codes. The screen will be set back 1.7m from the eastern side boundary, therefore the proposed setback is considered to comply with the ADP of the R-Codes. A condition has been included in the Officer's Recommendation to reflect the required setback.

**Visual Privacy**

<b>6.8 Visual Privacy</b>				
Wall Orientation	Major Opening Type	Required Setback (m)	Proposed Setback (m)	Status
South	Bed 4	4.5	3.0	D
South	Master Bed	4.5	3.0	D
South	Balcony	7.5	3.0	D

The ADP provisions of the Clause 6.8.1 of the RDC - Visual Privacy 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 setback line, to comply with the following:

*4.5 metres in the case of bedrooms;  
6.0 metres in the case of habitable rooms, other than bedrooms; and  
7.5 metres in the case of active habitable spaces.*

The proposed development does not comply with the ADP provisions of the RDC. The Performance Criteria (PC) states:

The PC of 6.8.1 allows for:

*“Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location, and the design of major openings and outdoor active habitable spaces, screening devices, and landscape, or remoteness.”*

The proposed dwelling complies with the PC requirements of the R-Codes for Element 6.8.1. The window to Bed 4 and the balcony as identified above overlook the front setback area of the adjoining properties. The Master Bed overlooks a screened walkway to the side of the neighbouring dwelling at 18 Pier Street. All three windows do not have any direct overlooking of active habitable spaces and outdoor living areas of other dwellings. The proposed windows do not impact on the amenity of adjoining neighbours. The three windows as noted above are considered to comply with the PC provisions of the R-Codes. In all other instances the dwelling complies with the ADP of the R-Codes.

**Local Planning Policies Assessment**

<b>Local Planning Policies:</b>	<b>Issues</b>	
<b>Policy 142</b>	<b>Complies to height and setbacks</b>	<b>D</b>
Roof	Roof pitch less than 28 degrees	A
Solar Access & Shade	Deck has opening to north	A
Drainage	To be conditioned	A
Views	Height non-compliant but does not obscure views	A
<b>Crossover</b>	<b>Condition to comply</b>	<b>D</b>
<b>Trees</b>	<b>Site plan shows verge tree removed (Appropriate condition applied).</b>	<b>D</b>

The applicant has stated with regard to building height:

*Local Planning Policy - Residential Design Guidelines is also relevant to this application with particular reference to Clause 3.7.17.4.1 - Building Height, Form, Scale and Bulk.*

*Acceptable Development Provisions A1.3 Category 'B' provisions as set out within Table 3 – Maximum building Heights of the Residential Design Codes applicable as the 'Acceptable Development' Standards where:*

- i. significant water views from neighbouring properties will not be affected*
- ii. the acceptable development provisions of Residential Design Codes – Element 9 Design for Climate and Element 8 – Privacy are met.*
- iii. The subject site is not a battle axe lot*

- 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

*I contend the interpretation to which has led the Town to apply the amended building heights, as stated above. The policy is clear in its wording in A1.3 where Category B provisions shall apply, specifically 6m to the top of an external wall and 9m to the top of a pitched roof. The subject site does not in any way restrict any water view, be it significant or minor, from any neighbouring site. Therefore, Clause A1.4 does not apply.*

*Furthermore, the reference to 'and' is clear whereby it requires the property to be in a locality where views are an important part of the amenity and neighbours existing views are to be affected. Given Clause A1.3 precedes this requirement and refers to sites where neighbours views are not affected, then in instances that views are affected the provisions of Clause A1.4 apply. I cannot see the reference to 'and', meaning 'and/or' as you have instructed, as it is clear that Clause A1.4 requires both elements, that is, located in an area where views are an important part of the amenity and neighbours existing views are affected. The proceeding 'or' also supports this interpretation as the paragraphs makes reference to another anomaly of which represents an alternative – referring to battleaxe lots.*

*In light of the above, the maximum building heights applicable to the site are in accordance with Category 'B' provisions in Table 3 of the R Codes.*

It is noted that the proposed development was assessed under Policy 142 and not 7.17.4.1 - Building Height, Form, Scale and Bulk of the RDG. Element 7.17.4.1 - Building Height, Form, Scale and Bulk of the RDG supersedes Policy 142, however it is noted that Policy 142 was used to formulate Element 7.17.4.1 - Building Height, Form, Scale and Bulk of the RDG. There are however differences between the two Policies. Notwithstanding this, the proposed development has been assessed with regard to Policy 142, the Performance Criteria of the Town's RDG and the Performance Criteria of the R-Codes.

### **Building Height**

Part 1 – Maximum Building Heights (ii) of LPP 142 states:

*Category B provisions as set out within Table 3 – Maximum Building Heights of the Residential Design Codes are applicable as the Acceptable Development except in localities where views are an important part of the amenity of the area, then the maximum building heights are as follows:*

- 8.1m to the top of a pitched roof
- 5.6m to the top of an external wall;
- 6.5m to the top of an external wall (concealed roof)

For the purposes of this assessment it is noted that Pier Street is in a locality where views are an important part of the amenity of the area, therefore the above maximum building heights as set out in this policy have been used in the assessment of building height.

<b>Height:</b>	<b>Required</b>	<b>Proposed</b>	<b>Status</b>	<b>Discretion required</b>
Wall South	5.6m	6.5m (max)	D	0.9m
Wall East	5.6m	7.1m (max)	D	1.5m
Wall West	5.6m	7.3m (max)	D	1.7m
Wall North	5.6m	3.4m (max)	A	Complies
Roof South	8.1m	7.8m (max)	A	Complies

Height:	Required	Proposed	Status	Discretion required
Roof East	8.1m	8.9m (max)	D	0.8m
Roof West	8.1m	8.7m (max)	D	0.6m
Roof North	8.1m	7.3 (max)	A	Complies

The proposed development exceeds the maximum height requirements outlined in the LPP 142 the RDG and the eaves height of the dwelling as outlined in the R-Codes. The applicant has significantly reduced the overall height of the proposed development. It is noted that Policy 142 does not have performance related criteria by which to assess an application, the Town's new RDG provide the performance criteria by which the application can be assessed.

The Town's RDG Local Planning Policy provides for discretion as contained within the Performance Criteria at 3.7.17.4.1.3, which states:

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

The proposed development (as illustrated in section drawings and the street elevations) is consistent with the scale, height and bulk of the adjoining properties to the east and west. The adjoining properties to the east are consistent with the design of the proposed dwelling being 3 storey in height. The accompanying streetscape perspective (attached) clearly illustrates uniformity in the overall height gradients as the slope moves down from east to west. In no other part of East Fremantle and in no other section of Pier Street is such a streetscape present. The proposed development is consistent with the prevailing streetscape and dwelling design. The streetscape perspectives identify the transition in height between the adjoining eastern dwellings that consistently appear as 3 storeys, and the adjoining western dwelling, thereby retaining a consistent height and appropriateness within the streetscape. Strategic placement of the loft level to the middle third of the building footprint ensures that the prominent roof form to the loft cannot be clearly viewed from the street (attached 3D modelling). The strategic placement of the loft delivers a 2 storey appearance at any one point, as viewed from the street.

The subject site ranges in height from 15.46 AHD at the north eastern corner of the site to 10.53 AHD at the south western corner of the lot, a height difference of 4.93 metres. It is recognised by Council that the subject site has constraints and a significant natural ground level gradient change, therefore influencing design outcomes. Recognising this, the proposed dwelling has been designed to present as 2 storey throughout the lot and from the street. The proposed height variations to the ADP are to the middle third of the lot and therefore the proposed impact to the streetscape is considered appropriate. The proposed development is considered to comply with the Towns PC requirements of Element 3.7.17.4.1.3 of the RDG.

The height requirements of the R-Codes provide for eaves to be 6.0 metres and ridge of roof to be 9.0 metres from the natural ground level. As the proposed eastern and western elevation eaves have heights in excess of 6.0, the proposed dwelling is not considered to comply with the ADP of the R-Codes. The proposed development requires assessment under the Performance Criteria of the R-Codes. The Performance Criteria of the R-Codes for 6.7.1 Building Height states:

*P1 Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenity of adjoining properties, including, where appropriate:*

- Adequate direct sun to buildings and appurtenant open spaces;
- Adequate daylight to major openings to habitable rooms; and
- Access to views of significance.

The proposed development has been assessed as per the PC requirements of the R-Codes. The following comments address the PC requirements:

- The lot is north/ south orientated. The proposed development has adequate direct sun to buildings and appurtenant open spaces. The development has been designed as a passive solar dwelling, designed to maximise the solar and ventilation requirements for the dwelling. There is no impact to adjoining neighbours with regard to direct sun to buildings and appurtenant open spaces and daylight to major openings to habitable rooms.
- The subject site ranges in height from 15.46 AHD at the north eastern corner of the site to 10.53 AHD at the south western corner of the lot, a height difference of 4.93 metres and varies from by approximately 0.6 of a metre from the south eastern corner of the lot to the south western corner of the lot. The dwelling is setback approximately 10 metres from the front boundary. The dwelling is not considered to limit views of significance from adjoining neighbours.

#### **Street Tree and Crossover**

A tree is proposed to be removed to facilitate the construction of a double crossover. The crossover width is required to be a single width of 3.0 metres (single width as per Council Policy). A condition has been included in the Officer's Recommendation to redesign the crossover to a maximum width of 3.0 metres.

It is noted that the existing street tree is out of character with the existing street formation of other Council trees the area. It is considered that the tree is not a formal Council tree. The removal of the tree will not significantly impact the streetscape. A condition has been included in the Officer's Recommendation requiring the applicant to plant a verge tree to Council specification and maintain that tree for a period of two years.

#### **CONCLUSION**

The applicant has submitted amended plans that address a number of the areas of non-compliance identified in respect to the initial application. The proposed development is seeking variations to the Acceptable Development Provisions with regard to visual privacy and building height. The applicant has requested that these two areas are assessed as per the PC requirements of the R-Codes. As noted above a full assessment of these has been undertaken using a performance assessment. The visual privacy and building height of the proposed dwelling, in this instance, due to the nature of the existing streetscape is considered to comply with the PC requirements of the R-Codes. Accordingly the development application is recommended for conditional approval.

#### **RECOMMENDATION**

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

- (a) variation to the Acceptable Development Provisions for building height requirements of Policy 142 and the R-Codes; and
- (b) variation to the Acceptable Development Provisions of visual privacy of the R-Codes;

for a two storey plus loft single dwelling at 20 (Lot 232) Pier, East Fremantle, as described on the plans date stamped received 13 March 2013 subject to the following conditions:

1. Prior to the application for a Building Permit being lodged with the Town, 3 copies of scaled drawing as provided to Council date stamped 13 March 2013 to be provided with the following amendments:
  - (a) Drying Court screen wall to be setback 1.7 metres from eastern boundary.
  - (b) Crossover to be a maximum width of 3 metres.
2. Applicant to plant new verge tree to Council specification as a replacement verge tree and maintain that tree for a period of two years, all to the satisfaction of the Chief Executive Officer.
3. 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*)

4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
5. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
6. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
8. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
9. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
10. 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.
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) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *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 Sandra Bransby (Planning Consultant) addressed the meeting and tabled a copy of her response to the contents of the officer's report.

#### **RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Rico**

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

- (a) variation to the Acceptable Development Provisions for building height requirements of Policy 142 and the R-Codes; and**
- (b) variation to the Acceptable Development Provisions of visual privacy of the R-Codes;**

**for a two storey plus loft single dwelling at 20 (Lot 232) Pier, East Fremantle, as described on the plans date stamped received 13 March 2013 subject to the following conditions:**

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(b) Crossover to be a maximum width of 3 metres.**
- 2. Applicant to plant new verge tree to Council specification as a replacement verge tree and maintain that tree for a period of two years, all to the satisfaction of the Chief Executive Officer.**
- 3. 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)**
- 4. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 5. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 6. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.**
- 7. All stormwater is to be disposed of on site, an interceptor channel installed if required and a drainage plan be submitted to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.**
- 8. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.**
- 9. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without**

- limitation any works associated with the proposal) which are required by another statutory or public authority.
10. 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.
  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.*
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- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
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- (g) *the patio may not be enclosed without the prior written consent of Council.*
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- (i) *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

**T37.4**      **Hubble Street No. 65 (Lot 185)**  
**Applicant/Owner: Tania & Brian Toole**  
**Application No. P195/12**

By Jamie Douglas Manager Planning Services and Andrew Malone Senior Planning Officer on 25 March 2013

**PURPOSE OF THIS REPORT**

This report considers an application for partial demolition, renovations and extensions to a dwelling at 65 (Lot 185) Hubble Street, East Fremantle and recommends approval subject to appropriate conditions.

**BACKGROUND****Description of Proposal**

It is proposed to retain the façade and front two rooms of an existing single storey Victorian bungalow while demolishing the balance of the existing structure and extending a two storey modernist addition to the rear. The existing stand alone single garage in front of the building line is to be retained.

**Description of Site**

The subject site is:

- 508m<sup>2</sup> freehold lot
- zoned residential R 20
- improved with a single dwelling
- located in the Plympton Precinct
- assigned B- Management Category in the Municipal Heritage Inventory. The Municipal Heritage Inventory states:

*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**

State Planning Policy 3.1 Residential Design Codes (**R-Codes**)  
 Town Planning Scheme No. 3 (**TPS3**) (Residential R20)

**Relevant Council Policies**

Local Planning Policy No. 1 : Residential Design Guidelines (**RDG**)

**Impact on Public Domain**

- Tree in verge : N/a
- Light pole : N/a
- Crossover : Existing
- Footpath : N/a
- Streetscape : The rear extensions will be visible from the street.

**Documentation**

Plans and relevant forms date stamped received 2 January 2013  
 Submission received during public consultation received 4 February 2013  
 Applicant's responses received 29 January and 15 February 2013  
 Development Impact Statement dated 6 February 2013  
 Revised plans and 3D impressions date stamped received 22 March 2013  
 Applicant submission date stamped received 25 March 2013

**Date Application Received**

2 January 2013

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

13 March 2013 Application decision deferred pending site visit by Councillors and revised plans.

**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.

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%	57%	A
6.4.2 Outdoor Living	30m <sup>2</sup>	40+m <sup>2</sup>	A

Residential Design Codes Assessment			
Design Element	Required	Proposed	Status
6.5 Car Parking	2	1 (existing)	D
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	25%	D
6.9.2 Drainage	On-site	On-site	A

6.3 Boundary Setbacks							
Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Proposed Setback	Status
Front (east)							
Ground					6.0	7.2	A
Rear (west)							
Ground	Shed	3.2	4.0	N	1.0	Nil	D
Upper		6.5	7.5	Y	3.0	19.5	A
Side (north)							
Ground		3.6	11.0	N	1.5	0.6	D
Upper		6.8	9.5	N	1.5	2.5	A
Side (south)							
Ground		2.8	8.0	Y	1.5	1.9	A
Upper		6.2	7.2	N	1.2	1.26	A

Local Planning Policy Assessment		Status
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	<b>Roof Form and Pitch</b>	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	A
3.7.13	Incidental Development Requirements	A
3.7.14	Footpaths and Crossovers	N/A
3.7.15-20	Precinct Requirements	A

3.7.15-20 LPP RDG – Building Height			
Type	Required	Proposed	Status
Wall	6.0	3.8	A
Wall (Concealed Roof)	7.0	6.8	A

## CONSULTATION

### Neighbour Advertising

The application was advertised to surrounding neighbours for a two week period between 9 January 2013 and 4 February 2013. At the close of advertising one submission had been received. The issues raised in the submission are summarised in the following table alongside the applicant's response and officer's comment.

SUBMISSION	APPLICANT RESPONSE	OFFICER COMMENT
<p><i>B &amp; E Wilde</i> 67 Hubble Street</p> <p>Overshadowing – sheds not taken into account – back garden will be affected by any extensive overshadowing</p>	<p>Majority of overshadowing will have no impact because of existing structures – it will fall across fences and roofs.</p> <p>Additional drawing provided which includes sheds and showing only 3.2 m<sup>2</sup> of rear garden area will be subject to additional shadow.</p>	<p>The additional shadow diagram provides a more accurate estimate of impact. The extent of overshadowing is not considered to be unreasonable.</p>
<p>Only 4 metres of our northern boundary will not be fully developed</p> <p>The single storey addition is high enough and close enough to our boundary to have a large impact on our existing amenity.</p> <p>Consider reducing the height of the walls and relocating the single storey addition to a more northerly location.</p>	<p>The proposed development is designed on the basis that the existing levels are regarded as Natural Ground Level based on a previously established subdivision of the lot; the property was purchased and all design has been carried out in good faith in regards to these existing natural ground levels.</p>	<p>Subject to the comments below, in general overshadowing is not considered to be unreasonable</p>
<p>Objects to shed wall extending above existing fence height. The level difference between properties would allow for a reasonable wall height if limited to fence height.</p>	<p>It is not practical for the shed wall not to be seen above the fence. The parapet wall will be approximately 500mm higher than the fence and a significant amount of excavation will be done to achieve this as low as practical wall height.</p>	<p>Section AA of the plans indicates that the finished floor level of the shed will be similar to the ground level. Accordingly it would be possible to achieve a parapet wall height similar to the fence height with minimal additional excavation. Given the shed is a substantial structure with a wall length of 4.3 m along the neighbours northern boundary, its impact upon their visual amenity and the shadow cast on the rear garden area is considered to be unreasonable and accordingly the wall height should be lowered by .5m.</p>
<p>Completely opposed to any relocation of the proposed two storey portion towards the rear of the property this would have a very large, negative impact of shadowing our rear garden.</p>	<p>We agree with the neighbour however Heritage Impact Statement and Advisory Panel propose that the second storey be pushed back by 600 mm to improve the street front visual impact – we may have to comply with this recommendation.</p>	<p>This issue is further addressed within the body of this report. However it is noted that while a relocation would marginally increase the degree of overshadowing the extent of this based on the shadow diagram supplied would be very minor and would be less than a third of the area of shadow cast by the proposed shed parapet wall.</p>

TOWN PLANNING ADVISORY PANEL		
PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
<p>Panel does not support the current application</p>	<p>No response</p>	<p>The proposed development has been amended to address the concerns of TPAP and the Heritage Impact Statement.</p>
<p>Proposal involves demolition of major aspects of the existing heritage cottage that virtually render it as merely a façade. Panel does not support such extensive demolition of</p>	<p>Engaged a Heritage Consultant John Kirkness to advise.</p> <p>Majority of heritage aspects of the building to be retained.</p>	<p>The four principal rooms and hallway of the existing cottage are being retained to provide sufficient depth for the existing dwelling to retain street presence.</p>

TOWN PLANNING ADVISORY PANEL		
PANEL COMMENT	APPLICANT RESPONSE	OFFICER COMMENT
a 'B' category residence.	Severe structural crack in northwest corner requires under pinning.	Further internal modifications maintain the traditional fireplaces in the property.
Query solar access orientation of living areas'	We have selected our living spaces according to where we will enjoy this best minimising the western sun and gaining from the north and east ensuring cross ventilation from the south west.	Noted. Passive solar design outcomes are considered acceptable within the context of the building/site orientation.
First storey addition is too overbearing on what will remain of the original residence, a setback of at least 3m from the original roof pitch is recommended.	Sight line diagrams provided showing extent of visual impact of the two storey extension from street. Externally the existing house will be restored to reflect the era approx circa 1889.	Noted Refer above comments. The sight line clearly demonstrates that the second storey addition will be visible from immediately the street, however the design is such that the proposed additions comply with the 3.7.2 and 3.7.16 of the RDG. The 3D perspectives provided clearly illustrate the full extent of the impact of the dwelling to the streetscape. The proposed additions and alterations are considered acceptable.
Applicant should consider a design that sits behind the original residence.	Would like to think our design considers the heritage value and neighbourhood impacts and accords with Burra Charter principles.	The four principal rooms and hallway of the existing cottage are being retained to provide sufficient depth for the existing dwelling to retain street presence. The proposed second storey addition is setback 2.8 metres from the existing roof pitch. Sight line diagrams and the 3D perspectives provided show the extent of visual impact of the two storey extension from street. The proposed additions and alterations are considered acceptable.

**Development Impact Statement**

In response to the comments of the Town Planning Advisory Panel the applicants instructed Mr John Kirkness to produce a Development Impact Statement. This Statement is to be commended for its comprehensive and considered approach. Elected Members are encouraged to read the Statement in full, the following extract from the Conclusions/Recommendations section included in this assessment report:

*Further to this qualified support for the proposal, the following amendments and/or conditions to the design proposal having regard to the preservation of the heritage values of the place are further recommended for consideration by the Applicants and thereafter Council as appropriate, as part of any approval of the proposal.*

- *The extant original detailing to the front façade of the building to be retained and conserved, including face block-work/coursing to the limestone walls, joinery to doors and windows and all original timber detailing to the verandah. Replacement fabric, consistent with the original detailing only to be used where clearly necessary in light of material deterioration of existing fabric.*

- *The refurbishment of the garage structure to be materially and architecturally simple, loosely consistent with the form and materiality of the original structure. The main verandah structure beyond to be fully retained and conserved and not compromised by this element.*
- *The partially buried front steps/piers to the front of the verandah to be fully retained in-situ and revealed as part of the proposed front landscaping works.*
- *Consideration be given to the retention and repointing as appropriate of the revealed limestone side-walls of the heritage dwelling, where these define that structure and provide evidence of its evolutionary construction.*
- *Consideration be given to the reconstruction of the missing twinned main chimney above the extant south side fireplaces, adopting a simple corbelled style and using recycled face red bricks obtained from the demolished portion of the dwelling. The setting out/detailing to the upper level additions in conjunction with such reconstructed fabric to be sufficiently modified to allow a clear reading of this reconstructed element as a critical aesthetic part of the architectural composition of the heritage building.*
- *The northern chimney to be retained and conserved in-situ, with non-original additional brick courses removed.*
- *The southern limestone wall to the dwelling to be retained to its full extent. This limestone wall element may be contained at least partially within the new building extension, however should be clearly readable as a continuous and significant heritage building element.*
- *The double hung sash window to be retained and conserved within this south wall.*
- *The rear facing south side fireplace to be fully retained and conserved (not necessarily in working order) within the room space adjacent to the southern limestone wall.*
- *The proposed layout and detailing of the kitchen to be modified consistent with the achievement of conserved wall, opening and fireplace elements,*
- *Consideration to be given to retaining/reconstructing some further element/s of the rear triple leaf masonry wall within the kitchen/living/dining spaces, to assist the reading of the original and evolutionary building form.*
- *The original door opening to the southern front room to be retained in situ; further entry-points as otherwise proposed are acceptable.*
- *Consideration to be given to the retention in whole or part of the north side-wall and western closer to the central hallway.*
- *Internally, all original detailing to be retained and conserved throughout the heritage portions of the dwelling, including doors, floorboards, skirtings and architraves, vents and fireplaces/surrounds. Further extension and integration of this fabric into the new dwelling portion to be at the designer's/applicants' discretion.*
- *Original heritage fabric to be restored and reinstated wherever possible; replacement fabric to be consistent with original detailing where otherwise required. More elaborate/decorative mock-historicist detailing to be specifically avoided in the reconstruction of the heritage interior spaces.*
- *The face of the upper level eastern wall/portal to be further set back a minimum of 600mm from the position indicated, providing a minimum 3.0m setback for this element from the main hipped roof transverse ridge.*
- *The north side-wall of the proposed development, including both the retained existing limestone wall and new masonry wall beyond, to be modified to fully reveal the skillion roof form proposed beyond (consistent with the general form of the existing building as extending along the site and with the proposed west and south side walls).*

*Subject to these amendments and recommendations, the proposal can successfully retain, reveal and enhance the heritage significance of the place while still allowing for a substantial redevelopment of the place into a relatively large contemporary family home. They can in my professional opinion be applied in whole or part to the proposed development without significantly altering its design intent or arrangement and can be dealt with as such by way of conditions and advisory notes attached to any planning consent Council may consider granting for the proposal, with such amendment contained in further architectural documentation to Council's satisfaction prior to the issue of a Building Licence.*

*As stated at the outset, this Statement only deals with those aspects of the application having a bearing on the heritage values and significance of the place, and does not otherwise deal with general statutory planning policy or design guideline requirements for the development as a whole. Moreover, the exercise of discretion in supporting or otherwise considering those heritage related aspects of the proposal rests ultimately with the elected Council, with this Development Impact Statement provided to assist the Council in that task.*

Further to the Development Impact Statement and the Committee's resolution on 13 March 2013, amended plans were submitted to Council addressing the required changes to the dwelling. A site visit was also undertaken by Councillors on 23 March 2013. The applicant is restoring the heritage dwelling by addressing the recommendations in the Development Impact Statement as follows:

- *Original detailing to the front, North, South facade to be repaired/repointed and left exposed along with windows, veranda and timber work as per HIS*
- *Restoration of front garage – materials to be used recycled Baltic Pine boards from existing cottage which will weather over time, fibre Cement cladding in neutral cream as is as per HIS*
- *Buried steps to be exposed on completion of landscaping as per HIS*
- *Northern Chimney to be retained and conserved in-situ with non-original additional brick courses removed as per HIS*
- *Door to front South bedroom re-instated in revised drawings as per HIS*
- *Floor boards and trims to front portion as per HIS*
- *Access through chimney closed off as per HIS*
- *A02 Hatch indicates extent of heritage architectural detail restoration or rein station*
- *A03 Cabinetry work proposed to entrance to further delineate hallway and adjacent room*
- *A05 Top right hand corner notes on Heritage portion and materials coded for reference to the development*

## DISCUSSION

### Residential Design Codes

The proposal complies with relevant R-Code and the Residential Design Guidelines 'Acceptable Development' Provisions (**ADP**) except as indicated below.

### **Boundary Setback**

- **6.3.1 Buildings setback from the Boundary (R-Codes)**
- **3.7.7 Building Setbacks and Orientation (RDG)**

The applicant is seeking Council discretion with regard to the setback requirements of the R-Codes and the Town's RDG.

The proposed development incorporates two variations to Acceptable Development Provision setback requirements to the side and rear boundaries. The LPP RDG Element 3.7.7 provides criteria by which to assess proposed variations to setback requirements. These are as summarised below.

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

There are no changes proposed to the primary street setback. The proposed additions and alterations are to the rear of the property.

Northern Elevation: The 0.6 metre setback to the northern elevation is considered acceptable as the proposed addition is setback in line with the prevailing and existing setback as the heritage dwelling. The proposed setback to the northern elevation retains

the original chimney/ side wall. The setback is considered acceptable considering the existing side setback.

Western Elevation (shed): The western setback to the shed is proposed at nil. The wall will abut an existing dividing fence. The zero lot boundary wall is acceptable considering the proposed shed is to the western boundary and is not considered to adversely impact the neighbour to the west or south. The shed is detached from the existing heritage dwelling and is considered sympathetic to the character of the dwelling.

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

The setbacks requiring Council discretion are to the northern and western boundaries. The building setbacks do not adversely affect the heritage dwellings visual presence to the streetscape or the character of the building. It is considered the proposed design and setbacks distinguish, reinforce and protect the heritage character of the building. The proposed additions can be clearly interpreted as additions and distinct from the heritage building. The proposed amendments as recommended within the Development Impact Statement have been adopted by the applicant and are considered to improve the visual presence of the heritage dwelling to the street. The additions and alterations are considered appropriate with the prevailing built form in the locality and are designed so as to be sympathetic to the character and scale of the locality.

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

The reduced setback to the northern elevation continues the prevailing setback of the heritage dwelling. It is considered the reduced setback does not impact on the adjoining neighbours with regard to visual privacy or overshadowing (discussed later in the report). The proposed additions are complementary to the existing dwelling and the proposed alterations will improve the visual presence of the existing dwelling to the streetscape.

Notwithstanding the above RDG requirements, the proposed development is seeking Council discretion with regard to the Acceptable Development Provisions of the R-Codes. The proposed additions will be assessed as per the Performance Criteria (PC). The PC states:

**P1** *Buildings setback from boundaries other than street boundaries so as to:*

- *Provide adequate direct sun and ventilation to the building;*
- *Ensure adequate direct sun and ventilation to the adjoining properties;*
- *Provide adequate direct sun to the building and appurtenant open spaces;*
- *Assist with protection of access to direct sun for adjoining properties;*
- *Assist in ameliorating the impacts of building bulk on adjoining properties;*  
*and*
- *Assist in protecting privacy between adjoining properties.*

The proposed additions and alteration to an existing dwelling are considered to comply with the above Performance Criteria as follows:

- The proposed variations to the Acceptable Development Provisions are located to the middle and rear of the lot. It is considered the proposed additions will receive adequate direct sun and ventilation. The shed has not been considered for such requirements.
- The proposed additions and alterations do impact on the direct sun received by the adjoining property, however, the proposed overshadowing is considered to comply with the Performance Criteria of the R-Codes. The overall impact of the development is not considered to significantly impact on the adjoining neighbours.
- Direct sun to the building and appurtenant open spaces is not impacted by the proposed additions and alterations.

- The proposed additions to the existing heritage building are considered to be of a scale and bulk consistent with the character of the existing building. The northern setback variation is considered not to impact on adjoining neighbours. The shed to the rear of the property will create an additional 3m<sup>2</sup> overshadowing to the southern lot, however this is not considered over an area that is considered an active outdoor space. Therefore it is considered that the proposed development does assist with protection of access to direct sun for the adjoining property to the south.
- The proposed additions are of a scale and bulk that are considered consistent with the streetscape and adjoining neighbours. The building bulk of the proposed development will be discussed in detail later in the report. These additions are considered appropriate and will not impact with regard to scale, bulk or overshadowing to the western neighbour.
- There are no privacy concerns.

The proposed development is considered to comply with the Performance Criteria of Element 6.3.1 Buildings setback from the Boundary and therefore can be supported.

#### 6.5.1 On-Site Parking Provision

The ADP of the R-Codes requires two car parking spaces to be provided on site. The existing garage built in the front setback area of the lot provides car parking for one (1) vehicle. The proposed additions do not provide any additional on-site car parking spaces. On street car parking is provided located on Hubble Street. Due to the existing heritage dwelling location and orientation, it is considered inappropriate to enforce on-site car parking provisions. It is considered the one (1) car parking bay is acceptable with the associated on street car parking. It is noted that the existing garage is to be restored as per the recommendation of the Development Impact Statement.

#### 6.9.1 Solar Access for Adjoining Sites

The Acceptable Development Provisions of the R-Codes states that development cannot exceed 25% overshadowing of an adjoining lot. The proposed development exceeds 25% overshadowing of the adjoining lot. The Performance Criteria of the R-Codes with regard to Element 6.9.1 states:

**P1** *Development designed to protect solar access for neighbouring properties taking into account the potential to overshadow:*

- *Outdoor living areas;*
- *Major openings to habitable rooms;*
- *Solar collectors;*
- *Balconies or verandahs.*

As is illustrated on the overshadowing diagram (attached), the proposed development is considered to impact an additional 1.3% of shadow to the adjoining lot that is considered to adversely impact on the lot. The proposed development has been designed to protect the solar access of the neighbouring lot by ensuring the second storey is principally located to overshadow the adjoining dwelling and roofed alfresco area. The outdoor living area, rear garden and major opening to habitable rooms are not considered to be adversely impacted by the proposed development.

The proposed development is considered to comply with the Performance Criteria Element 6.9.1 Solar Access for Adjoining Sites and therefore can be supported.

**LPP - Residential Design Guidelines**

The following guideline provisions for the Plympton Precinct are relevant to the consideration of the proposal:

**3.7.8 Roof Form and Pitch**

Acceptable Development Provisions 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 pitch of the addition is 5°. The proposed additions and alterations are design to be modern and contemporary and are designed to be distinct from the heritage dwelling. The additions and alterations complement the existing heritage dwelling and complement the traditional form of surrounding development in the immediate locality, by being distinct from the existing dwelling. The applicant has avoided creating a faux heritage building and has instead design a modern building, which reinforces and highlights the character of the heritage dwelling. The existing heritage dwelling is the dominant building to the street and thereby reducing the perceived bulk of the proposed additions and alterations, therefore it is considered the proposed roof form and pitch complies with the Performance Criteria of the RDG.

**3.7.16.4.1.1 – Building Height, Form, Scale & Bulk**

The proposed additions and alterations comply with the Acceptable Development Provisions of the RDG. While this is noted, it is considered important to consider the Performance Criteria of the RDG, especially considering the impact the proposed development may have on the streetscape and neighbouring properties.

The building design requirement for Building Height, Form and Bulk has a general statement:

*In any new development, the form, bulk and scale will need to be demonstrably compatible with the existing and surrounding residences.*

The proposed dwelling can be viewed from Hubble Street. The applicant believes:

*There needs to be visibility of the new addition to differentiate between the old and new.*

Such a view is shared in the Burra Charter. It is evident that the amended plans address the recommendations of Mr Kirkness. The applicant has a desire to facilitate, where possible, the retention of the important elements of the original dwelling. It is considered that while the proposed additions and alterations will be visible from Hubble Street, they comply with 3.7.2 Additions and Alterations to Existing Buildings of the Town's RDG. The proposed additions and alterations are consistent with the form, bulk and scale of the surrounding residences and such modern additions have been previously approved by Council in the Plympton Precinct previously. The additions have been designed to be complementary to the existing dwelling.

The desired development outcomes of the RDG for the Plympton area states:

- i. New developments should reflect the prevailing form, bulk and scale of the immediate locality;*

- ii. *New developments shall respect and follow the predominant street pattern in terms of roof pitch, orientation and articulation; and,*
- iii. *Two storey developments and additions that are well designed and do not visually dominate the immediate locality.*

The 3D perspectives illustrate the additions can be viewed from Hubble Street, however are located to the rear of the ridge line on the existing dwelling. It is considered, as previously stated, the additions and alterations are consistent with the prevailing form, bulk and scale of the surrounding residences and previously approved additions. They respect and follow the predominant street pattern in terms of building orientation. The proposed additions are modern and contemporary in design and have a flat roof. The roof form and articulation of the additions are considered distinct from the heritage dwelling and therefore are considered to preserve the character of the street form by not trying to replicate and create a faux heritage streetscape.

The 3D perspectives further illustrate the additions are well designed and do not visually dominate the immediate locality. The applicant is restoring the heritage dwelling by addressing the recommendations in the Development Impact Statement. This will minimise the impact the additions will have to the existing dwelling and streetscape. The proposed additions and alterations are considered adhere to the desired development outcomes of the RDG for the Plympton and the Performance Criteria which states:

*New development, additions and alterations to be of a compatible form, bulk and scale to traditions development in the locality.*

The proposed additions and alterations do not mimic the traditional building styles found in the Town, however they are considered to complement the traditional built form of the town, therefore the proposed development is considered can be supported by Council.

### CONCLUSION

The applicant is restoring the heritage dwelling by addressing the recommendations in the Development Impact Statement, most notably:

- *Original detailing to the front, North, South facade to be repaired/repointed and left exposed along with windows, veranda and timber work as per HIS*
- *Restoration of front garage – materials to be used recycled Baltic Pine boards from existing cottage which will weather over time, fibre Cement cladding in neutral cream as is as per HIS*
- *Buried steps to be exposed on completion of landscaping as per HIS*
- *Northern Chimney to be retained and conserved in-situ with non-original additional brick courses removed as per DIS.*

Site and dwelling improvements such as listed above will minimise the impact the proposed additions and alterations will have on the streetscape and to the existing built form of the heritage dwelling. The four principal rooms and hallway of the existing cottage are being retained to provide sufficient depth for the existing dwelling to retain street presence. The proposed additions are to be constructed approximately 3.0 metres from the existing roof pitch of the heritage dwelling. The proposed additions are modern and contemporary in design and have a flat roof, all distinct features from the heritage dwelling and therefore are considered to preserve the character of the street form by not trying to replicate and create a faux heritage streetscape.

The sight line diagram and the 3D perspectives provided illustrate the extent of the visual impact of the two storey addition from street. These are considered to impact on the street, however are not considered to impact to such an extent that they adversely affect the character of the dwelling and the built form of the locality. The existing street tree is also considered to minimise the impact of the proposed additions.

The proposed additions and alteration are sympathetic to the heritage character of the building. The proposed variations are considered to comply with the Provisions of the Performance Criteria of the R-Codes and the RDG.

It is considered the proposed development will not adversely impact on the amenity of the streetscape or on the amenity of the neighbouring properties. Based on this it is considered the proposal merits approval subject to appropriate conditions.

### RECOMMENDATION

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

- (a) variation to the setback requirements of the side setback (northern elevation) – required setback 1.5 metres. Proposed setback 0.6 metres;
- (b) variation to the setback requirements of the rear setback (western elevation) – required setback 1.0 metre. Proposed setback is Nil;
- (c) 6.5.1 On-Site parking provision of the Residential Design Codes (Two spaces required. One provided);
- (d) 6.9.1 Solar access for adjoining sites of the Residential Design Codes; and
- (e) element 3.7.8 of the Residential Design Guidelines: Roof pitch;

for two storey additions and alterations to an existing dwelling at 65 (Lot 185) Hubble Street, East Fremantle, in accordance with the plans date stamp received on 22 March 2013 subject to the following conditions:

1. Original detailing to the front, North, South facade to be repaired/repointed and left exposed along with windows, veranda and timber work as per Development Impact Statement.
2. Restoration of front garage – materials to be used recycled Baltic Pine boards from existing cottage.
3. Buried steps to front verandah to be exposed on completion of landscaping as per Development Impact Statement.
4. Northern Chimney to be retained and conserved in-situ with non-original additional brick courses removed as per Development Impact Statement
5. Door to front South bedroom re-instated in revised drawings as per Development Impact Statement.
6. Floor boards and trims to front of the existing dwelling to be as per Development Impact Statement.
7. 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*)
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 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.
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. 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.
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) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *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".*

Tania & Brian Toole (owners) addressed the meeting in support of the officer's recommendation.

## RECOMMENDATION TO COUNCIL

**Cr Nardi – Cr Rico**

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

- (a) **variation to the setback requirements of the side setback (northern elevation) –required setback 1.5 metres. Proposed setback 0.6 metres;**
  - (b) **variation to the setback requirements of the rear setback (western elevation) – required setback 1.0 metre. Proposed setback is Nil;**
  - (c) **6.5.1 On-Site parking provision of the Residential Design Codes (Two spaces required);**
  - (d) **6.9.1 Solar access for adjoining sites of the Residential Design Codes; and**
  - (e) **element 3.7.8 of the Residential Design Guidelines: Roof pitch;**
- for two storey additions and alterations to an existing dwelling at 65 (Lot 185) Hubble Street East Fremantle, in accordance with the plans date stamp received on 22 March 2013 subject to the following conditions:**

1. Original detailing to the front, North, South facade to be repaired/repointed and left exposed along with windows, veranda and timber work as per Development Impact Statement.
2. Restoration of front garage – materials to be used recycled Baltic Pine boards from existing cottage.
3. Buried steps to front verandah to be exposed on completion of landscaping as per Development Impact Statement.
4. Northern Chimney to be retained and conserved in-situ with non-original additional brick courses removed as per Development Impact Statement
5. Door to front South bedroom re-instated in revised drawings as per Development Impact Statement.
6. Floor boards and trims to front of the existing dwelling to be as per Development Impact Statement.
7. 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)*
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 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.
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. 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.
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) the patio may not be enclosed without the prior written consent of Council.
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (i) 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

T37.5

**Fletcher Street 1A (Lot 100)**

**Applicant and Owner: Barry & Lynette Toms**

**Application No: P148/10**

By Christine Catchpole Planning Officer on 15 March 2013

#### **PURPOSE OF THIS REPORT**

This report considers an application for planning approval further amendments to the amended plans (approved 15.2.12) for additions and alterations to the residence at No. 1A (Lot 100) Fletcher Street, East Fremantle. The proposed additions and alterations are recommended for approval subject to conditions.

#### **BACKGROUND**

##### **Description of Proposal**

Lot 500 has been subdivided into two lots with the existing residence initially straddling both lots. In recent times the western portion of the original residence was demolished for allow for the construction of a new two storey dwelling. The remainder of the existing residence has been retained on the western portion of the original lot and this is the dwelling that is the subject of the alterations and additions. The new building sits on Lot 101 and the retained section of the original building is located on Lot 100.

The amended plans propose alterations and additions to the original plans for the retained building dwelling on Lot 100. The original application for this site was initially approved by Council on 14 December 2010. Further amendments were approved by Council on 15 February 2011, with other minor amendments approved under Delegated Authority on 31 January 2012.

More specifically this application proposes a revision of the previous approvals to avoid the extensive demolition required with those proposals as well as increased construction costs. The amended proposal deletes the double garage and replaces it with a carport and integrated portico for the entry and retains the setbacks of the front facade. There are also proposed alterations to the centre and the rear of the existing house comprising

changes to the bathroom and utility areas of the approved plans. A patio deck with a Vergola roof is proposed for the rear of the property.

The applicant owns and resides in the new house immediately to the east.

#### Description of Site

The subject site is:

- a 528m<sup>2</sup> freehold lot
- zoned Residential 12.5 but assessed at R20 as per Clause 5.3.1 of TPS No. 3
- located in the Woodside Precinct.

#### Statutory Considerations

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

#### Relevant Council Policies

Local Planning Policy – Residential Design Guidelines (RDG)

#### Impact on Public Domain

Tree in verge : No Impact  
Light pole : No impact  
Crossover : Addition of a 5.6 metre crossover  
Footpath : See crossover comments  
Streetscape : The amendments proposed impact the streetscape in regard to a carport in the front setback area, however, the original application resulted in Council approval for a double garage in the front setback. The amended plans reduce the impact of parking in this front setback area.

#### Documentation

Plans and relevant accompanying information date stamped received on 19 February 2013.

#### Date Application Received

19 February 2013

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

12 December 2006	Minister for Planning and Infrastructure approves the rezoning of the site under Town Planning Scheme No. 3 from Residential R12.5 to Residential R20.
14 December 2010	Council resolves to advertise the application for two dwellings and a shed at 1 Fletcher Street for a period of 14 days and subject to no adverse comments being received, the application being approved in accordance with the Town Planning and Building Committee recommendation of 7 December 2010.
15 February 2011	Council granted approval for the redevelopment of the single residence at No. 1 Fletcher Street to create two dwellings.
12 April 2011	WAPC granted approval for the subdivision of Lot 500 into two green title lots. Lot 100 being 607m <sup>2</sup> and Lot 101 being 607m <sup>2</sup> . The new Certificates of Title are 'in order for dealing' at Landgate. A new two storey dwelling has been constructed on Lot 101.
8 July 2012	Delegated Authority approval for a home occupation (real estate consultancy).
31 January 2012	Delegated authority approval for amendments to approved plans to retain the front wall of bedroom 1 in the current position.

#### CONSULTATION

##### Advertising

The application was not advertised to the surrounding neighbours because advertising has previously occurred on a number of occasions and because the proposed

amendments are not considered to significantly impact neighbouring properties. The owner/applicant is also an immediately abutting neighbour.

### Town Planning Advisory Panel

The revised plans were referred to the Town Planning Advisory Panel (TPAP) and the following comments were made:

*“The Panel found it difficult to comment on this proposal without reviewing the previous proposal.”*

The approved plans and elevations of the previous proposal were included in the documents presented to the TPAP.

### Site Inspection

By Planning Officer on 15 March 2013

### ASSESSMENT

The following outlines the assessment of the amended plans in regard to the R-Codes and the Council’s RDG requirements.

### Residential Design Codes

#### 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%	47%	D
6.4.2 Outdoor Living	30sqm	30sqm	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	North/ South Orientation	A
6.9.2 Drainage	On-site	On-site	A

Setbacks:							
Wall Orientation	Wall Type	Wall Height	Wall Length	Major Opening	Required Setback	Proposed Setback	Status
West							
	Dwelling	3.4m	26m	N	1.5m	1.5m	A
East							
	Dwelling	3.0m	18.8m	N	1.5m	1.275m	D
North							
	Dwelling	3.4m	10m	N	1.5m	4.1m	A
South							
	Dwelling	N/A	N/A	N	6.0m	4.36m	D

#### Local Planning Policies Assessment

LPP Residential Design Guidelines Provision. Residential Design Guidelines	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

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

### Clause 6.8.1 – Visual Privacy

Privacy/Overlooking:			
Clause 6.8.1 FFL 0.5m above NGL major opening to active habitable spaces	Required	Proposed	
	500mm	930mm	
	7.5m unenclosed outdoor active habitable (e.g. balcony, terrace, deck)	2.9m (western bndy)	D
		4.360m (northern bndy)	D

### Clause 6.4 - Open Space

The R-Codes require that in a Residential R20 zone 50% of the site is to be maintained as open space. With the additions and carport proposed open space on site is reduced to approximately 47%.

### Residential Design Guidelines

#### Garages, Carports and Outbuildings

Clause 3.7.15.3.3 - Existing Dwellings (in the Woodside Precinct) states the following:

*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. D  
o not detract from the heritage character of a contributory building.

The carport and portico are essentially one structure designed to provide an entry statement for the front door and covered parking for two vehicles. This structure is approximately 7.5 metres in width, 5.5 metres in length and 3 metres in height although the portico is over 4 metres in height where it extends above the flat carport roof to match the 18° roof pitch of the existing house. There is no alternative location for a carport on this site with retention of the existing house.

#### Roof Form and Pitch

Clause 3.7.8 states that in the Woodside Precinct:

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

The roof pitch proposed for the portico and the additions is 18° with a flat section of roof for a portion of the carport. The portico will be tiled in keeping with the existing roof.

#### Crossover Width

Clause 3.7.14.3 specifies that crossovers should not exceed 3 metres in width unless required by a sloping site.

**COMMENT**

Essentially the changes proposed affect the eastern side of the property with only a small extension of the existing wall on the western side to increase the floor area of the ensuite. The plans indicate an approximately 4 metre extension in width for the majority of the eastern side of the house to provide for a pantry, kitchen and laundry. There is also a minor extension to the rear of this wall to increase the size of the games room. The raised patio to the rear will formalise the alfresco area indicated on the previous plans.

**Carport and Portico**

The previous proposal was for a fully enclosed garage of approximately 6 metres x 8 metres with a double garage door and a separate portico. Both structures were also over 4 metres in height to the roof ridge line. The garage was setback the same distance from the front boundary, although the current crossover has been increased in width (previous 4.8m, proposed 5.6m).

Despite the non-compliance with the front setback requirements of the R-Codes, the carport / portico is considered to comply with the Town's RDG in that the structure does not visually dominate the streetscape or detrimentally impact on the adjoining heritage property. The heritage property on the corner of Hamilton and Fletcher Street addresses the corner, with the front entrance being very close to the intersection. The solid rear garden wall and parapet wall of a garage conversion are constructed on the Fletcher Street property boundary creating a considerable degree of separation between the frontages of the two dwellings. The lawn bowls' grounds are situated on the opposite side of the street.

Furthermore, the change from a fully enclosed double garage to an open sided carport is considered a significant improvement in regard to reducing the bulk and scale of the buildings and the dominance of the garage in respect to the house and street, particularly given the new house on Lot 101 also has a double garage. The construction of a carport will also result in a more visible front verandah and facade overall. The material and finishes will be in keeping with the finish of the existing dwelling and the applicant has also proposed glass infills for the balustrade on the front verandah which further contributes to an open facade to the street.

**Patio**

The patio will be an area of 'active habitable space' as defined under the R-Codes which is higher than 500mm above natural ground level and therefore should be setback 7.5 metres from adjoining boundaries. This variation is not considered to be of concern as the patio area does not overlook active outdoor areas of adjoining properties and the property to the east is occupied by the applicant/owner. The previous approval was for an alfresco area in this location.

**Front and Boundary Setbacks**

The setback variations proposed are not considered to unduly impact on any of the adjoining properties nor the streetscape as discussed previously in relation to the carport/portico. The majority of the existing house retains a setback greater than 10 metres with a minimum setback of 8.3 metres. This is in excess of the 6 metres required in an R20 coding. The setback average (taking into account the carport setback) is 6.3 metres.

The eastern boundary setback variation does not differ greatly from the setbacks previously approved and this wall is adjacent to the applicant/owner's residence.

**Open Space**

The reduced open space on site is supportable due to the minor variation from the requirement and the fact that the raised patio area could not be included in the calculation because it is greater than 500mm above natural ground level. The minimum outdoor living area of 30m<sup>2</sup> is still achievable and this includes the raised patio area. If this area was included in the calculation, 50.7% open space on the site could be achieved.

**Roof Form and Pitch**

The roof form and pitch are considered acceptable as the pitch will complement the existing roof form. The flat roof section enables more of the dwelling's pitched roof over the remainder of the house to be seen.

**Crossover Width**

The width of the crossover at 5.6 metres is supported given the site circumstances, previous approvals and amendments discussed above.

**CONCLUSION**

The variations in regard to front and side boundary setbacks, open space, visual privacy, roof form and pitch and crossover width are considered acceptable and are not believed to result in a detrimental impact on the amenity of the surrounding residential area or the streetscape. As such it is considered the amendments to the previously approved plans can be supported subject to conditions.

**RECOMMENDATION**

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

- (a) Clause 6.2.1 – Setbacks of Buildings Generally of the Residential Design Codes of WA to allow a 4.360 metre setback from the front boundary for the carport/portico;
- (b) Clause 6.3.1 – Boundary Setback Requirements of the Residential Design Codes of WA to allow a setback to the eastern boundary of 1.275 metres;
- (c) Clause 6.8.1 – Visual Privacy of the Residential Design Codes of WA to permit the cone of vision from the patio (active habitable space) to intrude over the northern and eastern boundary and the patio be setback a distance of 4.1 metres (northern boundary) and 2.9 metres (eastern boundary);
- (d) Clause 6.4 – Open Space of the Residential Design Codes of WA to permit less than 50% open space on site;
- (e) Clause 3.7.8.3 of the Council's Residential Design Guidelines to permit a roof pitch of 18° for the portico and alterations and additions; and
- (f) Clause 3.7.14.3 of the Council's Residential Design Guidelines to permit a crossover width greater than 3.0 metres;

for further amendments to the amended plans (approved 15.2.12) for additions and alterations to the residence at No. 1A (Lot 100) Fletcher Street, East Fremantle, in accordance with the amended plans and documentation date stamped received on 19 February 2013, subject to the following conditions:

1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. With regard to the plans submitted with respect to the building 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.
3. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. (*refer footnote (g) below*)
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if

- approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. The footpath to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Residential Design Guidelines.
  9. In cases where there is an existing crossover is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
  10. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

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

Mr Barry Toms (owner) addressed the meeting in support of the officer's recommendation.

**RECOMMENDATION TO COUNCIL**

**Cr Rico – Cr Nardi**

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

- (a) Clause 6.2.1 – Setbacks of Buildings Generally of the Residential Design Codes of WA to allow a 4.360 metre setback from the front boundary for the carport/portico;**
- (b) Clause 6.3.1 – Boundary Setback Requirements of the Residential Design Codes of WA to allow a setback to the eastern boundary of 1.275 metres;**
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1. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. With regard to the plans submitted with respect to the building 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.
3. The proposed development is not to be occupied until all conditions attached to this planning approval have been finalised to the satisfaction of the Chief Executive Officer in consultation with relevant officers.
4. All stormwater is to be disposed of on site, clear of all buildings and boundaries.
5. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
6. Prior to the installation of an externally mounted air-conditioning plant, a development application, which demonstrates that noise from the air-conditioner will comply with the Environmental (Noise) Regulations 1997, is to be lodged and approved to the satisfaction of the Chief Executive Officer. *(refer footnote (g) below)*
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. The footpath to continue uninterrupted across the width of the site and the crossover to be constructed in material and design to comply with Council's Residential Design Guidelines.
9. In cases where there is an existing crossover is to be removed and the kerb, verge and footpath are to be reinstated at the applicant's expense to the satisfaction of Council, unless on application, Council approval for the crossover to remain is obtained.
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.*
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- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (f) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (g) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document–“An Installers Guide to Air-Conditioner Noise”.*
- CARRIED

*Cr Nardi made the following impartiality declaration in the matter of 15 King Street: “As a consequence of the applicants being my new neighbours for the past few months, 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”.*

**T37.6      King Street No.15 (Lot 429)**  
**Applicant: Roberto Carlos DeSousa**  
**Owner: R & M DeSousa**  
**Application No. P5/13**

By Andrew Malone, Senior Planning Officer, on 8 March 2013

#### **PURPOSE OF THIS REPORT**

This report recommends approval of a development application for partial demolition of an existing dwelling and construction of additions and alterations located at 15 (Lot 429) King Street, East Fremantle, subject to modifications as conditioned in the Officer's Recommendation.

#### **BACKGROUND**

##### **Description of Proposal**

The proposed development involves partial demolition of an existing dwelling and construction of additions and alteration to the rear of the dwelling. The existing dwelling is a Federation/ Late Victorian dwelling and is included on the Town's Municipal Heritage Inventory under a B Management Category.

The proposed additions and alterations are two storey, with the second storey set back from the existing roof ridge of the heritage dwelling. The proposed alterations include improvements to the heritage dwelling to upgrade heritage details and create a distinctive streetscape.

##### **Description of Site**

The subject site is:

- a 508m<sup>2</sup> freehold title.
- zoned Residential R20.
- located in the Plympton Precinct
- improved with a single-storey single dwelling
- assigned B Management Category in the Municipal Heritage Inventory. The Municipal Heritage Inventory states with regard to Category B buildings:

*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 R12.5  
Residential Design Codes (R-Codes)

**Relevant Council Policies**

Local Planning Policy – Residential Design Guidelines (RDG)

**Impact on Public Domain**

Tree in verge : No Impact  
Light pole : No impact  
Crossover : No impact  
Footpath : No impact  
Streetscape : Minimal impact. Existing front facade of the heritage dwelling to be retained. Second storey addition setback 11.6 metres from street behind ridge line of heritage dwelling.

**Documentation**

Plans and relevant forms date stamped received on 17 January 2013  
Response to TPAP comments date stamped received on 21 February 2013  
Heritage Impact Statement date stamp received on 21 March 2013.

**Date Application Received**

17 January 2012

**CONSULTATION****Advertising**

The application was advertised to surrounding neighbours from 28 January 2013 to 12 February 2013. No submissions were received during this period.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 12 February 2013. The Panel made the following comments:

Panel Comment	Applicant Response	Officer Response
This dwelling is included on the municipal heritage inventory with categories mostly 2, with the category 3 (rarity value) possibly now out of date.	Noted	A Development Impact Statement has been prepared and is attached to the report.  The report concludes the proposed additions and alterations are appropriate subject to conditions.
The design of the original cottage, with four rooms divided by a central corridor, a hip roof over the front two rooms and skillion roof over the rear two rooms appears from aerial photographs to be characteristic of the area.	Noted	The existing dwelling and later additions are considered to be characteristic of the area.  It is considered the proposed development is sympathetic with the existing dwelling and characteristic of the locality.
The present proposal destroys the form of the original cottage, by removing the rear two rooms and cutting away to the garage. This should be reconsidered by the applicant.	I believe that the present proposal does not "destroy" the form of the original cottage. Apart for the truncation allowed for the rear access parking, the form of the original four room cottage is very much intact, and will actually be enhanced by the introduction of the original fabric including standard weatherboards, replacement of jarrah verandah floor, new bull nosed verandah and new iron roof.  Consideration must be taken that	The Development Impact Statement does recommend amendments to the proposed additions and alterations so the proposal can successfully retain, reveal and enhance the heritage significance of the place within its relatively intact historic streetscape context, while still allowing for a substantial redevelopment of the place into a relatively large contemporary family home.  An assessment of the garage /

Panel Comment	Applicant Response	Officer Response
	<p>we are providing private off street parking that will not be seen from the street, will not incorporate ugly non sympathetic garage doors in the front setback, and the elimination for requiring guests to park in the street also. By having the garage at the back , the street front will be very much in keeping with the original building. It would also be impossible to have a functional garage without the truncation unless you extended the garage to be 10 meters in length, which would be most unworkable with the rest of the house design.</p> <p>By having the garage at the back will also enable passers-by to view the house better without having cars obstructing the view of the home, which is the whole purpose of the these heritage regulations. On the whole this design I believe is more respectful of the original cottage.</p>	<p>manoeuvring area has been undertaken. It is considered the rear room is required to be removed to provide safe access and egress of the garage. While it is disappointing that the development requires the removal of the rear section of the dwelling the applicants assertion is considered accurate:</p> <p><i>By having the garage at the back, it will also enable passers-by to view the house better without having cars obstructing the view of the home.</i></p> <p>The applicant is also undertaking significant alterations to repair and improve the front facade of the heritage dwelling.</p>
<p>Although the two-storey addition as proposed is set back a considerable way from the street (behind the original skillion roof component) it nevertheless as presently designed will be very dominant when viewed from the street. The visual weight of the proposed second-storey addition could be reduced by using a skillion roof form, this in itself would be consistent with the design of the rear of the original cottage</p>	<p>I believe that a pitched roof would be more consistent with the original design of the cottage and complement the cottage. By reducing the pitch of the roof to between 23 and 25 degrees in lieu of 30 degrees, I believe that this should reduce the overall bulk of the residence and then second storey will not be visible from the street (diagram to follow), as well as being more accommodating to the street-scape as the home is raised from the street.</p> <p>This will cause the predominant focus to be on the cottage, and not the additions to the rear.</p>	<p>The Development Impact Statement does recommend the retention of the 30° roof pitch to ensure continuity of design.</p> <p>The proposed additions and alterations are considered sympathetic to the existing dwelling and are supported with appropriate conditions.</p> <p>The proposed development has been conditions so as to reduce the overall height of the development at the garage.</p>

**Site Inspection**

By Town Planner on 11 March 2013

**ASSESSMENT**

**Town Planning Scheme No. 3**

**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%	48%	D
6.4.2 Outdoor Living	30sqm	85.4sqm	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	Less than 500mm	A

Design Element	Required	Proposed	Status
6.9.1 Overshadowing	25%	29%	D
6.9.2 Drainage	On-site	On-site	A

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (west)</i>							
Ground As Existing							
<i>Rear (east)</i>							
Ground							
	Alfresco	2.7	5.9	Y	1.5	7.4m	A
	Laundry	2.5	4.3	N	1.0	2.5m	A
<i>Side (north)</i>							
Ground							
	<b>Dwelling</b>	<b>2.9m</b>	<b>15.8m</b>	<b>N</b>	<b>1.5m</b>	<b>0.25m</b>	<b>D</b>
	Meals	3.2	4.5m	N	1.0m	1.0m	A
	Family	3.5m	5.8m	N	1.5m	2.3m	A
	<b>Activity</b>	<b>2.9</b>	<b>9.0m</b>	<b>N</b>	<b>1.0m</b>	<b>Nil</b>	<b>D</b>
<i>Upper</i>							
	Ensuite	5.3	6.7	N	1.2	1.8	A
	Bedroom	5.7	7.5	N	1.2	2.1	A
<i>Side (south)</i>							
Ground							
	Existing Dwelling	4.0m	5.0m	N	1.1m	2.7m	A
	Garage	3.6m	7.3m	N	1.1m	5.2m	A
	Family/ Alfresco	3.4	12.8m	Y	1.5m	2.1m	A
<i>Upper</i>							
	Bedroom	6.0	4.7	N	1.2	1.5	A

### Local Planning Policies Assessment

LPP Residential Design Guidelines Provision. R	Status
<b>3.7.2 Additions and Alterations to Existing Buildings</b>	<b>D</b>
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
<b>3.7.7 Building Setbacks and Orientation</b>	<b>D</b>
3.7.8 Roof Form and Pitch	A
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	N/A
3.7.15-20 Precinct Requirements	A

### DISCUSSION

The proposal complies with relevant R-Code and the Residential Design Guidelines 'Acceptable Development' Provisions (**ADP**) except as indicated below.

### Heritage

A Development Impact Statement has been prepared relating to the proposed subject site, prepared by Mr John Kirkness Architect on behalf of the applicant. The report notes:

*The place No.15 King Street has some to considerable significance at a local level as a simple, architecturally well considered and reasonably intact weatherboard, timber and iron worker's cottage bungalow. This significance extends to both the place in its own right, particularly where it is a reasonably well detailed cottage type within the precinct, and as a place contributing to a relatively contiguous heritage*

*streetscape and precinct, comprising a range of architectural types though of generally consistent materiality, scale and era of construction.*

The report further notes the impacts, both positive and negative, the proposed additions and alterations will have on the building and surrounding locality and are stated as follows:

#### **Positive**

- *The proposal will retain, for the long term, a significant portion of the heritage building through a viable single residential redevelopment. While reasonably livable as a rudimentary rental-based premises, the present structure does not provide for a contemporary standard of residential living in any measure compatible with the value of the property.*
- *The proposal deliberately seeks to reasonably integrate the old and new portions of the proposed development, avoiding a 'schizophrenic' arrangement often resulting in retained original building portions becoming relatively unused. At the same time, the garage element inserted behind the retained front four rooms provides a clearly defined break between old and new portions.*
- *The proposal will subject to appropriate conditions, result in the preservation and restoration of much of the significant heritage fabric, particularly that visible from the street. This visibility and contribution to the collective streetscape of King Street and Plympton / East Fremantle as a whole represents the most significant aspect of places having heritage significance at a local level.*
- *The proposed additions are located wholly beyond the most significant parts of the heritage dwelling, including the main skillion roofed portion. This allows a continued appreciation of the overall historic building form and not just that of the predominant forward hipped roof portion.*
- *The most forward portion of the proposed upper level is set beyond the main heritage roof form including both hipped and skillion portions. The setting back of the upper level to the southern side also retains a clear visibility of the heritage dwelling and its relationship to the contemporaneous masonry heritage dwelling to the north (No.13) from the street, where these collectively form a prominent heritage element in the streetscape and an historic setting for the subject place.*
- *The design preserves the original chimney, where these elements are very important to the clear and authentic appreciation of the historic streetscapes, and where many of these elements have otherwise been lost as a result of earlier 'modernisation' interventions.*
- *The proposal will reconstruct the original hipped bullnose verandah as a distinct and highly aesthetic building form, contributing to both the aesthetic value and integrity of the place and also the variegated streetscapes of Plympton, where these different verandah types are collectively important.*
- *A substantial measure of the internal arrangement and detailing of the heritage dwelling is intended to be retained / reinstated, allowing for an ongoing understanding of the original form of the building. Significant elements including the fireplaces, floorboards, skirtings and architraves remain extant and able to be integrated into the development without compromising the overall new architectural program or intent.*
- *The proposed new plan arrangement wholly obscures car-parking facilities from the street, allowing a clear side driveway to be retained to the north side of the building and thereby retaining its uninterrupted presentation to the street, without the more common insertion of car-parking structures to the side / front of the heritage dwelling.*

#### **Negative**

- *Some of the historical physical evidence will be lost through the development, primarily with regard to the rearmost lean-to portion of the building and attached laundry shed. The loss of these elements will reduce the understanding of the layered development of the existing building.*

- *The rear part of the second north side room will be impacted on through the truncation of this corner to effect vehicular access and egress to the hidden garage facility beyond. This is particularly visible from the street and presently includes the loss of the extant side double hung sash window, as an identifiable part of the heritage dwelling.*
- *The complete internal room arrangement as developed over the previous life of the building will be impacted upon, albeit in a relatively minor way through loss of the rear hallway walls, as means to create a more open plan living arrangement and en-suite bathroom facility.*
- *The stand-alone, unimpeded heritage character of the site will be lost where a substantial contemporary two-storey addition will be created immediately behind the heritage dwelling.*
- *The drawings do not indicate the existing chimney, however this is assumed to be a drafting oversight where retention of this element is fully achievable in the context of the overall development.*

Mr. Kirkness has recommended amendments to the proposed additions and alterations so the proposal can:

*successfully retain, reveal and enhance the heritage significance of the place within its relatively intact historic streetscape context, while still allowing for a substantial redevelopment of the place into a relatively large contemporary family home.*

### **Boundary Setback**

#### **6.3.1 Buildings setback from the Boundary (R-Codes)**

#### **3.7.7 Building Setbacks and Orientation (RDG)**

The applicant is seeking Council discretion with regard to the setback requirements of the R-Codes and the Town's RDG.

The proposed development incorporates two variations to setback requirements to the northern side boundary. The LPP RDG Element 3.7.7 provides criteria by which to assess proposed variations to setback requirements. These are as summarised below.

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

There are no changes proposed to the primary street setback. The proposed additions and alterations are to the northern elevation of the property. The side setback to the passageway/ garage is 0.25 metres and is consistent with the heritage dwelling. This is considered appropriate and will not impact on the streetscape.

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

The setbacks requiring Council discretion are to the northern side boundary of the proposed additions. The buildings setback does not adversely affect its visual presence to the streetscape or the character of the dwelling. The majority of the heritage dwelling is being retained. The additions and alterations are considered appropriate with the locality. The setbacks are in keeping with the existing dwelling setbacks.

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

The proposed setbacks are in line with existing side setbacks characteristic of the heritage dwelling. The proposed side setbacks are single storey and have minimal impact on the adjoining dwelling to the southern adjoining property considering the height variation between properties and the existing 2.5 metre high retaining wall/ dividing

fence. It is considered the reduced setback does not significantly impact on the adjoining neighbour with regard to visual privacy. The proposed setbacks are complementary to the dwelling and to the streetscape and can be supported by Council subject to appropriate conditions.

Notwithstanding the above RDG requirements, the proposed development is seeking Council discretion with regard to the Acceptable Development Criteria of the R-Codes. The proposed Nil setback to the northern boundary will be assessed under the requirements of Element 6.3.2 Buildings on the boundary. The 0.25m setback to the dwelling will be assessed as per the Performance Criteria (**PC**). It is noted that the 0.25 metre setback is consistent with the existing heritage dwelling. The proposed setback facilitates a pedestrian link between the heritage dwelling and proposed additions. It further facilitates a double garage and the provisions two on-site car parking spaces. The PC states:

- P1** *Buildings setback from boundaries other than street boundaries so as to:*
- *Provide adequate direct sun and ventilation to the building;*
  - *Ensure adequate direct sun and ventilation to the adjoining properties;*
  - *Provide adequate direct sun to the building and appurtenant open spaces;*
  - *Assist with protection of access to direct sun for adjoining properties;*
  - *Assist in ameliorating the impacts of building bulk on adjoining properties;*
  - and*
  - *Assist in protecting privacy between adjoining properties.*

The proposed additions and alteration to an existing dwelling are considered to comply with the above Performance Criteria as follows:

- The lot is orientated east/ west. The proposed additions and alterations are located to the rear of the lot, with the main living areas (kitchen, family and alfresco areas) orientated towards the northern aspect of the lot and are considered to receive adequate direct sun and ventilation.
- While the proposed additions and alterations do impact on the direct sun received by the adjoining property, the solar access is considered to comply with the Performance Criteria of the R-Codes. This will be discussed further within the report.
- Direct sun to the building and appurtenant open spaces is not impacted by the proposed additions and alterations.
- The proposed additions and alterations have been constructed to a similar height at an existing limestone wall between 15 and 17 King Street. The limestone dividing fence is approximately 2.5 metres in height. The proposed addition is considered only a minor increase in the height and overshadowing above that existing height and overshadowing created by the existing boundary fence and retaining wall. Therefore it is considered that the proposed development does assist with protection of access to direct sun for the adjoining property to the south.
- The proposed additions are primarily single storey. The second storey addition is to the middle third of the dwelling and is not considered to impact on the bulk of the building from the southern neighbours perspective. A 2.5 metre high boundary wall separates the subject lot and southern neighbour. The proposed setbacks to the neighbour to the north are setback so as to have minimal impact on the dwelling or open space.
- There are no privacy concerns.

The proposed development is considered to comply with the Performance Criteria Element 6.3.1 Buildings setback from the Boundary and therefore can be supported.

### **6.3.2 Building on the Boundary**

A2(ii) of the R-Codes states that:

*In areas coded R20 and R25, walls not higher than 3m with an average of 2.7m up to 9m in length up one side boundary only.*

It is noted that while this application has been assessed as an R20 coding. The proposed parapet wall is 9 metres in length and has a maximum height of 3 metres on the boundary with an average height of 2.7 metres. The proposed additions are considered to comply with the ADP of the R-Codes. Notwithstanding this the PC states:

*Buildings built up to the boundaries other than the street boundary where it is desirable to do so in order to:*

- *Make effective use of space; or*
- *Enhance privacy; or*
- *Otherwise enhance the amenity of the development;*
- *Not have any significant adverse effect on the amenity of the adjoining property; and ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The density, scale and setback of adjoining properties are considered to guide the development of the street. It is considered acceptable and appropriate to develop a two storey additions, retaining the heritage dwelling to the front of the property. The proposed zero lot wall to the activity/ laundry is considered minimal in height and does not have an adverse effect on the amenity of the adjoining property. Direct sun to all major openings to habitable rooms and outdoor living areas is received by adjoining properties. The proposed dwelling does not significantly impact the streetscape or adjoining neighbours and therefore is considered can be supported by Council.

#### 6.4.1 Open Space

The proposed development does not comply with the ADP of Table 1 of the R-Codes R20 zoning provisions for open space. The development will be assessed as per the PC of the RDC. The PC requires:

*Sufficient open space around buildings*

- *To complement the building;*
- *To allow attractive streetscapes;*
- *To suit the future needs of residents, having regard to the type and density of the dwelling.*

The proposed variation of approximately 10m<sup>2</sup> (2%) is considered minor. The proposed open space is located to the rear of the dwelling and complements the existing heritage dwelling, the streetscape and should suit the future needs of the residents. The proposed open space provisions can be supported by Council.

#### 6.9.1 Overshadowing

The orientation of the block is east/ west and the design of the proposed additions by 29%. It is noted a 2.5 metre retaining wall/ dividing fence separates the subject lot and adjoining neighbour to the south. The proposed development is not considered to significantly increase the overshadowing over the existing levels. The proposed additions and alterations are required to be assessed as per the PC requirements of the R-Codes.

In regard to overshadowing the following extract from the R-Codes is relevant:

*In terms of residential development, the three main aims of climate-sensitive design are to reduce energy consumption, optimise on-site solar access, and protect solar access for neighbouring properties.*

*However, it is difficult to translate these aims into development provisions. This is not because the issues are subjective but because conditions vary greatly from one situation to another, making it difficult to establish universally valid rules.*

Given this the PC 6.9.1 Solar access for adjoining sites states:

*The development designed to protect solar access for neighbouring properties taking account the potential to overshadowing:*

- *Outdoor living areas;*
- *Major opening to habitable rooms;*
- *Solar collector; or*
- *Balconies or verandahs.*

The proposed dwelling has been located on the southern boundary, maintaining the existing heritage dwelling southern side setback. The proposed second storey additions are to the middle third of the lot, so as to protect solar access for neighbouring properties. It is considered, the orientation of the lot exacerbates the overshadowing, however the existing 2.5 metre retaining wall/ dividing fence separates the subject lot and adjoining neighbour to the south creates the majority of the overshadowing. The proposed overshadowing from the additions and alterations are considered minor and can be supported by Council.

### **Residential Design Guidelines**

The proposed additions and alterations have been assessed in accordance with the Town's Residential Design Guidelines. The following areas are considered the areas of non compliance with the Acceptable Development Provisions and the Performance Criteria of the Guidelines:

#### **Element 3.7.2**

The proposed additions and alterations are accommodated to the rear of the existing heritage dwelling. The proposed second storey additions are set back 5.6 metres from the ridge of the heritage dwelling and approximately 11 metres from the primary street. The second storey additions are visible from the street, therefore the proposed development does not adhere to Clause A1.2 ii of Element 3.7.2 of the RDG. The ADP of Element 3.7.2 of the RDG requires:

- A1.2** *Second storey additions that are:*
- i. Accommodated within the existing roof (without changes to the roof geometry); and,*
  - ii. Built behind the existing building and not visible from the opposite side of the street. A minor variation to this may be permitted on the basis of its impact on the streetscape*

The additions present as single storey, however the two storey element of the dwelling can be seen from the street. The proposed additions and alterations are required to be assessed as per the PC of the RDG. This requires:

- P1.1** *Additions and alterations to contributory buildings are designed to ensure that the existing building remains the dominant element when viewed from the primary street and to ensure that the existing buildings contribution to the streetscape is maintained. The council shall allow additions to be located in the front setback zone where there is no other option and the addition is demonstrably compatible with the existing streetscape character and not impact on the heritage value of a particular place. All applications to include site plans, plans and street elevations.*
- P1.2** *Replacement of, or construction of, elements such as carports shall not obscure the original dwelling.*

The existing property is listed on the Town's Municipal Inventory. The additions and alterations have been designed to ensure that the existing building remains the dominant element when viewed from the primary street, however there is a minor line of sight to the second storey roof form from the other side of the street. It was considered a reduced height and pitch to the roof would eliminate views from the street and to take into

consideration the views of the TPAP, however based on the recommendation of Mr. Kirkness in the Development Impact Statement, the 30° pitch is recommended to be retained. A condition has been included in the Officer's Recommendation to retain the height and pitch of the roof. The character of the heritage cottage is considered to be maintained.

The additions and alterations are compatible with the existing streetscape character will not significantly impact on the heritage value of the dwelling as viewed from the street (subject to the proposed conditions of approval)

It is considered the proposed additions and alteration to the existing dwelling are appropriate and can be supported by Council, subject to changes as addressed by the Planning Officer in the Recommendation section of this report.

### 3.7.8 Roof Form and Pitch

Acceptable Development Provisions 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 pitch of the dwellings is 30° and therefore complies with Council's policy. It is recommended by Mr Kirkness in the Development Impact Statement that the 30° roof pitch to the additions are maintained to match that of the original dwelling. The revised plan submitted to Council 21 March 2013 indicate a roof pitch of 24°, thereby reducing any significant sightlines of the new second storey ridge from the streetscape. It is recommended the 30° roof pitch be retained. Based on a 30° roof pitch the proposed roof complies with the Acceptable Development Criteria of the RDG.

### CONCLUSION

The applicant is seeking Council several minor discretions to teh R-Codes and RDG. It is considered these variations are offset by the design of the additions, the single storey representation to the street and the improvements to the heritage dwelling. The proposed variations are considered to comply with the Provisions of the Performance Criteria of the R-Codes and the RDG. Based on this it is considered the proposal merits approval subject to appropriate conditions.

### RECOMMENDATION

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

- (a) variation to the setback requirements of the side setback (southern elevation) – required setback 1.5 metres. Proposed setback 0.25 metres;
- (b) variation to the setback requirements of the side setback (southern elevation) – required setback 1.0 metre. Proposed setback is Nil;
- (c) element 6.3.2 Building on the boundary of the Residential Design Codes;
- (d) element 6.4.1 Open Space of the Residential Design Codes;
- (e) element 6.9.1 Solar access for adjoining sites of the Residential Design Codes; and
- (f) element 3.7.2 Additions and Alterations to Existing Buildings of the Residential Design Guidelines;

for two storey additions and alterations to an existing dwelling at 15 (Lot 429) King Street, East Fremantle, in accordance with the plans date stamp received on 21 March 2013 subject to the following conditions:

1. Front portion of the proposed upper level contained under the single pyramidal roof being lowered by 3 courses (257mm).
2. Finished floor level of the proposed garage/ upper level (Master bedroom) contained under the single pyramidal roof being reduced by 200mm to 15.246.

3. Applicant to reinstate the originally proposed 30° roof pitch to the additions, matching that to the original retained dwelling.
4. The extant original detailing to the front façade of the building to be retained and conserved, including fake face block-work timber panelling, joinery to doors and windows and all original timber detailing to the verandah. Replacement fabric, consistent with the original detailing only to be used where clearly necessary in light of material deterioration of existing fabric.
5. The front verandah structure (other than skillion roof) to be retained intact to the full extent possible, with replacement of deteriorated parts to replicate those original elements. A traditional top and bottom rail balustrading with vertical timber uprights to be inserted between original posts consistent with the extant physical evidence to the posts, and ornamental mouldings to be reinstated at the upper portion of posts where scoring indicates their former location.
6. The cement-rendered front steps to be fully retained in-situ and revealed as part of the verandah conservation and any proposed front landscaping works.
7. The original hipped bullnose verandah roof profile to be reinstated to the dwelling, retaining the original wall plate and inserting hockey stick hips to the truncated plate ends. The corrugated iron roofing profile to match that scored into the timber panelling to the front façade.
8. The rubble limestone base to the verandah to be conserved and repointed as appropriate.
9. The extant twinned red face-brick chimney above the fireplaces to be retained and conserved in-situ.
10. Original timber weatherboards to the sidewalls of the historic building to be retained and reused to the full extent possible, with additional replacement material as required to be to matching profile and seamlessly integrated into original fabric. Elsewhere in the new construction, alternative weatherboard cladding broadly compatible with the original profile boards may be utilised.
11. Traditional ogee profile guttering over scotias to be consistently applied to fascias across the historic dwelling.
12. The internal fireplaces to be retained and conserved (not necessarily in working order).
13. Original timber flooring to be retained / consistently repaired throughout the retained heritage portion.
14. Original architraves, skirtings, picture rails and doors to be retained throughout the heritage portion; replacement elements with profiles to match originals may be used where non-original elements have been inserted.
15. Roof pitch located above the master bedroom and associated rooms to be amended to a maximum pitch of 19° to the satisfaction of the Chief Executive Officer in consultation with the Building Surveyor prior to the issue of a Building Permit.
16. 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*)
17. 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.
18. 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.
19. 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.
20. 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.

21. 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.
22. 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.
23. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
24. 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) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *under the Environmental Protection (Noise) Regulations 1997, the noise from an air-conditioner must meet assigned allowable noise levels at all times. The Environmental Protection Act 1986 sets penalties for non-compliance with the Regulations and the installer of a noisy air-conditioner can face penalties of up to \$5,000 under Section 80 of the Act. Refer to Department of Environmental Protection document—"An Installers Guide to Air Conditioner Noise".*

Mr John Kirkness (Heritage Consultant) and Mr Vance Thompson (Draftsman / Certifier) addressed the meeting in support of the development proposal.

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Rico**

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

- (a) **variation to the setback requirements of the side setback (southern elevation) –required setback 1.5 metres. Proposed setback 0.25 metres;**
- (b) **variation to the setback requirements of the side setback (southern elevation) –required setback 1.0 metre. Proposed setback is Nil;**
- (c) **element 6.3.2 Building on the boundary of the Residential Design Codes;**

- (d) element 6.4.1 Open Space of the Residential Design Codes;
- (e) element 6.9.1 Solar access for adjoining sites of the Residential Design Codes; and
- (f) element 3.7.2 Additions and Alterations to Existing Buildings of the Residential Design Guidelines;
- for two storey additions and alterations to an existing dwelling at 15 (Lot 429) King Street, East Fremantle, in accordance with the plans date stamp received on 21 March 2013 subject to the following conditions:
1. Finished ground level of the main addition being reduced by 200mm to 15.246.
  2. Applicant to reinstate the originally proposed 27° roof pitch to the additions, matching that to the original retained dwelling.
  3. The extant original detailing to the front façade of the building to be retained and conserved, including fake face block-work timber panelling, joinery to doors and windows and all original timber detailing to the verandah. Replacement fabric, consistent with the original detailing only to be used where clearly necessary in light of material deterioration of existing fabric.
  4. The front verandah structure (other than skillion roof) to be retained intact to the full extent possible, with replacement of deteriorated parts to replicate those original elements. A traditional top and bottom rail balustrading with vertical timber uprights to be inserted between original posts consistent with the extant physical evidence to the posts, and ornamental mouldings to be reinstated at the upper portion of posts where scoring indicates their former location.
  5. The cement-rendered front steps to be fully retained in-situ and revealed as part of the verandah conservation and any proposed front landscaping works.
  6. The original hipped bullnose verandah roof profile to be reinstated to the dwelling, retaining the original wall plate and inserting hockey stick hips to the truncated plate ends. The corrugated iron roofing profile to match that scored into the timber panelling to the front façade.
  7. The rubble limestone base to the verandah to be conserved and repointed as appropriate.
  8. The extant twinned red face-brick chimney above the fireplaces to be retained and conserved in-situ.
  9. Original timber weatherboards to the sidewalls of the historic building to be retained and reused to the full extent possible, with additional replacement material as required to be to matching profile and seamlessly integrated into original fabric. Elsewhere in the new construction, alternative weatherboard cladding broadly compatible with the original profile boards may be utilised.
  10. Traditional ogee profile guttering over scotias to be consistently applied to fascias across the historic dwelling.
  11. The internal fireplaces to be retained and conserved (not necessarily in working order).
  12. Original timber flooring to be retained / consistently repaired throughout the retained heritage portion.
  13. Original architraves, skirtings, picture rails and doors to be retained throughout the heritage portion; replacement elements with profiles to match originals may be used where non-original elements have been inserted.
  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 (i) below*)
  15. 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.
  16. 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.
17. 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.
  18. 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.
  19. 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.
  20. 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.
  21. If requested by Council within the first two years following installation, the zincalume roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
  22. 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) the patio may not be enclosed without the prior written consent of Council.***
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.***
- (i) 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**

**T37.7 Canning Highway No. 235 (Lot 1851)**  
**Applicant: Paintessa Development Pty Ltd**  
**Owner: Paintessa Development Pty Ltd**  
**Application No. P16/13**

By Andrew Malone, Senior Planning Officer & Jamie Douglas, Manager of Planning Services, 28 February 2013

#### **PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval for three two storey dwellings situated at 235 (Lot 1851) Canning Highway, East Fremantle, based on a three lot subdivision of the subject parent lot.

#### **BACKGROUND**

##### **Subdivision Application**

The determination of a subdivision application to create the 3 lots indicated on the proposed plan has been deferred by the Western Australian Planning Commission (**WAPC**) pending Council's determination of this development application.

##### **Description of Site**

The subject sites will be assessed as three individual freehold lots, each containing a single dwelling.

Based on the proposed subdivision only one lot can be assessed for dual coding R 12.5/40 (Lot 555) based on Clause 5.3.2 of the Town Planning Scheme. Lots 553 and Lot 554 no longer have dual access to Canning Highway, therefore cannot be assessed under Clause 5.3.2 *Highway frontage dual coding* and accordingly are assessed as R12.5 density coding, as follows:

	<b>Proposed Lot 555</b>	<b>Proposed Lot 554</b>	<b>Proposed Lot 553</b>
Area	398m <sup>2</sup>	221m <sup>2</sup>	221m <sup>2</sup>
Zoning	R12.5/40	R12.5	R12.5
Precinct	Woodside	Woodside	Woodside
MHI Relevance	Category B	Category B	Category B

Each of the above lots has been assessed separately under the Town Planning Scheme, Residential Design Codes and the Town's Residential Design Guidelines Policy.

#### **Statutory Considerations**

Town Planning Scheme No. 3 (**TPS3**). The Subject Lot has an Additional use of Shop/ Consulting Rooms and/ or Home Business. The proposed residential development adheres to the Residential Zone of the Town Planning Scheme.

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

The existing buildings is listed on the Town's Municipal Heritage Inventory (**MHI**) – 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.*

**Relevant Council Policies**

Local Planning Policy – Residential Design Guidelines (RDG)

**Impact on Public Domain**

- Tree in verge : Removal of street tree.
- Light pole : No impact
- Crossover : Three new crossovers required to Irwin Street
- Streetscape : Street impact to Canning Highway and Irwin Street. Demolition of Category B building listed on MHI. Three townhouses proposed.
- Parking : Loss of approximately three on-street car parking bays

**Documentation**

Plans, associated letters and relevant forms date stamp received on 5 February 2013.

**Date Application Received**

5 February 2013

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 12 March 2013.

The Panel made the following comments in regard to the application and the applicant has responded.

Panel Comment	Applicant Response	Officer Assessment
Panel does not support the proposal to demolish the corner property.	We presume that they do not support demolition based on the fact that they regard the place as a heritage building displaying a high level of cultural heritage significance. The Heritage Assessment is arguing that the heritage values, as concluded in the Place Record Form, are not high but low.	The Panel's comments are supported.  Two Heritage Assessments and Impact Statements have been conducted. These are attached to the report.
The existing corner building is considered to be of local significance and should be assessed in the context of Local not State level.	Cultural heritage significance is assessed on well established heritage values not on local heritage values or State heritage values. To state that the place has been assessed on State values is simplistic and reflects a lack of understanding of cultural heritage assessment. Documentation referenced in the Heritage Impact Statement includes the Town's Municipal Inventory and the Town's Heritage List. This documentation provides the local 'context'.	The Town engaged the services of the well recognised heritage consultant Philip Griffith to undertake a Heritage Assessment of the property.  The applicant has submitted a Heritage Assessment and Impact Statement prepared by Stephen Carrick Architects.  Both reports acknowledge there is a degree of heritage value to the building. These are discussed later in the report.
Panel reiterates the value of a 'B' category building as enhancing the identity of the Woodside Precinct and Canning Hwy frontage.	The Heritage Assessment does not argue that 'B' category buildings do not enhance the identity of a precinct. The Heritage Assessment argues that 235 Canning Highway, East Fremantle is a compromised building that is located within a vastly altered streetscape. The Heritage Assessment argues that this place does not retain heritage values at the level assessed by the Town in 2006 and documented in their Place	The Panel's comments are supported.

Panel Comment	Applicant Response	Officer Assessment
<p>Any consideration of future development should involve the retention of the existing heritage building on the corner of Irwin street and Canning Highway.</p>	<p>Record Form.</p> <p>The Advisory Panel is not addressing the heritage values of the place, which is the basis of the Heritage Assessment. This is a broad statement based on the building being of high heritage value. The Heritage Assessment is arguing that the place is not of high heritage value.</p> <p>235 Canning Highway is not on the Town's Heritage List. The Place Record Form inaccurately states that it is included. The impact of being on the Heritage List is that the place is worthy of conservation and subject to the provisions of TPS3. The property is included in the Municipal Heritage Inventory (MHI). The heritage architect has advised that the MHI is not a statutory document subject to the provisions of TPS3.</p>	<p>While the reports of both heritage architects conclude that the place is not of particularly high heritage value, both conclude that the building at issue does have heritage significance and Griffith Architects specifically advise that the building should be retained.</p> <p>The place record form does not state that the property is included on the Town's Heritage List.</p> <p>Contrary to the applicant's understanding, the MHI is a statutory document, in the sense of the inventory being a statutory requirement under state law.</p> <p>Further, under Amendment 9 of TPS3 there is no distinction made between being included on the Heritage List and being included on the MHI.</p>
<p>Panel is of the view that the building is still usable and adaptable for commercial purpose.</p>	<p>Once again, this is based on the place having been assessed by the Town as having high heritage values, however, the Heritage Assessment argues that the heritage values are low. We can't see how the Panel can make this comment when we have not been contacted for access to the property for close inspection both external and internal. The heritage architect has made a close inspection and has assessed the building as having low heritage values.</p> <p>Further it should be up to the owner/developer to decide whether the building is worth the expense to bring it up to a standard required for either commercial or residential use. Council should not be trying to force the owner/developer to keep the existing building in order to use the higher R40 zoning. Council should be allowing higher density developments based on the merits of the site.</p>	<p>It is considered the building is usable and adaptable for a range of commercial purposes, without significantly compromising the heritage values of the building.</p> <p>Council is not "trying to force the owner/developer to keep the existing building in order to use the higher R40 zoning". An R40 density <i>may</i> be approved in the case of a development which adheres to the requirements of Clause 5.3.2 of TPS3. This is not considered to be the case here.</p>
<p>Panel does not support the number of crossovers delineated on the application, due to the impact on street parking availability opposite the well-used park on Irwin Street.</p>	<p>This is a hypocritical statement and based on illogical analysis of the site. The street parking is currently not in place just for the park but also to serve the existing shop and residents of the development site. If the existing building (shop) is demolished then the parking bays set aside for the shop are freed up for the park as well as for the development site. By the Council insisting that the existing building remains for further commercial use, which has a high street parking</p>	<p>Contrary to the applicant's claim, it is considered a minimum of three car parking bays will be required to be removed. These bays are located on Crown Land and are under the care and control of the Council. The removal of the three car parking bays is not supported. It is also considered relevant to note, further street parking bays were lost as a result of the owner/applicant's other approved development to the immediate south of this proposal.</p>

Panel Comment	Applicant Response	Officer Assessment
	<p>requirement, will necessitate less parking bays available for the park.</p> <p>The proposed development will result in the loss of only one parking bay (see attached plans), which would easily have been used to service the shop. The site is zoned R40 and as such has been identified for higher density development. It could be developed for four units but due to the road widening reserve on Canning Highway we propose only three units. As there are no crossovers on busy Canning Highway, then three crossovers on Irwin Street is not a large impact for this proposed development. Further by using double garages we have taken the need for residents to park in the street. We have in fact provided thirteen off street parking bays for this development (see attached plan) and thus have minimal impact on parking available for the park. The proposed subdivision into three green title lots complies with R40 zoning and as such is entitled to separate crossovers.</p>	<p>The site is <i>not</i> zoned R40. It is "dual coded" R12.5/40 with the R40 only being applicable if the criteria set out in Section 5.3.2 are met. It is concluded this is not that case and the proposed development cannot be approved at the R40 density and as such cannot be developed to a density of 4 dwellings as stated by the applicant.</p>
<p>The design of the buildings proposed does not appear to be compatible with any of the character of the Woodside ward (refer Precinct Design Guidelines).</p>	<p>The buildings have been designed to compliment (sic) the surrounding approved dwellings on Irwin Estate. Further the buildings are away from the other homes in the precinct and do not impact negatively on other homes. There are numerous examples of new homes in the Woodside Precinct that don't meet the Design Guidelines for the precinct.</p> <p>This development should have a relaxation of the Design Guidelines considering that the Council as with other metropolitan councils should be supporting higher density development. If the Design Guidelines are not relaxed then developers will go elsewhere and higher density development won't happen in East Fremantle.</p>	<p>The application has been assessed to require ten areas of non compliance with the performance criteria of the R-Codes and five areas of non compliance with the performance criteria of the RDG. The buildings do not complement the surrounding approved dwellings on Irwin Street or Canning Highway.</p> <p>The proposed development does not comply with TPS3.</p> <p>A full assessment of the proposed development follows this section. It is considered the proposed development will significantly impact on the area and is not supported.</p>
<p>The Town should undertake its own heritage assessment rather than relying on a subjective report supplied by the applicant.</p>	<p>This comment appears to be in direct conflict with the Town's own policy statements. On Page 2 of the Town's Place Record Form for 235 Canning Highway, East Fremantle it is stated 'a Heritage Assessment / Impact Statement to be required as a corollary to any development application'.</p> <p>The Town has already undertaken their own Heritage Assessment. The Heritage Survey 2006 (Place Record Form) is the Town's Heritage</p>	<p>The Town has engaged the services of Philip Griffith to undertake a Heritage Assessment of the property.</p> <p>The applicant has submitted a Heritage Assessment and Impact Statement prepared by Stephen Carrick Architects.</p> <p>Both reports note there is heritage value in the building. This is discussed later in the report.</p>

Panel Comment	Applicant Response	Officer Assessment
	<p>Assessment, which we contend was not done in sufficient detail and is a flawed assessment. There is no specific commentary provided referencing where the Panel considers the Heritage Assessment report is subjective. This is hardly an informed view provided by the Advisory Panel.</p> <p>A highly qualified heritage architect was engaged by us as required by Council and assessed the building as having low heritage value. Because this Heritage Impact Statement doesn't meet the Panel's misguided and simplistic agenda in relation to possible heritage buildings they now want to delay development approval longer and waste ratepayer funds on another Heritage Assessment. I invite the councillors to inspect the property, external and internal,</p> <p>and they can see for themselves that the building is in a very poor state and of low heritage value.</p>	

**Advertising**

The application was advertised to surrounding neighbours between 6 March 2013 and 25 March 2013. Four submissions were received during this period. A summary of the submission are contained below. Due to time constraints, the applicant has not been given an opportunity to respond to these.

NEIGHBOUR COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
<p>Council received 4 letters of submission which oppose the development.</p> <p>The submission note that the heritage building should be retained and renovated as it encapsulate the history of life and building construction of a previous time with the Precinct.</p> <p>The building adds to the historic nature of the Town, which is an important factor to the residents and should not be thrown away lightly.</p> <p>The house has original features, as a few other corner shops in the Town that have been retained.</p> <p>With modern planning by architects it is possible to achieve a result that will retain examples of all types of service buildings especially on a main connecting highway between Perth and Fremantle that both serve residents and travellers in times gone by.</p>	<p>Due to time constraints, the applicant has not been given an opportunity to respond to these.</p>	<p>The submissions are noted.</p> <p>Two independent heritage assessments have been submitted to Council. These are discussed further below.</p> <p>It is considered the building should be retained in its current form. The demolition of the building is not supported.</p>

**Relevant Stakeholders**

MRWA Main Roads WA considered the proposed development is acceptable subject to conditions being imposed.

**Council Heritage Consultant**

Council commissioned Griffiths Architects to prepare an independent Heritage Assessment and Impact Statement. The report concludes:

*Focusing on heritage values alone, we have formed the view that the place has some significance and should probably be re-allocated a Category C management level, rather than B where it currently resides. Category C 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.*

*In practical terms, an effort should be made to allow a subdivision to occur and include the retention of the place. Presumably from an owner's point of view retaining a heritage place might form part of an argument against resumption for road widening.*

A Heritage Assessment and Impact Statement has also been undertaken by the applicant. This is attached to the report.

**Site Inspection**

By Senior Town Planner on 6 March 2013.

**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.

**Town Planning Scheme No. 3 Assessment****Clause 1.6 Aim of the Scheme**

The aims of the Scheme are:

- (a) *To recognise the historical development of East Fremantle and to preserve the existing character of the Town;*
- (b) *To enhance the character and amenity of the Town, and to promote a sense of place and community identity within each of the precincts of the Town;*
- (c) *To promote the conservation of buildings and places of heritage significance, and to protect and enhance the existing heritage values of the Town;*
- (d) *To provide for a variety of development to meet the needs of the community with regard to housing, employment and services;*
- (e) *To conserve and enhance the natural environmental attributes of the Town by incorporating environmental principles into public and private decision making;*
- (f) *To ensure the safe and convenient movement of people throughout the Town, including pedestrians, cyclists, public transport users and motorists;*
- (g) *To facilitate and encourage effective public involvement in planning issues of significance to the character, amenity and environmental attributes of the Town.*

It is considered the proposed development does not comply with the provisions of Clause 1.6 (a), (b) and (c). The proposal does not recognise the existing character of the Town or the surrounding streetscape. The dwellings, lot size, setback, bulk, scale and double

storey nature of the development impacts on the area and the characteristic of the locality. The development proposes the demolition of a MHI building (Category B), reducing the heritage character and existing heritage values of the Town and therefore the proposal is not considered to comply with the aims of the Scheme (which Council is required to consider in any determination pursuant with Clause 10.2 (a) of the Scheme).

#### **Clause 4.2 - Zone Objectives**

The proposed development conflicts with Clause 4.2 Objectives of the Zones Residential Objectives of the Town of East Fremantle Town Planning Scheme No. 3, which states:

- *To provide for a range and variety of housing to meet the social and economic needs of the community, while recognising the limitations on re-development necessary to protect local character.*
- *To safeguard and enhance the amenity of residential areas and ensure that new housing development is sympathetic with the character and scale of the existing built form.*
- *To encourage high standards and innovative housing design, which recognises the need for privacy, solar access, cross ventilation, water sensitive design and provision of 'greenspace'.*
- *To protect residential areas from encroachment of inappropriate land uses which are likely to detract from residential amenities, but to provide for a limited range of home-based activities compatible with the locality.*
- *To recognise the importance of design elements such as the 'front yard' and the 'back yard' to the character, amenity and historical development of the Town and to the community.*

The proposed development is considered to have a detrimental impact on the amenity of the adjoining residential areas. The proposal is not sympathetic with the character and scale of the existing built form of the street. The proposed development does not recognise the design elements of the existing area, with significant R-Code and RDG variations required. Accordingly, the proposal is not considered to comply with Clause 4.2 of the Scheme.

#### **Clause 5.2 - Residential Design Codes**

The proposed development conflicts with Clause 5.2 Residential Design Codes of TPS3 with regard to the following specific requirements:

- 5.2.2 *Unless otherwise provided for in the Scheme the development of land for any of the residential purposes dealt with by the Residential Design Codes is to conform to the provisions of those Codes.*
- 5.2.3 *The Residential Design Codes density applicable to land within the Scheme Area is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas shown on the Scheme Maps as being contained within the borders shown on the Scheme Map or where such an area abuts another area having a Residential Planning Code density, as being contained within the centre-line of those borders.*
- 5.2.4 *Where a site is identified as having a split density coding such as R12.5/30, the higher code may only be employed where the specific requirements identified for development or re-development of the site as set out in Schedule 2 are addressed to the satisfaction of the local government. In all other circumstances, the lower of the two codes prevails.*

R-Codes densities applicable to land within the Scheme Area (R12.5/40) is to be determined by reference to the Residential Design Codes density number superimposed on the particular areas shown on the Scheme Map. Based on Clause 5.3.2 Highway frontage dual coding of the Scheme, all three lots are considered to be R12.5, since the proposed development fails to meet the required criteria for the R40 density identified in Clause 5.3.2 of the Scheme. The proposed development and subdivision does not comply with the applicable R12.5 density coding for the area.

Furthermore the proposed development is not considered to comply with the R-Codes Acceptable Development Provisions (**ADP**) or the Performance Criteria (**PC**) with regard to ten (10) Design Elements, therefore the proposal is not considered appropriate or acceptable. This will be discussed later in this report.

#### **Clause 5.3.2 - Highway Frontage Dual Coding**

The proposed development does not comply with Clause 5.3.2 of the TPS3, which states:

- 5.3.2 *Highway frontage dual coding: In the case of those sites with frontage on to Canning Highway and which are designated with a dual density coding, development above the lower density coding is subject to the following requirements:*
- (a) *Sole vehicular access to the site is to be via a street other than Canning Highway;*
  - (b) *Noise attenuation measures are to be included in all dwellings, which will in the opinion of the local government, reduce traffic noise to an acceptable level within all habitable rooms;*
  - (c) *Development is to be designed to face the frontage to Canning Highway, and any other street to which the site has frontage; and*
  - (d) *The heritage value of any place included on the heritage list under clause 7.1 of the Scheme, is to be maintained, to the satisfaction of the local government.*

The proposed development does not adequately address Canning Highway. The existing heritage dwelling currently fronts Canning Highway. The proposed development requires the demolition of this Heritage building listed as a Category B building on Council's Municipal Heritage Inventory. The proposed development has been designed to front Irwin Street. A piecemeal representation through the inclusion of a faux porch, is considered to front Canning Highway. The proposed design of a solid boundary wall, faux porch with balcony over and a blank garage wall is not considered to adequately address Canning Highway.

#### **Clause 8.2 - Permitted Development**

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

The Heritage Assessment and Impact Statement by Griffiths Architects notes:

*In practical terms, an effort should be made to allow a subdivision to occur and include the retention of the place.*

The proposed demolition of the existing heritage building is not supported. As previously stated, the proposed development is considered to conflict with the provisions of the Scheme as noted above.

#### **Clause 10.2 - Matters to be Considered by Local Government**

The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (a), (c), (g), (j), (o), (p) and (q).

- (a) *the aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);*
- (c) *the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;*

- (g) any Local Planning Policy adopted by the local government under clause 2.4 or effective under clause 2.6, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;
- (j) the compatibility of a use or development with its setting;
- (o) the preservation of the amenity of the locality;
- (p) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal; and
- (q) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;

The proposed development does not adhere to the aims and objectives of the Scheme. It is considered the proposed development have a significant impact on the locality, therefore the proposal does not conform to the orderly and proper planning of the area.

The proposed dwellings are incompatible with the existing built form in the area and would detrimentally impact upon the amenity of the area. The proposed development is considered to negatively impact on neighbouring properties and the wider locality, specifically but not limited to bulk, height and scale of the development. It is considered the proposed development cannot be supported in its current form, design or density.

#### Development Site Requirements

	Proposed Lot 555	Proposed Lot 555	Proposed Lot 555
Proposed Area	398m <sup>2</sup>	221m <sup>2</sup>	221m <sup>2</sup>
Zoning	R12.5	R12.5	R12.5
Required Min Area	700m <sup>2</sup> Min	700m <sup>2</sup>	700m <sup>2</sup>
Required Avg Area	800m <sup>2</sup>	800m <sup>2</sup>	800m <sup>2</sup>
Status	Does Not Comply	Does Not Comply	Does Not Comply

The proposed lot areas/ densities of the proposed lots do not comply with the site area requirements for minimum and average site areas as set out in Table 1 of the R-Codes. The proposed development and associated subdivision of the parent lot does not meet the requirements of clause 5.3.2 of Town Planning Scheme No 3, which is necessary for consideration of development density above the 12.5 R-Coding because the development is designed to face Irwin Street, not Canning Highway, as required under Section 5.3.2(c). Accordingly, because the proposed site area is required to comply with the R12.5 density, it is considered the proposed density does not meet the minimum and average lot area requirements for R12.5 and accordingly it is in conflict with clause 5.2.2 of TPS No. 3.

A summary of the R-Codes and RDG assessment is provided in the following tables:

#### LOT 555

Clause 5.3.2 of the TPS3 is not applicable. The proposed lot does not front Canning Highway. The proposed dwelling has been assessed under R12.5 of TPS3.

#### Town Planning Scheme No. 3 Assessment

Scheme Provision	Status
4.2 Zone Objectives	D
4.3 Zoning Table	A

**Residential Design Codes Assessment Proposed Lot 555**

Design Element	Required	Proposed	Status
6.4.1 Open Space	55%	67%	A
6.4.2 Outdoor Living	N/A	N/A	N/A
6.5 Car Parking	2	2	A
<b>6.6 Site Works</b>	<b>Less than 500mm</b>	<b>600mm</b>	<b>D</b>
<b>6.9.1 Overshadowing</b>	<b>25%</b>	<b>69%</b>	<b>D</b>
6.9.2 Drainage	On-Site	On-Site	A

<b>6.3 Boundary Setbacks</b>							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
<b>Ground</b>	<b>Porch</b>	<b>3.1</b>	<b>3.5</b>	<b>N</b>	<b>7.5</b>	<b>2.0</b>	<b>D</b>
<b>Upper</b>	<b>Balcony</b>	<b>6.6</b>	<b>3.5</b>	<b>Y</b>	<b>7.5</b>	<b>2.0</b>	<b>D</b>
Rear (west)							
<i>Ground</i>	<i>Family/ Dining</i>	3.2	5.3	Y	1.5	1.6	A
<i>Upper</i>	<i>Bed 1</i>	5.5	4.2	N	1.2	1.6	A
Side (north)							
<i>Ground</i>	<i>Porch</i>	2.2	2.9	N	3.0	6.8	A
<i>Upper</i>	<i>Balcony</i>	5.8	2.9	Y	3.0	6.8	A
Side (south)							
<b>Ground</b>	<b>Dwelling</b>	<b>3.3</b>	<b>15.0</b>	<b>N</b>	<b>1.5</b>	<b>Nil</b>	<b>D</b>
<b>Upper</b>	<b>Dwelling</b>	<b>6.3</b>	<b>15.0</b>	<b>N</b>	<b>2.0</b>	<b>Nil</b>	<b>D</b>

**Local Planning Policies Assessment**

LPP Residential Design Guidelines Provision. R	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
<b>3.7.5 Demolition</b>	<b>D</b>
<b>3.7.6 Construction Of New Buildings</b>	<b>D</b>
<b>3.7.7 Building Setbacks And Orientation</b>	<b>D</b>
<b>3.7.8 Roof Form And Pitch</b>	<b>D</b>
3.7.9 Materials And Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	A
3.7.13 Incidental Development Requirements	A
3.7.14 Footpaths And Crossovers	A
<b>3.7.15-20 Precinct Requirements</b>	<b>D</b>
<b>Access, Parking And Rights Of Way</b>	<b>D</b>
Garages, Carports And Outbuildings	A
<b>Building Height, Form, Scale And Bulk</b>	<b>D</b>
Verandah And Porches	A
Fremantle Port Buffer	N/A

**LOT 554**

Clause 5.3.2 of the TPS3 is not applicable. The proposed lot does not front Canning Highway. The proposed dwelling has been assessed under R12.5 of TPS3.

**Town Planning Scheme No. 3 Assessment**

Scheme Provision	Status
4.2 Zone Objectives	D
4.3 Zoning Table	A

**Residential Design Codes Assessment**

Design Element	Required	Proposed	Status
6.4.1 Open Space	55%	43%	D
6.4.2 Outdoor Living	N/A	N/A	N/A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	600mm	D
6.9.1 Overshadowing	25%	68%	D
6.9.2 Drainage	On-Site	On-Site	A

6.2 & 6.3 Boundary Setbacks							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
<b>Ground</b>	<b>Porch</b>	<b>3.2</b>	<b>3.5</b>	<b>N</b>	<b>7.5</b>	<b>2.0</b>	<b>D</b>
<b>Upper</b>	<b>Balcony</b>	<b>6.2</b>	<b>3.5</b>	<b>Y</b>	<b>7.5</b>	<b>2.0</b>	<b>D</b>
Rear (west)							
<i>Ground</i>	<i>Family/ Dining</i>	3.2	5.3	Y	1.5	1.6	A
<i>Upper</i>	<i>Bed 1</i>	5.5	4.2	N	1.2	1.6	A
Side (north)							
<b>Ground</b>	<b>Dwelling</b>	<b>2.7</b>	<b>8.3</b>	<b>N</b>	<b>1.0</b>	<b>Nil</b>	<b>D</b>
<b>Upper</b>	<b>Dwelling</b>	<b>5.7</b>	<b>8.3</b>	<b>N</b>	<b>1.2</b>	<b>Nil</b>	<b>D</b>
Side (south)							
<b>Ground</b>	<b>Dwelling</b>	<b>3.3</b>	<b>15.0</b>	<b>N</b>	<b>1.5</b>	<b>Nil</b>	<b>D</b>
<b>Upper</b>	<b>Dwelling</b>	<b>6.3</b>	<b>15.0</b>	<b>N</b>	<b>2.0</b>	<b>Nil</b>	<b>D</b>

**Local Planning Policies Assessment**

LPP Residential Design Guidelines Provision. R	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	D
3.7.6 Construction Of New Buildings	D
3.7.7 Building Setbacks And Orientation	D
3.7.8 Roof Form And Pitch	D
3.7.9 Materials And Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	A
3.7.13 Incidental Development Requirements	A
3.7.14 Footpaths And Crossovers	A
3.7.15-20 Precinct Requirements	D
<b>Access, Parking And Rights Of Way</b>	<b>D</b>
<b>Garages, Carports And Outbuildings</b>	<b>D</b>
<b>Building Height, Form, Scale And Bulk</b>	<b>D</b>
Verandah And Porches	A
Fremantle Port Buffer	N/A

**LOT 553**

Clause 5.3.2 of the TPS3 is not applicable. The proposed lot does not front Canning Highway. The proposed dwelling has been assessed under R12.5 of TPS3.

**Town Planning Scheme No. 3 Assessment**

Scheme Provision	Status
4.2 Zone Objectives	D
4.3 Zoning Table	A

**Residential Design Codes Assessment**

Design Element	Required	Proposed	Status
6.4.1 Open Space	55%	43%	D
6.4.2 Outdoor Living	N/A	N/A	N/A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	800mm	D
6.9.1 Overshadowing	25%	29%	D
6.9.2 Drainage	On-Site	On-Site	A

6.3 Boundary Setbacks							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (east)							
<b>Ground</b>	<b>Porch</b>	<b>3.2</b>	<b>3.5</b>	<b>N</b>	<b>7.5</b>	<b>2.0</b>	<b>D</b>
<b>Upper</b>	<b>Balcony</b>	<b>6.2</b>	<b>3.5</b>	<b>Y</b>	<b>7.5</b>	<b>2.0</b>	<b>D</b>
Rear (west)							
<i>Ground</i>	<i>Family/ Dining</i>	3.2	5.3	Y	1.5	1.6	A
<i>Upper</i>	<i>Bed 1</i>	5.5	4.2	N	1.2	1.6	A
Side (north)							
<b>Ground</b>	<b>Dwelling</b>	<b>2.7</b>	<b>8.3</b>	<b>N</b>	<b>1.0</b>	<b>Nil</b>	<b>D</b>
<b>Upper</b>	<b>Dwelling</b>	<b>5.7</b>	<b>8.3</b>	<b>N</b>	<b>1.2</b>	<b>Nil</b>	<b>D</b>
Side (south)							
<b>Ground</b>	<b>Dwelling</b>	<b>3.5</b>	<b>15.0</b>	<b>N</b>	<b>1.5</b>	<b>Nil</b>	<b>D</b>
<b>Upper</b>	<b>Dwelling</b>	<b>6.4</b>	<b>15.0</b>	<b>N</b>	<b>2.0</b>	<b>Nil</b>	<b>D</b>

**Local Planning Policies Assessment**

LPP Residential Design Guidelines Provision. R	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
<b>3.7.5 Demolition</b>	<b>D</b>
<b>3.7.6 Construction Of New Buildings</b>	<b>D</b>
<b>3.7.7 Building Setbacks And Orientation</b>	<b>D</b>
<b>3.7.8 Roof Form And Pitch</b>	<b>D</b>
3.7.9 Materials And Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	A
3.7.12 Pergolas	A
3.7.13 Incidental Development Requirements	A
3.7.14 Footpaths And Crossovers	A
<b>3.7.15-20 Precinct Requirements</b>	<b>D</b>
<b>Access, Parking And Rights Of Way</b>	<b>D</b>
<b>Garages, Carports And Outbuildings</b>	<b>D</b>
<b>Building Height, Form, Scale And Bulk</b>	<b>D</b>
Verandah And Porches	A
Fremantle Port Buffer	N/A

**DISCUSSION****Heritage**

Two Heritage Assessments have been prepared relating to the subject site. A report prepared by Stephen Carrick Architects on behalf of the applicant. The report concludes:

*It is considered the heritage values of the place are lower than those recorded on the Place Record Form that forms part of the Town's Municipal Heritage Inventory. Using the Town's rating and assessment criteria on the Place Record Form it is considered, in my opinion, that the overall heritage values are assessed as low, rather than as recorded on the form as generally high.*

*The viability and sustainability of any future use of the place has been greatly reduced by the altered streetscape and it further influenced by the proposed impacts of the road reserve widening.*

Whilst recommending lower ratings for the various criteria referred to in the MHI, Mr Carrick did not dispute there was heritage value in the building and did not specifically recommend or support demolition.

Further to the receipt of Mr Carrick's report, Council commissioned Griffiths Architects to prepare an independent Heritage Assessment and Impact Statement on the heritage values of the building. The report concludes:

*Focusing on heritage values alone, we have formed the view that the place has some significance and should probably be re-allocated a Category C management level, rather than B where it currently resides.*

The report continues:

*In practical terms, an effort should be made to allow a subdivision to occur and include the retention of the place. Presumably from an owner's point of view retaining a heritage place might form part of an argument against resumption for road widening.*

Based on the heritage assessment by both Heritage Architects, the building has been allowed to deteriorate and it is concluded it can be argued that it can no longer be assessed as a B category. Griffiths Architects' recommendation that it be assessed as Category C is supported, as indicated earlier in this report, a Category C rating refers to properties involving "some heritage significance at local level" and that "places to be ideally retained and conserved". This is supported. It is considered the building does possess both architectural merit and social cultural merit with regard to the building being used as a shop and associated dwelling for almost the last 90 years. As such it is considered the building should be retained in its current form. The demolition of the building is not supported.

**Residential Design Codes**

For the purposes of this assessment, only the assessments under the Performance Criteria of the R-Codes are discussed and also variations to the Town's other relevant policies.

*Note\* Residential Design Codes Explanatory Guidelines:*

*Part 6 and 7 contain the core design elements of the R-Code provisions. These use a performance approach and are set out as follows:*

- *First the aim or objective of the design element or special provision is stated;*
- *Second a set of performance criteria is provided that must be satisfied if the objective is to be met;*
- *Third, a set of acceptable development provisions related to the performance criteria is established.*

*The performance criteria are general statements of the means of achieving the objective. They are not meant to be limiting in nature.*

*The acceptable development provisions illustrate one way of satisfactorily meeting the corresponding performance criterion, and are provided as examples of acceptable design outcomes. Acceptable development provisions are intended to provide a straightforward pathway to assessment and approval; compliance with an acceptable development provision automatically means compliance with the corresponding performance criterion, and thus fulfilment of the objective.*

*The codes have been designed to provide a clear choice for applicants to select either a performance criteria approach for assessment, as acceptable development provision approach or a combination of the two.*

#### **6.1.1 Site Area Requirements**

The Performance Criteria of the R-Codes with regard to Element 6.1.1 states:

*P1 Development of the type and density indicated by the R-Codes designated in the Scheme.*

The proposed development is not considered of a type or density which is compliant with in the R-Codes density provisions designated as R 12.5/ 40 under the Scheme. As noted previously this application is based on three proposed freehold lots. The proposed lots are not considered to benefit from the provisions of Clause 5.3.2 *Highway frontage dual coding*, therefore the applicable density for Lots 555, 554 and 553 is R12.5. The lot areas for each of the three lots do not comply with the R12.5 coding applicable to the area.

Neighbouring lots in the locality are of a dimension and density which accords with R12.5. Neighbouring dwellings are primarily single storey and setback approximately 6.5 – 7m minimum from the front of the lot. The proposed dwellings are two storeys, inconsistent with the character of the locality and setback a minimum of 2.0 metres from Irwin Street.

The 'townhouse' design of the three proposed dwellings is not consistent with the prevailing dwelling typology within the locality. The dwellings will impact on the streetscape and are considered of a scale and bulk that will detrimentally impact on the locality.

The proposed development is not considered to comply with the Performance Criteria Element 6.1.1 Site Area Requirements and therefore cannot be supported.

#### **6.1.2 Additional Site Area Requirements/ Concessions**

The Performance Criteria of the R-Codes with regard to Element 6.1.2 states:

*P1 Development of dwellings of a type and density indicated by the R-Codes designated in the Scheme.*

As noted above the proposed dwellings are of a type and density that are inconsistent with the surrounding locality. It is not considered the proposed development can benefit from the additional site requirements or concessions.

The proposed development is not considered to comply with the Performance Criteria Element 6.1.2 Additional Site Area Requirements/ Concessions and therefore cannot be supported.

#### **6.2.1 Setbacks of the Building Generally**

The Performance Criteria of the R-Codes with regard to Element 6.2.1 states:

*P1 Buildings setback from street boundaries an appropriate distance to ensure they:*

- *Contribute to the desired streetscape.*

- *Provide appropriate privacy and open space for dwellings; and*
- *Allow safety clearances for easements for essential service corridors.*

The proposed dwellings present with a 2 metre setback from the porch to Irwin Street and 5.0 metre from the garage to Irwin Street. The neighbouring dwellings in the locality are of a type and setback relating to the density coding of R12.5. Neighbouring dwellings are setback approximately 6.5m – 7m from the front of the lot. The proposed dwellings are inconsistent with the character/ setback of the adjoining residential locality.

The proposed dwellings are not considered to contribute to the desired streetscape. The proposed dwelling is not of a scale and bulk that is consistent with the streetscape. The front and side setbacks are not consistent with the character of the area.

Furthermore the proposed dwellings located on proposed Lots 554 and 553 do not provide appropriate open space relevant to an R12.5 density. The proposed open space is not considered appropriate to the dwelling.

The proposed development is not considered to comply with the Performance Criteria Element 6.2.1 Setbacks of the Building Generally and therefore cannot be supported.

### **6.2.3 Setback of Garages and Carports**

The Performance Criteria of the R-Codes with regard to Element 6.2.3 states:

**P3** *The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa.*

The proposed setback, location and width of the garages are considered inconsistent with the character of the area and detract from the streetscape, while adding to the bulk and scale of the development as viewed from Irwin Street. The proposed dwellings propose zero lot side setbacks and have a front setback of 5.0 metres from Irwin Street, both are inconsistent with the surrounding locality and will detrimentally impact on the streetscape.

The proposed development is not considered to comply with the Performance Criteria Element 6.2.3 Setback of Garages and Carports and therefore cannot be supported.

### **6.2.8 Garage Doors**

**The proposed development complies with the ADP of the R-Codes. The proposed garages do not exceed 50%.** Acceptable development provisions are intended to provide a straightforward pathway to assessment and approval. Compliance with an acceptable development provision automatically means compliance with the corresponding performance criterion, and thus fulfilment of the objective. Notwithstanding this, it is considered due to the nature of the proposed subdivision and lot width (Lots 554 and 553 comprise of 11 metre wide frontage), the proposed garages do not maintain a desired streetscape as the proposal is dominated by garage doors.

The Performance Criteria of the R-Codes with regard to Element 6.2.8 states:

**P8** *The extent of frontage and building facade occupied by garages assessed against the need to maintain a desired streetscape not dominated by garage doors.*

The garage doors to these dwellings represent approximately 45 per cent (5 metres) of the lot frontage. The impact of the garage door to dwelling proposed on lot 555 is considered less than that of Lot 554 and 553, however the proposed scale and width of the garage door is not considered consistent with the adjoining locality and does not maintain a desired streetscape.

### 6.3.1 Buildings setback from the Boundary

The Performance Criteria of the R-Codes with regard to Element 6.3.1 states:

- P1** *Buildings setback from boundaries other than street boundaries so as to:*
- *Provide adequate direct sun and ventilation to the building;*
  - *Ensure adequate direct sun and ventilation to the adjoining properties;*
  - *Provide adequate direct sun to the building and appurtenant open spaces;*
  - *Assist with protection of access to direct sun for adjoining properties;*
  - *Assist in ameliorating the impacts of building bulk on adjoining properties; and*
  - *Assist in protecting privacy between adjoining properties.*

The proposed dwellings are not considered to comply with the above Performance Criteria as follows:

- Due to the nature and scale of the three dwellings, it is not considered adequate direct sun is achieved for the proposed dwellings on Lot 554 and 553 based on overshadowing of the lots (69% and 68% respectively). The window location and size to the eastern façade of dining/ family room and the overshadowing is not considered to provide sufficient light or ventilation to the kitchen area of the three dwellings. The zero lot side boundaries impact on the direct light and ventilation of the dwelling.
- The dwelling on Lot 555 overshadows that on Lot 554 by approximately 69%. The dwelling on Lot 554 overshadows that on Lot 553 by approximately 68% (This assessment was undertaken by the Town using the requirements as outlined in the R-Codes Explanatory Guidelines. The applicant did not supply a shadow diagram for the purposes of assessment). This overshadowing is located over the alfresco area and dining/ kitchen. This is not considered acceptable and will impact on the amenity of the future residents.
- The alfresco area to Lot 554 and 553 are overshadowed completely. It is not considered acceptable as the primary outdoor living space.
- The proposed dwellings do not assist with the protection of access to direct sun for adjoining properties. The orientation (east/west) of the lots limit the design options available to maintain direct sun to adjoining dwellings, however it is considered the 3 lot development is an over development of the lots based on a R12.5 density.
- The zero lot setbacks, two storey dwelling and reduced front setback do not ameliorate the impacts of building bulk on adjoining properties. The scale and bulk of the dwellings are considered inconsistent with the character of the adjoining locality.
- There are no privacy concerns relating to any of the three dwellings.

The proposed development is not considered to comply with the Performance Criteria Element 6.3.1 Buildings setback from the Boundary and therefore cannot be supported.

### 6.3.2 Building on the Boundary

The Performance Criteria of the R-Codes with regard to Element 6.3.2 states:

- P2** *Buildings built up to the boundaries other than the street boundary where it is desirable to do so in order to:*
- *Make effective use of space; or*
  - *Enhance privacy; or*
  - *Otherwise enhance the amenity of the development;*
  - *Not have any significant adverse effect on the amenity of the adjoining property; and ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The density, scale and setback of adjoining properties are considered to guide development within the street. It is not considered acceptable or appropriate to develop three 2 storey dwellings with minimal front setback and zero lot boundary walls. The walls are considered to have a significant adverse effect on the amenity of the adjoining property through bulk, scale overshadowing and reduced open space. The proposed zero lot walls ensure that direct sun to major openings to habitable rooms and the alfresco areas of adjoining properties is restricted, impacting on the amenity of the adjoining properties and future residents.

The proposed development is not considered to comply with the Performance Criteria Element 6.3.2 Buildings on the Boundary and therefore cannot be supported.

#### 6.4.1 Open Space

The Performance Criteria of the R-Codes with regard to Element 6.4.1 states:

**P1** *Sufficient open space around buildings:*

- *To complement the building;*
- *To allow attractive streetscapes; and*
- *To suit the future needs of residents, having regard to the type and density of the dwelling.*

The proposed dwelling on Lot 555 complies with the open space provisions of the R-Codes.

Lots 554 and 553 are not considered to comply with the Performance Criteria as noted above. The proposed dwellings are located within the front setback area and are not considered to compliment the building or streetscape. The future needs of residents have not been considered based on the nature and type of the open space provided, while having regard to the type of dwelling and density of the area.

The proposed development is not considered to comply with the Performance Criteria Element 6.4.1 Open Space and therefore cannot be supported.

#### 6.6.1 Excavation or Fill

The Performance Criteria of the R-Codes with regard to Element 6.6.1 states:

**P1** *Development that retains the visual impression of the natural level of a site, as seen from the street or other public place, or from an adjoining property.*

A minimum of 600mm is proposed, with a maximum of 800mm fill proposed for the development of the three dwellings. The proposed fill is considered to impact on the scale and bulk of the dwellings and how they present to the street. The proposed fill will therefore not retain the visual impression of the natural level of a site. It is considered the proposed dwellings on Lots 554 and 553 do not minimise streetscape impact and that alternatives exist to minimise the impact of the dwellings on the street and on adjoining lots.

The proposed development is not considered to comply with the Performance Criteria Element 6.6.1 Excavation of Fill and therefore cannot be supported.

#### 6.7.1 Building Height

The Performance Criteria of the R-Codes with regard to Element 6.7.1 states:

**P1** *Building height consistent with the desired height of buildings in the locality, and to recognise the need to protect the amenity of adjoining properties, including, where appropriate:*

- *Adequate direct sun to buildings and appurtenant open spaces;*
- *Adequate daylight to major openings to habitable rooms; and*
- *Access to views of significance.*

The three dwellings are not considered to protect the amenity of the adjoining properties. It is further not considered that adequate direct sun to adjoining buildings and appurtenant open spaces is received. The proposed dwellings on Lots 554 and 553 have 69% and 68% overshadowing respectively, which is well below solar access requirements of 25% of the adjoining site area. The proposed zero lot boundary walls are considered to impact on the adequate daylight received by major openings for habitable rooms. The design of the three dwellings is considered inappropriate. The kitchen area of each of the units is also considered not to receive adequate direct sun or ventilation.

The height of the dwellings impacts on the scale and bulk of the dwellings as they present to the street. The height is considered inconsistent with the surrounding locality, which is predominantly single storey.

The proposed development is not considered to comply with the Performance Criteria Element 6.7.1 Building Height and therefore cannot be supported.

#### **6.9.1 Solar access for adjoining sites**

The Performance Criteria of the R-Codes with regard to Element 6.9.1 states:

***P1** Development designed to protect solar access for neighbouring properties taking into account the potential to overshadow:*

- *Outdoor living areas;*
- *Major openings to habitable rooms;*
- *Solar collectors;*
- *Balconies or verandahs.*

As noted above the proposed dwellings on Lots 554 and 553 have 68% and 69% overshadowing respectively. This is located over the alfresco area and main living area of both dwellings. The dwellings located on Lot 555 and 554 are considered excessive in scale and overbearing with regard to the impact to the adjoining lots. While the proposed dwelling on Lot 553 creates overshadowing of approximately 29% of the adjoining lot to the south, it is considered this lot while currently vacant will be developed. The impact of 29% overshadowing on a lot with an area of 500m<sup>2</sup> in a R12.5 zone is considered inappropriate.

The proposed development is not considered to comply with the Performance Criteria Element 6.9.1 Solar Access for Adjoining Sites and therefore cannot be supported.

#### **Residential Design Guidelines**

The proposed three dwellings have also been assessed in accordance with the Town's Residential Design Guidelines. The following areas are considered the areas of non compliance with the Acceptable Development Provisions and the Performance Criteria of the Guidelines:

#### **3.7.5 Demolition:**

The Performance Criteria states:

***P1.2** The Local Government shall not approve demolition if the proposed development, addition(s) and/or alterations do not conform to this Local Planning Policy.*

The proposed development does not comply with the TPS3, the R-Codes and with this policy, therefore it is considered that Council should not approve demolition of the building. The proposed development is considered to impact on the amenity of the locality and character of the area. It is considered that demolition of the existing heritage building cannot be approved based on the proposed developments non compliance with the Scheme, R-Codes and existing policy.

#### **3.7.6 Construction of New Building**

The Performance Criteria states:

***P1** New buildings are to be designed and constructed in a style compatible with, but which does not overtly mimic, the traditional building styles found in the Town.*

The proposed dwellings are not designed in a style compatible with the traditional building styles found in the Town. The proposed dwellings are 2 storey. The primary character of the surrounding locality is single storey dwellings on large lots with front

setbacks approximately 7 metres from the primary street. In all three instances of the proposed dwellings on Lot 555, 554 and 553, the applicant has requested significant Council discretion as previously noted. The proposed dwellings are considered to be excessive in scale and bulk and not consistent with the aims of the Scheme.

### 3.7.7 Building Setbacks and Orientation

The Performance Criteria states:

- 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.*
- P1.2** *Additions to existing contributory buildings shall be setback so as to not adversely affect its visual presence.*
- P1.3** *Developments are to have side setbacks complementary with the predominant streetscape.*

The proposed lots are orientated east/ west. It is considered the proposed dwellings impact on the amenity of each of the other dwellings and the character of the streetscape.

The proposed setbacks of the three dwellings are not consistent with the primary street setback or side setback of the traditional setback of the immediate locality. The zero lot setback and reduced primary street setback increase the scale and bulk of the development as viewed from an overall street perspective. The proposed setbacks are considered inconsistent with the character and amenity of the locality.

It is considered the reduced setback creates additional overshadowing, height and amenity concerns that are not supported and have been addressed earlier in this report.

### 3.7.8 Roof Form and Pitch

The Performance Criteria states:

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

The proposed roof pitch of the dwellings is 25°. The roof form is not consistent with the prevailing building typology in the immediate locality nor does it complement the traditional form of surrounding development in the immediate locality.

### 3.7.15 Precinct Requirements

#### Access, Parking and Rights of Way

The Performance Criteria states:

- P1.1** *Access and parking for the building is to be adequately provided for within the boundaries of the lot/development site, and does not negatively impact on:
  - i. The streetscape character and amenity; and,*
  - ii. The availability of on-street parking in the locality.**

The proposed setback and location of the garages are considered not in keeping with the character of the area and detract from the streetscape. The garages are considered to negatively impact on the streetscape character and amenity.

Access/ egress to the lots are via Irwin Street, this will require the deletion of approximately three (3) on-street car parking bays. On street parking in this area is in high demand from patrons using Lee Park, which is opposite the subject site. This is considered not to be sufficiently addressed by the applicant and may further exacerbate car parking issues for the locality or create issues for the proposed development with regard to sight-lines and access/ egress to the individual lots.

The on-street car parking bays are considered to impact on the direct access/ egress of the proposed development. It is considered a vehicle manoeuvring from a garage in a reverse gear onto the street will have obstructed views of the street due to the on-street car parking. Due to the proximity of the proposed development to Canning Highway and the on-street car parking, it is considered safe access/ egress of the lot cannot be achieved.

### **Garages, Carports and Outbuildings**

The Performance Criteria states:

- P1** *Garages, carports or outbuildings should comply with the recommended building materials for the Precinct.*
- P2** *Garages and carports are designed to be incorporated into, and compatible with, the design of the dwelling.*

The proposed garages are considered to be excessive in scale and width. The garage doors will occupy approximately 45% of the lot frontage (5 metres of an 11 metre frontage). This is considered incompatible with the streetscape and the prevailing built form in the locality.

### **Building Height, Form, Scale and Bulk**

The Performance Criteria states:

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

The proposed development is inconsistent in terms of its form, bulk and scale with traditional development in the immediate locality. The traditional dwelling form is single storey and setback approximately 7 metres. The proposed dwellings are in contrast to the prevailing streetscape and are considered inconsistent. No attempt has been made to set back the second storey element of the dwellings, exacerbating the bulk and impact the proposed dwellings have to the streetscape.

### **CONCLUSION**

The proposed development does not comply with the following requirements of the Town Planning Scheme No.3:

- The proposed development conflicts with Clause 1.6 Aims of the Scheme.
- The proposed development conflicts with Clause 4.2 Objectives of the Zones Residential Objectives.
- The proposed development conflicts with Clause 5.2 Residential Design Codes.
- The proposed development conflicts with Clause 5.3.2 Highway Frontage Dual Coding.
- The proposed development conflicts with Clause 8.2 Permitted Development.
- The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (a), (c), (g), (j), (o), (p) and (q) because it is incompatible with adjoining development and would detrimentally impact upon the amenity of the area.

It is further required that Council exercise its discretion in granting approval for the following R-Code Acceptable Development Requirements:

- 6.1.1 Site Area Requirements
- 6.1.2 Additional Site Area Requirements/ Concessions
- 6.2.1 Setbacks of the Building Generally
- 6.2.3 Setback of Garages and Carports
- 6.3.1 Buildings setback from the Boundary
- 6.3.2 Building on the Boundary
- 6.4.1 Open Space

- 6.6.1 Excavation or Fill
- 6.7.1 Building Height
- 6.9.1 Solar access for adjoining sites

An assessment of the proposed development has been undertaken considering the Performance Criteria of the R-Codes. The proposed development is not considered to conform with the requirements of the Performance Criteria for the above Elements, therefore it is considered the proposed development should be refused.

Council is required to exercise its discretion in granting approval for the following Residential Design Guideline Provisions:

- 3.7.5 Demolition:
- 3.7.6 Construction of New Building
- 3.7.7 Building Setbacks and Orientation
- 3.7.8 Roof Form and Pitch
- 3.7.15 Precinct Requirements
  - Access, Parking and Rights of Way
  - Garages, Carports and Outbuildings
  - Building Height, Form, Scale and Bulk

The proposed development is considered to have a negative impact to the locality and to the traditional built form of the area. The variations to the development are considered such that the proposed development is not suitable to the area.

The proposed development is not considered sustainable or consistent with the orderly and proper planning of the area and is therefore recommended for refusal.

#### **RECOMMENDATION**

It is recommended that the application for a three single two storey dwellings situated at 235 (Parent Lot 1851) Canning Highway, East Fremantle, as described on the plans date stamped received 5 February 2013, be refused for the following reasons:

1. The proposed development does not comply with the requirements of the Acceptable Development Criteria or Performance Criteria of ten (10) Elements of the Residential Design Codes as listed:
  - 6.1.1 Site Area Requirements
  - 6.1.2 Additional Site Area Requirements/ Concessions
  - 6.2.1 Setbacks of the Building Generally
  - 6.2.3 Setback of Garages and Carports
  - 6.3.1 Buildings setback from the Boundary
  - 6.3.2 Building on the Boundary
  - 6.4.1 Open Space
  - 6.6.1 Excavation or Fill
  - 6.7.1 Building Height
  - 6.9.1 Solar access for adjoining sites
2. The proposed development does not comply with the requirements of the Acceptable Development Criteria or Performance Criteria of the Local Planning Policy Residential Design Guidelines with regard to five (5) Elements.
  - 3.7.5 Demolition:
  - 3.7.6 Construction of New Building
  - 3.7.7 Building Setbacks and Orientation
  - 3.7.8 Roof Form and Pitch
  - 3.7.15 Precinct Requirements
    - Access, Parking and Rights of Way
    - Garages, Carports and Outbuildings
    - Building Height, Form, Scale and Bulk

3. The proposed development does not comply with the following requirements of the Town Planning Scheme No.3:
  - The proposed development conflicts with Clause 1.6 Aims of the Scheme.
  - The proposed development conflicts with Clause 4.2 Objectives of the Zones Residential Objectives.
  - The proposed development conflicts with Clause 5.2 Residential Design Codes.
  - The proposed development conflicts with Clause 5.3.2 Highway Frontage Dual Coding.
  - The proposed development conflicts with Clause 8.2 Permitted Development.
  - The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (a), (c), (g), (j), (o), (p) and (q) because it is incompatible with adjoining development and would detrimentally impact upon the amenity of the area.
4. The proposed development does not comply with the orderly and proper planning of the area.

#### **RECOMMENDATION TO COUNCIL**

**Cr Collinson – Cr Nardi**

**That the application for a three single two storey dwellings situated at 235 (Parent Lot 1851) Canning Highway, East Fremantle, as described on the plans date stamped received 5 February 2013, be refused for the following reasons:**

1. **The proposed development does not comply with the requirements of the Acceptable Development Criteria or Performance Criteria of ten (10) Elements of the Residential Design Codes as listed:**
  - **6.1.1 Site Area Requirements**
  - **6.1.2 Additional Site Area Requirements/ Concessions**
  - **6.2.1 Setbacks of the Building Generally**
  - **6.2.3 Setback of Garages and Carports**
  - **6.3.1 Buildings setback from the Boundary**
  - **6.3.2 Building on the Boundary**
  - **6.4.1 Open Space**
  - **6.6.1 Excavation or Fill**
  - **6.7.1 Building Height**
  - **6.9.1 Solar access for adjoining sites**
2. **The proposed development does not comply with the requirements of the Acceptable Development Criteria or Performance Criteria of the Local Planning Policy Residential Design Guidelines with regard to five (5) Elements.**
  - **3.7.5 Demolition:**
  - **3.7.6 Construction of New Building**
  - **3.7.7 Building Setbacks and Orientation**
  - **3.7.8 Roof Form and Pitch**
  - **3.7.15 Precinct Requirements**
  - **Access, Parking and Rights of Way**
  - **Garages, Carports and Outbuildings**
  - **Building Height, Form, Scale and Bulk**
3. **The proposed development does not comply with the following requirements of the Town Planning Scheme No.3:**
  - **The proposed development conflicts with Clause 1.6 Aims of the Scheme.**
  - **The proposed development conflicts with Clause 4.2 Objectives of the Zones Residential Objectives.**
  - **The proposed development conflicts with Clause 5.2 Residential Design Codes.**
  - **The proposed development conflicts with Clause 5.3.2 Highway Frontage Dual Coding.**

- The proposed development conflicts with Clause 8.2 Permitted Development.
  - The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (a), (c), (g), (j), (o), (p) and (q) because it is incompatible with adjoining development and would detrimentally impact upon the amenity of the area.
4. The proposed development does not comply with the orderly and proper planning of the area.

**Footnote:**

***A site visit be arranged for Saturday, 13 April 2013 commencing at 9.30am.***

CARRIED

T37.8

***Allen Street No. 28 (Lot 1 SP47255)***

***Applicant: Dale Alcock Homes***

***Owner: I G Handcock***

***Application No. P146/12***

By Andrew Malone, Senior Planning Officer, on 27 February 2013

**PURPOSE OF THIS REPORT**

This report recommends approval of a Development Application for demolition of an existing dwelling and construction of a new single dwelling at 28 (Lot1) Allen Street, East Fremantle.

**BACKGROUND****Description of Proposal**

The proposed development involves demolition of an existing dwelling and construction of a new dwelling. The existing dwelling was built during the interwar period and is of brick and tile construction. The dwelling is included on the Town's Municipal Heritage Inventory under the C<sup>^</sup> Management Category.

The proposed new dwelling is single-storey in height and of brick and colorbond construction. The dwelling comprises four bedrooms; home theatre; open plan living, dining and kitchen; alfresco; two bathrooms; laundry and double garage with store.

**Description of Site**

The subject site is:

- a 524.7m<sup>2</sup> survey strata lot, with 135.8m<sup>2</sup> common property. The proposed
- zoned Residential 12.5 but assessed at R20 as per Clause 5.3.3 of TPS No. 3
- located in the Woodside Precinct
- improved with a single-storey single dwelling
- assigned C<sup>^</sup> 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)

**Impact on Public Domain**

- Tree in verge : To be retained
- Light pole : No impact
- Crossover : No impact
- Footpath : No impact
- Streetscape : Demolition of existing dwelling and construction of new dwelling

**Documentation**

- Plans and relevant forms date stamped received on 10 September 2012
- Heritage Impact Statement date stamped received on 31 October 2012
- Revised plans date stamped received on 11 February 2013
- Overshadowing Plan date stamped received on 18 March 2013.

**Date Application Received**

10 September 2012

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

6 November 2012: Application deferred by Council.

**CONSULTATION**

**Advertising**

The application was advertised to surrounding neighbours from 19 September 2012 to 4 October 2012. No submissions were received during this period.

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 9 October 2012. The Panel made the following comments in regard to the application and the applicant has responded.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
Panel doesn't support the application in terms of front setback presented to the street.	Amended Plans have been lodged increasing the front setback of the dwelling.	Noted.  The applicant's Heritage Impact Statement generally observes that the proposed new dwelling is compatible with the existing streetscape but makes no specific comment relating to the front setback.  The front Setback complies with the Acceptable Development Provisions of eth R-Codes.
Faux heritage building design is not supported.	Amended Plans have been lodged removing the faux heritage elements	The removal of the faux heritage elements are considered acceptable. The proposed development is not considered to negatively impact on the character of the area or the streetscape.
Demolition is not supported due to the need to preserve current heritage streetscape rhythm.	Heritage Impact Statement, prepared by Phillip Griffiths Architects, notes that the dwelling has been substantially altered, including:  - Eaves have been extended and boxed in;  - Original verandah removed	Noted.  Having regard for the extensive alterations to the dwelling, the limited value of the dwelling to its setting, and the C Management Category of the Municipal Heritage Inventory, it is recommended that the proposal to demolish the dwelling should be supported.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
	<p>and replaced with concrete and steel verandah;</p> <ul style="list-style-type: none"> <li>- Original windows have been enlarged and altered;</li> <li>- Removal of some original internal walls and construction new internal walls;</li> <li>- Many original fireplaces, skirtings and doors removed;</li> <li>- Plaster ceilings removed and replaced with plasterboard; and</li> <li>- Kitchen, bathroom and bedroom fittings replaced.</li> </ul> <p>The removal of this house and its replacement with a house of a similar scale will have a neutral impact on heritage significance.</p>	
<p>Preservation of existing residence is preferred, a second storey is suggested.</p>	<p>The Heritage Impact Statement notes:</p> <p>The proposed replacement house is a reasonably sympathetic one, though its floor to ceiling height is lower than its neighbours.</p> <p>The house should fit into the streetscape reasonably well. The federation detailing, such as the finials are unnecessary as are the gambrels.</p> <p>The material selections are compatible and with the above modifications, the design should fit in with the neighbourhood well.</p>	<p>The extent of renovation work impacts on the authenticity and integrity of the dwelling. While the report confirms that the dwellings condition is generally good, the extensive alterations have diminished its heritage value.</p> <p>The proposed dwelling sits harmoniously in its setting by virtue of its scale and single storey design.</p> <p>It is considered a second storey addition would have a greater impact to the streetscape than the proposed single storey dwelling.</p>

**Site Inspection**

By Town Planner on 28 February 2013

**ASSESSMENT**

**Town Planning Scheme No. 3**

The proposed development is required to comply with the provisions of Clause 5.3.3 of the TPS3 to enable the R20 density code to be utilised.

Clause 5.3.3 of the TPS No. 3 reads as follows:

*Existing non-complying development: Where a lot contains an existing authorised development which exceeds the prescribed density coding, the local government may permit redevelopment of the lot up to the same density of the existing development, or of a different form than otherwise permitted, provided that:*

- (a) *In the opinion of the local government, the proposed development will contribute more positively to the scale and character of the streetscape, the improvement of the amenity of the area, and the objectives for the precinct than the existing building; and*
- (b) *Except where the proposed development comprises minor alterations to the existing development which, in the opinion of the local government, do not have a significant adverse effect on the amenity of adjoining land, advertising of the*

*proposed development has been undertaken in accordance with the provision of clause 9.4.*

The subject lot is a survey-strata development that was subdivided under the previous TPS No. 2 at a greater density than permitted under the current TPS No. 3 zoning (R12.5). Being 525m<sup>2</sup> in area, the site area is consistent with a density of R20. To maintain the R20 coding, the proposed development is required to comply with the provisions of Clause 5.3.3 (a) and (b) prior to the development being assessed at R20.

The proposed development will contribute more positively to the scale and character of the streetscape and is considered to improve the amenity of the area.

- Lot levels are being excavated thereby reducing the overall height of development of the streetscape.
- The proposed dwelling maintains the single storey nature of the building.
- The existing building is not considered an exceptional example of an inter-war bungalow. The existing building does not front Allen Street, with access to the dwelling via a side entry door, not characteristic of the area. The proposed dwelling has been designed to front Allen Street, increasing the visual amenity to the street, while also increasing the passive surveillance of the area.
- The Heritage report states:

*As part of the renovation works, the eaves have been extended and boxed in. The original verandah has been removed and replaced with a concrete floor verandah, with a tiled roof supported on paired steel poles, with an asbestos cement soffit.*

The extensive internal and external modifications to the dwelling impacts on the integrity of the dwelling. The Heritage Impact Statement further notes:

*The material selections are compatible and with the above modifications, the design should fit in with the neighbourhood well.*

- The proposed development, while a new dwelling has been designed to be sympathetic with the heritage character of the area, maintaining modern elements, distinguishing the dwelling from the existing heritage dwellings. The faux heritage elements of the dwelling commented on by the TPAP and noted in the Heritage Assessment and Impact Statement have been removed in the amended plans as recommended.
- The existing cement driveway painted red is considered excessively wide and impacts on the streetscape. The proposed dwelling will eliminate this driveway. The proposed driveway is incorporated into a landscaping plan (attached) and is considered to improve the streetscape making a positive contribution to the streetscape and is considered acceptable.
- Advertising of the proposed development has been undertaken in accordance with the provision of clause 9.4.

It is considered the proposed development will contribute more positively to the scale and character of the streetscape and it is considered will improve the amenity of the area. The provisions of Clause 5.3.3 (a) and (b) are considered to be addressed and the proposed development can be assessed at the R20 density.

**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	30sqm	A
6.5 Car Parking	2	2	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	13%	A
6.9.2 Drainage	On-site	On-site	A

Setbacks:							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<i>Front (west)</i>							
<i>Ground</i>	Garage	N/A	N/A	N/A	6m	7.2m	A
<i>Ground</i>	Bed 2	N/A	N/A	N/A	6m	4.95m	A
<i>Ground</i>	Bed 3	N/A	N/A	N/A	6m	6.0m	A
<i>Rear (east)</i>							
<i>Ground</i>	Alfresco	2.1	5.7	Y	1.5	2.9m	A
	Master Suite	2.2	5.7	Y	1.5	4.0m	A
<i>Side (north)</i>							
<b>Ground</b>	<b>Garage</b>	<b>2.6m</b>	<b>5.8m</b>	<b>N</b>	<b>1.0m</b>	<b>Nil</b>	<b>D</b>
	Dwelling	2.5m	22.3m	Y	1.5m	2.3m	A
<i>Side (south)</i>							
<i>Ground</i>	Bed 3	2.7m	4.0m	N	1.0m	1.0m	A
	Dwelling	2.7m	22.3m	Y	1.5m	1.5m	A

**Local Planning Policy 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	A
3.7.6 Construction of New Buildings	D
3.7.7 Building Setbacks and Orientation	D
3.7.8 Roof Form and Pitch	D
3.7.9 Materials and Colours	A
3.7.10 Landscaping	A
3.7.11 Front Fences	N/A
3.7.12 Pergolas	N/A
3.7.13 Incidental Development Requirements	N/A
3.7.14 Footpaths and Crossovers	A
3.7.15-20 Precinct Requirements	A

**DISCUSSION****Residential Design Codes****6.2.1 Setbacks of the Building Generally**

- A1.1** states buildings setback from street boundaries an appropriate distance to from the street boundary be:  
*in accordance with figure 1a, reduced by 50 per cent provided that the area of any building, including a carport or garage, intruding into the setback area is compensated for by at least an equal area of contiguous open space between the setback line and line drawn parallel to it at twice the setback distance.*

Based on the above bedroom 2 is setback 4.9 metres from the front boundary and has an incursion into the front setback area of approximately 4m<sup>2</sup>. It is considered an area approximately 7m<sup>2</sup> is compensated behind the setback line thereby complying with the ADP of the R-Codes.

Notwithstanding this the Performance Criteria for front setback requirements dwellings to:

- *Contribute to the desired streetscape.*
- *Provide appropriate privacy and open space for dwellings; and*
- *Allow safety clearances for easements for essential service corridors.*

The proposed dwelling is considered to contribute to the desired streetscape, providing a landscape front area and sympathetic dwelling to the locality. The proposed dwelling is of a scale and bulk that is consistent with the streetscape. The front and side setbacks comply with the ADP of the R-Codes and with the character of the area.

It is further noted this incursion into the front setback area helps to ameliorate the impact of the garage door upon the front elevation.

There are no open space or privacy issues with regard to the proposed dwelling and there are no easements over the lot.

### **6.3.2 Building on the Boundary**

**A2(ii)** of the R-Codes states that:

*In areas coded R20 and R25, walls not higher than 3m with an average of 2.7m up to 9m in length up one side boundary only.*

It is noted that while this application has been assessed on the basis of an R20 coding the predominant coding in the area is R12.5, therefore there is a requirement for the garage to be assessed as per the Performance Criteria of the R-Codes.

**P2** states:

*Buildings built up to the boundaries other than the street boundary where it is desirable to do so in order to:*

- *Make effective use of space; or*
- *Enhance privacy; or*
- *Otherwise enhance the amenity of the development;*
- *Not have any significant adverse effect on the amenity of the adjoining property; and ensure that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted.*

The proposed zero lot wall to the garage is considered minimal in height and does not have an adverse effect on the amenity of the adjoining driveway or to the property to the north. Direct sun to all major openings to habitable rooms and outdoor living areas is received by adjoining properties. The proposed dwelling does not impact the streetscape or adjoining neighbours and therefore is considered can be supported by Council.

### **LPP - Residential Design Guidelines**

The proposed dwelling has also been assessed in accordance with the Town's Residential Design Guidelines. The following areas are considered the areas of non compliance with the Acceptable Development Provisions and the Performance Criteria of the Guidelines:

### 3.7.6 Construction of New Building

Acceptable Development Provisions states:

- A1** *Developments to comply with all design elements of this Local Planning Policy and are compatible with the context in terms of bulk, scale, materials and design.*

The Performance Criteria states:

- P1** *New buildings are to be designed and constructed in a style compatible with, but which does not overtly mimic, the traditional building styles found in the Town.*

The proposed dwelling has been designed and modified to be compatible in style, scale and bulk as those in the adjoining locality. The proposed dwelling is single storey. The applicant has considered the TPAP response and has deleted the faux heritage styles incorporated in the dwelling. The proposed dwelling does not overtly mimic the traditional building styles found in the Town, and it is considered to complement the adjoining dwellings and streetscape.

### 3.7.7 Building Setbacks and Orientation

Acceptable Development Provisions states:

- A1.1** *New developments, additions and alterations are to match the existing front and side setbacks of the immediate locality.*

The Performance Criteria states:

- 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.*
- P1.2** *Additions to existing contributory buildings shall be setback so as to not adversely affect its visual presence.*
- P1.3** *Developments are to have side setbacks complementary with the predominant streetscape.*

The dwelling is orientated east/ west. It is considered the impact of the proposed dwellings on the amenity of each of the adjoining properties and the character of the streetscape is minor.

The proposed primary street setback of the dwelling is not consistent with the traditional primary street setback of the immediate locality. However, it is noted that the established street setback exceeds the current requirements of the R-Codes. The proposed dwelling complies with the ADP of the R-Codes with regard to front setback. The reduced setback from the viewpoint of the traditional setback of the area is minor and is not considered to impact on the Town's desired streetscape requirements.

The proposed dwelling side setbacks are complementary with the predominant streetscape, therefore it is considered the provided side setbacks create no impact to the streetscape or to adjoining neighbours.

### 3.7.8 Roof Form and Pitch

Acceptable Development Provisions 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 pitch of the dwellings is 25°. The proposed 25° roof pitch is minor in nature considering the single storey nature of the dwelling. The roof pitch is considered to further reduce any perceived bulk of the dwelling. The proposed roof form is considered to complement the traditional form of surrounding development in the immediate locality, and therefore complies with the Performance Criteria of the RDG.

### CONCLUSION

The density, scale and setback of adjoining properties are considered to guide the development of the street. It is considered acceptable and appropriate to develop a single storey detached bungalow, excavated into the lot for reduced impact to be constructed on the lot.

The applicant is seeking Council discretion primarily with regard to building setback from side setback. The proposed variations are considered to comply with the Provisions of the Performance Criteria of the R-Codes and the RDG.

It is considered the proposed development will not impact on the amenity of the streetscape or on the amenity of the neighbouring properties. Based on the Heritage Impact Assessment, Philip Griffiths notes:

*The material selections are compatible and with the above modifications, the design should fit in with the neighbourhood well.*

The faux heritage details, commented on by the TPAP, have subsequently been removed and the proposed dwelling is considered sympathetic to the character of the area and the streetscape. Based on this it is considered the proposal merits approval subject to appropriate conditions.

### RECOMMENDATION

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

- (a) variation to the setback requirements of the side setback (northern elevation) – required setback 1.0 metres. Proposed setback Nil;
- (b) element 3.7.6 of the Residential Design Guidelines: Construction of New Buildings;
- (c) element 3.7.7 of the Residential Design Guidelines: Building Setback and Orientation; and
- (d) element 3.7.8 of the Residential Design Guidelines: Roof Form and Pitch;

for demolition of existing dwelling and construction of new a single storey dwelling at 28 (Lot 1) Allen Street, East Fremantle, in accordance with the plans date stamp received 10 September 2012 (site survey), 11 February 2013 (sheets 1, 2 & 3 of 3) and 18 March 2013 (overshadow diagram) subject to the following conditions:

1. Landscaping Plan to be undertaken in conformity with the drawings and written information accompanying the application for planning approval date stamped 30 October 2013 other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
2. 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*)
3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
4. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit

- issued in compliance with the conditions of this planning approval unless otherwise amended by Council.
5. 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) *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) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *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".*

**RECOMMENDATION TO COUNCIL****Cr Rico – Cr Nardi****That Council exercise its discretion in granting approval for the following:**

- (a) variation to the setback requirements of the side setback (northern elevation) –required setback 1.0 metres. Proposed setback Nil;**
- (b) element 3.7.6 of the Residential Design Guidelines: Construction of New Buildings;**
- (c) element 3.7.7 of the Residential Design Guidelines: Building Setback and Orientation; and**

**(d) element 3.7.8 of the Residential Design Guidelines: Roof Form and Pitch; for demolition of existing dwelling and construction of new a single storey dwelling at 28 (Lot 1) Allen Street, East Fremantle, in accordance with the plans date stamp received 10 September 2012 (site survey), 11 February 2013 (sheets 1, 2 & 3 of 3) and 18 March 2013 (overshadow diagram) subject to the following conditions:**

- 1. Landscaping Plan to be undertaken in conformity with the drawings and written information accompanying the application for planning approval date stamped 30 October 2013 other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 2. 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)***
- 3. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.**
- 4. The proposed works are not to be commenced until Council has received an application for a Demolition Permit and a Building Permit and the Building Permit issued in compliance with the conditions of this planning approval unless otherwise amended by Council.**
- 5. 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) 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) the patio may not be enclosed without the prior written consent of Council.*
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) 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**

**T37.9**

**Canning Highway No. 55 (Lot 1)**

**Applicant: Lendis Golic**

**Owner: L Srhoy**

**Application No. P1/13**

By Andrew Malone, Senior Planning Officer, 12 March 2013

**PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval for the additions / alterations to the double storey residence at No. 55 Canning Highway, East Fremantle, comprising of additions of additions and alterations to the heritage building and the addition of a second storey to the rear building in the subject lot.

**BACKGROUND**

**Description of Site**

The subject site is:

- a 190m<sup>2</sup> freehold lot.
- zoned Mixed Use
- located in the Plympton Precinct.
- assigned A- Management Category in the Town's Heritage Inventory 2006. The Municipal Heritage Inventory states with regard to Category A buildings:

*High heritage significance at a local level, and having potential State Heritage significance; informed consideration should be given to nomination for State Register listing prior to or at the time of consideration for further development, and prior*

*determination of any significant development application for the place. Places to be generally retained and conserved, and worthy of a high level of protection. Conservation Plans may be required depending on relative significance and apparent impact of development on the place; detailed Heritage Assessments otherwise required as corollary to any development application. Strong encouragement to the owner under the Town of East Fremantle Planning Scheme to conserve the significance of the place. Incentives to promote heritage conservation should be considered where necessary to achieve desirable conservation outcomes in context of permissible development.*

**Statutory Considerations**

Town Planning Scheme No. 3 (TPS3) – Mixed Use  
 Residential Design Codes (R-Codes)  
 Municipal Heritage Inventory – A- Management Category

**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 : Second Storey Addition as viewed from the secondary street (Hubble Street)

**Documentation**

Plans and relevant forms date stamp received on 3 January 2013.  
 Heritage Impact Statement date stamped received 29 January 2013  
 Revised plans date stamp received on 12 March January 2013.

**Date Application Received**

3 January 2013

**CONSULTATION**

**Town Planning Advisory Panel Comments**

This application was considered by the Town Planning Advisory Panel at its meeting held on 10 July 2012.

The Panel made the following comments in regard to the application and the applicant has responded.

PANEL COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
Panel positively supports this thoughtful and modest application.	N/a	Noted / Agreed

**Advertising**

The application was advertised to surrounding neighbours for a three week period between 12 January 2013 and 4 February 2013. One submission was received during this period.

NEIGHBOUR COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
<i>Tradewinds Hotel</i> 59 Canning Highway  Will partially obstruct the westerly views from the balcony of the hotel.  Already well established services in	View already obstructed by existing roofs.  This is for residential use only.	It is considered the applicant's response is accurate and it is agreed views are already obstructed by existing roofs forms in the

2 April 2013

## MINUTES

NEIGHBOUR COMMENT	APPLICANT RESPONSE	OFFICER ASSESSMENT
close proximity.	Heritage impact statement supports proposal.	locality. Amendments to the plans have been made. The proposed development is for use as a residential dwelling.

**Relevant Stakeholders**

State heritage Office received 21 January 2013  
 Fremantle Port authority received 24 January 2013  
 Department of Planning received 1 February 2013  
 Main Roads received 22 February 2013

No objections were received to the proposal by the relevant stakeholders.

**Site Inspection**

By Senior Town Planner on 13 March 2013.

**ASSESSMENT****Town Planning Scheme No. 3 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.

It is noted that Clause 5.3.4 of TPS3 *Residential Development in Non-Residential Zones* which states:

*Subject to clause 5.3.5, where residential development is provided for in non-residential zones, a maximum density of R40 shall apply, although the local government may vary the requirements relating to bulk, form and setbacks so as to facilitate coordinated development, having regard to the local government's objectives for the precinct.*

For the purposes of this assessment the applicable density on the lot is R40.

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	45%	25%	A
6.4.2 Outdoor Living	20m <sup>2</sup>	47m <sup>2</sup>	A
6.5 Car Parking	2	Nil	D
6.6 Site Works	Less than 500mm	N/A	A
6.9.1 Overshadowing	35%	To R.O.W	A
6.9.2 Drainage	On-Site	On-Site	A

6.3 Boundary Setbacks							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (north)	As Existing						
Rear (south)							
Ground	As Existing						

6.3 Boundary Setbacks							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<b>Upper</b>	<b>Studio</b>	<b>3.2</b>	<b>5.5</b>	<b>N</b>	<b>1.0</b>	<b>0.7</b>	<b>D</b>
Side (east)							
Ground	As Existing						
<b>Upper</b>	<b>Bedroom</b>	<b>5.9</b>	<b>5.7</b>	<b>N</b>	<b>1.2</b>	<b>0.9m</b>	<b>D</b>
	<b>Studio</b>	<b>3.8</b>	<b>8.6</b>	<b>Y</b>	<b>1.8</b>	<b>Nil</b>	<b>D</b>
Side (west)							
Ground	As Existing						
<b>Upper</b>	<b>Bedroom</b>	<b>6.4</b>	<b>5.7</b>	<b>N</b>	<b>1.2</b>	<b>Nil</b>	<b>D</b>
	<b>Studio</b>	<b>3.8</b>	<b>8.6</b>	<b>N</b>	<b>1.1</b>	<b>Nil</b>	<b>D</b>

### Local Planning Policies Assessment

LPP Residential Design Guidelines Provision. R	STATUS
3.7.2 Additions And Alterations To Existing Buildings	A
3.7.3 Development Of Existing Buildings	A
3.7.4 Site Works	N/A
3.7.5 Demolition	N/A
3.7.6 Construction Of New Buildings	N/A
<b>3.7.7 Building Setbacks And Orientation</b>	<b>D</b>
<b>3.7.8 Roof Form And Pitch</b>	<b>D</b>
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

The proposal complies with relevant R-Code and the Residential Design Guidelines 'Acceptable Development' Provisions (**ADP**) except as indicated below.

#### Heritage

A Heritage Impact Statement has have been prepared relating to the subject site, prepared by Philip McAllister Architects on behalf of the applicant. The report concludes:

*The proposed changed will not impact on the heritage or streetscape value of the existing building currently on the site and on the Town of East Fremantle Municipal Inventory. The proposed alterations and additions are considered to improve the architectural merit and streetscape amenity on Hubble Street.*

TPAP concluded that it positively supports this thoughtful and modest application. The proposed additions and alterations are considered to preserve the character of the street form by not trying to replicate and create a faux heritage streetscape or building. The additions are considered distinct from the dwelling and are sympathetic to the heritage character of the building.

Based on the Heritage Impact Statements conclusion is considered the proposed additions and alteration can be supported by Council.

#### Boundary Setback

**6.3.1 Buildings setback from the Boundary (R-Codes)**

**3.7.7 Building Setbacks and Orientation (RDG)**

The applicant is seeking Council discretion with regard to the setback requirements of the R-Codes and the Town's RDG.

The proposed development incorporates a number of variations to setback requirements to the side and rear boundaries. The LPP RDG Element 3.7.7 provides criteria by which to assess proposed variations to setback requirements. These are as summarised below.

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

There are no changes proposed to the primary street setback. The proposed additions and alterations are to the rear of the property adjoining the secondary street (Hubble Street).

The proposed addition to the dwelling retains the existing chimney. The eastern setback is 0.9 metres while the western setback is a zero lot boundary wall adjoining an existing parapet wall.

Eastern Elevation: The 0.9 metre setback to the eastern elevation is considered acceptable considering the zero lot setback to the heritage dwelling. The proposed setback to the eastern elevation retains the original chimney and clearly distinguishes the additions from the heritage building.

Western Elevation: The western setback is proposed at nil. The wall will abut an existing parapet wall and roof. The zero lot boundary wall is acceptable considering the proposed addition continues the existing nil setback and the adjoining property is constructed with a nil setback.

Studio: The proposed studio has a nil setback to the eastern and western elevations and a 0.7 metre setback to the adjoining southern Right of Way (**ROW**) to the rear of the lot. The proposed addition to the existing rear building maintains existing setbacks. The additions are detached from the existing heritage dwelling and are considered sympathetic to the character of the area.

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

The setbacks requiring Council discretion are to the eastern, western and southern boundaries of the proposed additions. The building setbacks do not adversely affect the heritage dwellings visual presence to the streetscape or the character of the building. It is considered the proposed design and setbacks distinguish, reinforce and protect the heritage character of the building. The proposed additions can be clearly interpreted as additions and distinct from the heritage building. The additions and alterations are considered appropriate with the prevailing built form in the locality and are designed so as to be sympathetic to the character and scale of the locality.

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

The lot has a width of 5.5 metres, which constraints design options for the proposed additions or alterations. The applicant has designed the proposed additions to retain the character of the heritage building, while maintaining consistent setbacks with the heritage building and with the adjoining properties. The building is located in a 'Mixed Use' Zone on Canning Highway. The proposed Nil setbacks are considered appropriate given the zoning and location of the lot.

It is considered the reduced setback does not impact on the adjoining neighbours with regard to visual privacy or overshadowing. The proposed setbacks are complementary to

the building and to the streetscape and can be supported by Council subject to appropriate conditions.

Notwithstanding the above RDG requirements, the proposed development is seeking Council discretion with regard to the Acceptable Development Provisions of the R-Codes. The proposed additions will be assessed as per the Performance Criteria (**PC**). The PC states:

- P1** *Buildings setback from boundaries other than street boundaries so as to:*
- *Provide adequate direct sun and ventilation to the building;*
  - *Ensure adequate direct sun and ventilation to the adjoining properties;*
  - *Provide adequate direct sun to the building and appurtenant open spaces;*
  - *Assist with protection of access to direct sun for adjoining properties;*
  - *Assist in ameliorating the impacts of building bulk on adjoining properties;*  
*and*
  - *Assist in protecting privacy between adjoining properties.*

The proposed additions and alteration to an existing dwelling are considered to comply with the above Performance Criteria as follows:

- The proposed additions and alterations are located to the middle and rear of the lot. It is considered the proposed additions will receive adequate direct sun and ventilation. Furthermore the proposed gable window to the rear addition adds to the passive surveillance of the street.
- The proposed additions and alterations do impact on the direct sun received by the adjoining property, however as the overshadowing is located to the rear R.O.W., the solar access is considered to comply with the Acceptable Development Provisions of the R-Codes.
- Direct sun to the building and appurtenant open spaces is not impacted by the proposed additions and alterations.
- The proposed additions and alterations have been constructed to a similar height as the existing boundary wall to the rear and side of the existing building. The proposed additions to the existing heritage building are considered to be of a scale and bulk consistent with the character of the existing building. Therefore it is considered that the proposed development does assist with protection of access to direct sun for the adjoining property to the south.
- The proposed additions are of a scale and bulk that are considered consistent with the streetscape and adjoining neighbours. The proposed additions front Hubble Street and a R.O.W. to the rear. The adjoining neighbour to the west will not be adversely impacted as the proposed Studio addition to the rear increases the parapet wall by 0.7 metres (total parapet wall 3.3 metres). The addition to the heritage building is located adjoining a parapet wall and roof. These additions are considered appropriate and will not impact with regard to scale, bulk or overshadowing to the western neighbour.
- There are no privacy concerns.

The proposed development is considered to comply with the Performance Criteria of Element 6.3.1 Buildings setback from the Boundary and therefore can be supported.

#### **6.4.1 Open Space**

The proposed development does not comply with the ADP of Table 1 of the R-Codes R40 zoning provisions for open space. The development will be assessed as per the PC of the RDC. The PC requires:

*Sufficient open space around buildings*

- *To complement the building;*
- *To allow attractive streetscapes;*
- *To suit the future needs of residents, having regard to the type and density of the dwelling.*

The proposed variation of approximately 38m<sup>2</sup> (20%) is considered a significant variation, however the proposed lot is only 190m<sup>2</sup> and the proposed development reduces the existing open space by 10m<sup>2</sup> (5% increase on the existing 15% variation of open space). The proposed open space is located to the middle of the lot and complements the existing heritage dwelling and proposed studio, providing a usable courtyard between the two buildings. It is considered the proposed additions and alterations, while reducing the provided open space, compliments the building and provides a usable and functional outdoor area that can be accessed from the studio and new kitchen/ dining area. The streetscape is not considered to be altered. The proposed open space provisions can be supported by Council.

#### 6.5.1 On-Site Parking Provision

The ADP of the R-Codes requires two car parking spaces to be provided on site. The existing building does not have any on-site car parking. The proposed additions do not provide any additional car parking spaces. There is no crossover to the lot. On street car parking is provided located on Hubble Street, with a car parking bay blocking any location where a crossover could be located. The lot has no vehicular access. Due to the limited provision of open space and no access/ egress, it is considered inappropriate to enforce an on-site car parking provisions. It is considered the on street car parking is acceptable.

### LPP - Residential Design Guidelines

#### 3.7.8 Roof Form and Pitch

Acceptable Development Provisions 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 proposed roof pitch of the dwellings is 45° and therefore does not comply with the ADP of the RDG.

The Performance Criteria states:

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

The proposed steep roof pitch (45°) is considered acceptable in this instance. The proposed roof pitch is distinct from the existing building and it can be clearly distinguished as a new structure. The proposed roof form reduces the bulk and scale required for parapet walls and thereby reduces the impact to the character of the building and surrounding locality. The proposed roof form is considered compatible with the traditional form of the heritage building.

### CONCLUSION

The applicant is seeking Council discretion primarily with regard to building setback from the side and rear setback. Due to the location, zoning and current lot restriction, the proposed additions and alterations have been designed to minimise the impact to the existing building and to the streetscape. The proposed additions and alteration are sympathetic to the heritage character of the building. The proposed variations are considered to comply with the Provisions of the Performance Criteria of the R-Codes and the RDG.

It is considered the proposed development will not impact on the amenity of the streetscape or on the amenity of the neighbouring properties. Based on this it is considered the proposal merits approval subject to appropriate conditions.

**RECOMMENDATION**

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

- (a) variation to the setback requirements of the side setback (eastern elevation) – required setback 1.2 metres. Proposed setback 0.9 metres;
- (b) variation to the setback requirements of the side setback (eastern elevation) – required setback 1.8 metre. Proposed setback is Nil;
- (c) variation to the setback requirements of the side setback (western elevation) – required setback 1.2 metre. Proposed setback is Nil;
- (d) variation to the setback requirements of the side setback (western elevation) – required setback 1.1 metre. Proposed setback is Nil;
- (e) variation to the setback requirements of the rear setback (southern elevation) – required setback 1.0 metre. Proposed setback is 0.7m;
- (f) 6.4.1 Open Space (45% open space required, 20% open space provided)
- (g) 6.5.1 On-Site parking provision (Two spaces required. Zero provided); and
- (h) element 3.7.8 of the Residential Design Guidelines: Roof pitch

for two storey additions and alterations to an existing dwelling at 55 (Lot 1) Canning Highway, East Fremantle, in accordance with the plans date stamp received on 12 March 2013 subject to the following conditions:

1. 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*)
2. The works are to be constructed in conformity with the drawings and written information accompanying the application for planning approval other than where varied in compliance with the conditions of this planning approval or with Council's further approval.
3. 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.
4. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
5. All 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.
6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
8. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
9. This planning approval to remain valid for a period of 24 months from date of this approval.

Footnote:

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

- (a) this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.
- (b) a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.
- (c) it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.
- (d) all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).
- (e) in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.
- (f) with regard to construction of the crossover the applicant/builders is to contact Council's Works Supervisor.
- (g) the patio may not be enclosed without the prior written consent of Council.
- (h) matters relating to dividing fences are subject to the Dividing Fences Act 1961.
- (i) 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".

**RECOMMENDATION TO COUNCIL**

**Cr Nardi – Cr Collinson**

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

- (a) variation to the setback requirements of the side setback (eastern elevation) – required setback 1.2 metres. Proposed setback 0.9 metres;
- (b) variation to the setback requirements of the side setback (eastern elevation) – required setback 1.8 metre. Proposed setback is Nil;
- (c) variation to the setback requirements of the side setback (western elevation) – required setback 1.2 metre. Proposed setback is Nil;
- (d) variation to the setback requirements of the side setback (western elevation) – required setback 1.1 metre. Proposed setback is Nil;
- (e) variation to the setback requirements of the rear setback (southern elevation) –required setback 1.0 metre. Proposed setback is 0.7m;
- (f) 6.4.1 Open Space (45% open space required, 20% open space provided)
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3. 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.
4. With regard to the plans submitted with respect to the Building Permit application, changes are not to be made in respect of the plans which have received planning approval, without those changes being specifically marked for Council's attention.
  5. All 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.
  6. All introduced filling of earth to the lot or excavated cutting into the existing ground level of the lot, either temporary or permanent, shall be adequately controlled to prevent damage to structures on adjoining lots or in the case of fill, not be allowed to encroach beyond the lot boundaries. This shall be in the form of structurally adequate retaining walls and/or sloping of fill at the natural angle of repose and/or another method as approved by the Town of East Fremantle.
  7. Where this development requires that any facility or service within a street verge (street trees, footpath, crossover, light pole, drainage point or similar) is to be removed, modified or relocated then such works must be approved by Council and if approved, the total cost to be borne by the applicant. Council must act reasonably and not refuse any reasonable proposal for the removal, modification or relocation of such facilities or services (including, without limitation any works associated with the proposal) which are required by another statutory or public authority.
  8. If requested by Council within the first two years following installation, the roofing to be treated to reduce reflectivity. The treatment to be to the satisfaction of the Chief Executive Officer in consultation with relevant officers and all associated costs to be borne by the owner.
  9. This planning approval to remain valid for a period of 24 months from date of this approval.

**Footnote:**

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

- (a) *this decision does not include acknowledgement or approval of any unauthorised development which may be on the site.*
- (b) *a copy of the approved plans as stamped by Council are attached and the application for a Building Permit is to conform with the approved plans unless otherwise approved by Council.*
- (c) *it is recommended that the applicant provides a Structural Engineer's dilapidation report, at the applicant's expense, specifying which structures on adjoining sites may be adversely affected by the works and providing a record of the existing condition of the structures. Two copies of each dilapidation report should be lodged with Council and one copy should be given to the owner of any affected property.*
- (d) *all noise levels produced by the construction of the development are to comply with the provisions of the Environmental Protection (Noise) Regulations 1997 (as amended).*
- (e) *in regard to the condition relating to the finish of the neighbour's side of the parapet wall it is recommended that the applicant consult with the neighbour to resolve a mutually agreed standard of finish.*
- (f) *with regard to construction of the crossover the applicant/builder is to contact Council's Works Supervisor.*
- (g) *the patio may not be enclosed without the prior written consent of Council.*
- (h) *matters relating to dividing fences are subject to the Dividing Fences Act 1961.*
- (i) *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**

**T37.10 View Terrace No. 1 (Lot 237)**  
**Applicant: David Weir for Arcccon Mining Services**  
**Owner: Paul Kreppold**  
**Application No. P194/12**  
 By Andrew Malone, Senior Town Planner on 19 March 2013

#### **PURPOSE OF THIS REPORT**

This report considers an application for Planning Approval for additions and alterations, comprising first-floor addition to the existing 2-storey residence and viewing loft, situated at 1 (Lot 239) View Terrace, East Fremantle. The application is recommended for deferral to allow for design amendments to be undertaken as recommended.

#### **BACKGROUND**

##### **Description of Proposed Development**

The proposed development comprises of:

- New carport with parapet wall accessed from View Terrace; to be located in front of existing garage/ workshop.
- Detached outdoor living area/ workshop located to the eastern and southern boundary of the lot with a zero lot boundary.
- First floor additions comprising of kitchen, lounge, ensuite and bedroom with associated deck.
- New pergola located at swimming pool.

##### **Description of Site**

The subject site is:

- a 1072m<sup>2</sup> freehold lot
- zoned Residential 12.5 but assessed at R20 as per Clause 5.3.1 of TPS No. 3
- developed with a double storey dwelling
- located in the Richmond Hill Precinct.

##### **Statutory Considerations**

State Planning Policy 3.1 Residential Design Codes (**R-Codes**)

Town Planning Scheme No. 3 (**TPS3**) (Residential R20)

##### **Relevant Council Policies**

Local Planning Policy No. 1 : Residential Design Guidelines (**RDG**)

##### **Impact on Public Domain**

Tree in verge : No Impact  
 Light pole : No impact  
 Crossover : No impact  
 Footpath : No impact  
 Streetscape : Dwelling on secondary street (Parker Street) more evident.

##### **Documentation**

- .. Plans and relevant forms date stamp received on 21 December 2012.
- .. Neighbour submission date stamped received 22 January 2013
- .. Applicant's response to neighbour submission and TPAP date stamped received 22 January 2013.
- .. Response to comments (meeting 26 February 2013) date stamped received 12 March 2013.

##### **Date Application Received**

21 December 2012.

**CONSULTATION**

**Town Planning Advisory Panel Comments**

The application was considered by the Town Planning Advisory Panel at its meeting of 29 January 2013. The Panel's comments and applicant's and officer's responses are detailed below.

Panel Comment	Applicant Response	Officer Assessment
Application should be height complaint	The November edition of the Town of East Fremantle Residential Guidelines include a new Clause 3.7.17.4.1.3 A1.4 whereby building heights are treated differently "in localities where views are an important part of the amenity of the area and neighbours (sic) existing views are to be affected". The revised heights allow for a height of 8.1m to the top of a pitched roof. As such, if it is determined that views are an important part of the amenity of this locale and the neighbours' existing views are to be affected then the roof of the proposed extension is acceptable at a height of 7.69m.	Noted.  The proposed additions and alterations are height compliant and are considered acceptable.  The proposed 'Widow's watch' (viewing platform) is recommended to be deleted from the proposed development.
Panel does not support the addition of the viewing platform, this seen as a discordant and over-height element of the proposal.	The proposed Widow's Watch is in keeping with the precinct and surrounding area, and is in keeping with the spirit of Clause 3.7.8.3 P5 of the Town of East Fremantle Residential Design Guidelines. As per the argument 2 above, the Widow's Watch should not be considered as an 'over-height element' under the Guidelines nor the R-Codes.	Noted.  The proposed 'Widow's watch' (viewing platform) is recommended to be deleted from the proposed development.
Query setbacks and site coverage	The setback of the proposed first floor addition seeks a 300mm concession as per Table 1 and subsequently Table 2 of the R-Codes, in keeping with the Performance Criteria of Clause 6.3.1 P1 in relation to the neighbouring property; that is, "to ensure adequate direct sun and ventilation being available to adjoining properties...assist with protection of access to direct sunlight for adjoining properties...(and) assist in protecting privacy between adjoining properties". This element is the only concession sought from the council in regards to the R-Codes and Residential Design Guidelines.  The setbacks of the incidental development to the eastern and southern neighbours have received no objections from those neighbours, both by non-response and written response. Further, the setback of the incidental development is in accordance with the R-Codes criteria for buildings on boundaries 6.3.2 A2 i & ii.	Side setbacks require Council discretion. It is considered the proposed setbacks are not acceptable and revisions to the plans have been recommended.  The site coverage complies with Council requirements.

Panel Comment	Applicant Response	Officer Assessment
The application proposal presents as an overdevelopment of the lot.	It is understood that this opinion is based on the position that the proposal does satisfy the R-Codes or Design Guidelines in terms of building height, setbacks and site coverage. We believe that the design satisfies all these requirements with one minor concession of setbacks, and have detailed our adherence in both the original DA submission and further in this letter. Of particular importance is the oversized 14.24m setback from Parker St to minimise the impact of the proposed addition to the streetscape.	Noted.  The proposed dwelling is not acceptable in its current form and it is recommended that the development be revised.  While the proposed development is not an overdevelopment of the lot, it is considered the proposed development does not conform with the orderly and proper planning of the locality.

**Advertising**

The application was advertised to surrounding neighbours for a two week period between 8 January 2013 and 22 January 2013. At the close of advertising one submission had been received and are attached to this report. The issues raised in the submissions are summarised in the following table alongside the applicant’s response and officer’s comment

Neighbour Comment	Applicant Response	Officer Assessment
I have no objections to the new storeroom designed on the boundary.	Mr Garofalo states that he has no objections to the new storeroom on the boundary between 1 View Tce & 3 View Tce; whilst this is appreciated it is to be noted that as this proposed design meets with the R-codes criteria for buildings on boundaries (6.3.2 A2 i & ii) and as such is allowable whether it is objected to or not.	The applicants view that R-Code compliance means “allowable” development is an incorrect interpretation of the Codes. The provisions of the TPS including Clause 10.2 of the Scheme are still to be applied regardless of R-Code compliance.
I have concerns with regards to the second story extensions and the set back from the side boundary line dividing 3 and 1 View Terrace East Fremantle. The proposed second story extension would create a double storey wall approximately 40 metres in length from the front to the rear of the boundary. The second story extension should be set back more than the 1.5 metres as currently drawn, maybe more in line with the existing house which has a 4.5m setback. There seems to be ample room to move the extension towards the centre of the block.	The boundary in question is only 44.26m long and includes a setback from the front boundary of 8.1m. The existing 2-storey wall of the house measures 14.8m and the proposed second storey addition measures 14.53m; a total of 29.33m. In any case, as this wall and the proposed addition do not breach the code in regards to over-looking or overshadowing the comment has no bearing on the codes or guidelines.  As such the 10.17m wall requires a setback under the R-Codes of 1.5m and is setback 3.7m; the 4.4m wall requires a setback under the R-Codes of 2.8m and is setback 4.595m; the proposed addition wall of 14.53m requires a setback under the R-Codes of 1.8m and we are seeking an adjustment of policy by the council to allow for a 300mm relaxation of this setback, considering both the generous setbacks of the existing walls, the over-sized setbacks of the neighbouring property and the fact	It is considered the proposed setbacks are not acceptable based on impact of setback, scale and bulk to adjoining neighbour and it is recommended they be revised to comply with the Acceptable Development Provisions of the R-Codes, specifically with regard to the eastern and southern elevations.

Neighbour Comment	Applicant Response	Officer Assessment
	that the proposed development includes no major openings for overlooking and has no issue of overshadowing.	

**Site Inspection**

By Town Planner on 28 February 2013

**ASSESSMENT**

**Town Planning Scheme No. 3**

If the R20 density code is to be utilised, as sought by the applicant, the proposed development is required to comply with the provisions of Clause 5.3.1 of the TPS3.

Clause 5.3.1 Density Bonus for Corner Lots of the TPS No. 3 reads as follows:

*In areas with a density coding of R12.5, the local government may approve development up to a density of R20 on corner lots where the dwellings are designed to face each of the two street frontages, and in the opinion of local government, there will be an improvement in the overall amenity of the streets as a result of the development.*

The subject lot is corner lot, within an area with a density coding of R12.5. The proposed development has been assessed by the applicant using the R20 development requirements, however based on the proposed development, it is not considered there is an improvement in the overall amenity of View Terrace or Parker Street as a result of the development. The proposed development does present to both streets, however it is considered the proposed development does not make a positive impact on the overall amenity of either street. This will be discussed in detail later in the Discussion Section of this report.

Because it is considered the proposed development will not improve the amenity of the two streets in question, it is considered Clause 5.3.1 of the Scheme has not been complied with. Therefore the assessment of the additions and alterations have been undertaken at an R12.5 density.

**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	(589.6m <sup>2</sup> ) 55%	60%	A
6.4.2 Outdoor Living	30sqm	82sqm	A
6.5 Car Parking	2	3	A
6.6 Site Works	Less than 500mm	Less than 500mm	A
6.9.1 Overshadowing	25%	4.4%	A
6.9.2 Drainage	On-site	On-site	A

Setbacks							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
Front (north)							
As Existing							
Rear (south)							

Setbacks							
Wall Orientation	Wall Type	Wall height	Wall length	Major opening	Required Setback	Proposed Setback	Status
<b>Ground</b>	<b>Outdoor Living/ Workshop</b>	<b>2.7</b>	<b>9.6</b>	<b>N</b>	<b>1.5</b>	<b>Nil</b>	<b>D</b>
<i>Upper</i>	Bed	5.6	4.0	Y	2.8	7.1	A
<i>Side (East)</i>							
<b>Ground</b>	<b>Workshop</b>	<b>2.7m</b>	<b>6.0m</b>	<b>N</b>	<b>1.0m</b>	<b>Nil</b>	<b>D</b>
<b>Ground</b>	<b>Carport</b>	<b>2.9m</b>	<b>5.6m</b>	<b>N</b>	<b>1.0m</b>	<b>Nil</b>	<b>D</b>
<b>Upper</b>	<b>Kitchen/ Lounge/ Bed</b>	<b>5.6m</b>	<b>14.5m</b>	<b>N</b>	<b>1.9m</b>	<b>1.5m</b>	<b>D</b>
<i>Side (west)</i>							
<i>Ground</i>	Vergola	2.8m	3.1m	Y	2.0m	5.4m	A

### Local Planning Policies Assessment

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

### Building Height

Height:	Required	Proposed	Status	Discretion required
Wall Height	5.6m	8.5m (max)	D	2.9m
Roof Height	8.1m	9.2m (max)	D	1.1m

### DISCUSSION

#### Boundary Setback

##### 6.3.1 Buildings setback from the Boundary (R-Codes)

##### 3.7.7 Building Setbacks and Orientation (RDG)

The applicant is seeking Council discretion with regard to the setback requirements of the R-Codes and the Town's RDG.

The proposed development incorporates a number of variations to setback requirements to the side and rear boundaries. The LPP RDG Element 3.7.7 provides criteria by which to assess proposed variations to setback requirements. These are 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 changes proposed to the primary street setback. The proposed additions and alterations are to the rear and eastern elevation of the lot. The proposed additions and alteration will be visible from Parker Street, a secondary street to the dwelling. The

proposed development does adjoin a Category A-^ dwelling. It is considered however that the proposed western (secondary street) elevation does match the traditional street setback of the immediate locality.

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

The setbacks requiring Council discretion are to the southern and eastern elevations. The proposed development does adjoin a Category A-^ dwelling and it is proposed to construct a parapet wall adjoining the heritage dwelling. It is noted that the adjoining wall, is a service wall for the heritage dwelling. 3D visualisations have been prepared by the applicant to illustrate the impact the proposed outdoor living area has on the streetscape and adjoining property.

Whilst the proposed additions and alterations are not to a heritage dwelling, it is considered the proposed development does impact on the adjoining heritage dwelling. It is considered the proposed outdoor living area/ workshop should be set back from the boundary and the roof be redesigned to be reduced in height and pitch. While this will require Council discretion with regard to roof pitch, the redesign of the roof is considered to be more sympathetic to the streetscape and adjoining heritage dwelling. A condition has been included in the Officers Recommendation to require a redesign of the outdoor living area and workshop.

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

The proposed additions and alteration require setback variations to the south and east of the lot. It is considered that the first floor setback variation of 0.4 metres to the first floor eastern elevation and the Nil setback to the southern elevation are not consistent with the setbacks of the traditional street form. The proposed setbacks are considered to impact on the amenity of neighbouring properties and the streetscape in general. A condition has been included in the Officers Recommendation to require a redesign of the first floor addition to comply with the Acceptable Development Provisions of the R-Codes. The setback of the proposed carport and eastern elevation of the workshop are considered acceptable.

Notwithstanding the above RDG requirements, the proposed development is seeking Council discretion with regard to the Acceptable Development Criteria of the R-Codes. The existing garage/ workshop to the eastern boundary has been constructed on the boundary. In all other instances the proposed additions have been assessed as requiring a setback under the requirements of 6.3.1 Building setbacks from the boundary of the R-Codes. The proposed additions and alterations will be assessed as per the Performance Criteria (PC) of Element 6.3.1. It is noted that the 0.25 metre setback is consistent with the existing heritage dwelling. The PC states:

**P1** *Buildings setback from boundaries other than street boundaries so as to:*

- *Provide adequate direct sun and ventilation to the building;*
- *Ensure adequate direct sun and ventilation to the adjoining properties;*
- *Provide adequate direct sun to the building and appurtenant open spaces;*
- *Assist with protection of access to direct sun for adjoining properties;*
- *Assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *Assist in protecting privacy between adjoining properties.*

The proposed additions and alteration to an existing dwelling are considered to comply with the above Performance Criteria as follows:

- There are no concerns with regard to the proposed development impacting on the direct sun and ventilation to the building, open space or adjoining buildings or associated open space. Therefore the proposed development is considered to address the first 4 criteria of the Performance Criteria.

- The proposed additions and alterations are considered to impact on building bulk of adjoining properties. The application is recommended to be deferred to allow the applicant undertake a redesign of the development. It is recommended the first floor addition be setback the required 1.9 metres to comply with the ADC of the R-Codes and the outdoor living area/ workshop be redesigned to minimise the impact on the adjoining heritage dwelling. It is proposed to setback the outdoor living area/ workshop a minimum of 1 metre from the southern boundary and to redesign the pitch/ form of the roof, so as to complement the adjoining heritage dwelling.
- There are no privacy concerns.

### **LPP - Residential Design Guidelines**

The proposed dwelling has also been assessed in accordance with the Town's Residential Design Guidelines. The following areas are considered the areas of non compliance with the Acceptable Development Provisions and the Performance Criteria of the Guidelines:

#### **Element 3.7.2**

The proposed additions and alterations are accommodated to the rear of the existing dwelling, however they will be clearly visible from Parker Street. The proposed second storey additions are set back approximately 16 metres from Parker Street as the secondary street and will be visible from View Terrace. The proposed development does not adhere to Clause A1.2 ii of Element 3.7.2 of the RDG. The ADP of Element 3.7.2 of the RDG requires:

- A1.2** *Second storey additions that are:*
- Accommodated within the existing roof (without changes to the roof geometry); and,*
  - Built behind the existing building and not visible from the opposite side of the street. A minor variation to this may be permitted on the basis of its impact on the streetscape*

The additions present as two storey, with a parapet wall to the southern elevation long Parker Street. The 'Widow's watch' additions will form a prominent element of the design. It is considered the 'Widow's watch' impact will add to the building bulk and scale, and have a negative impact on the streetscape. The proposed additions and alterations are required to be assessed as per the PC of the RDG. This requires:

- P1.1** *Additions and alterations to contributory buildings are designed to ensure that the existing building remains the dominant element when viewed from the primary street and to ensure that the existing buildings contribution to the streetscape is maintained. The council shall allow additions to be located in the front setback zone where there is no other option and the addition is demonstrably compatible with the existing streetscape character and not impact on the heritage value of a particular place. All applications to include site plans, plans and street elevations.*
- P1.2** *Replacement of, or construction of, elements such as carports shall not obscure the original dwelling.*

While the existing dwelling is not listed on the Town's Municipal Inventory, the adjoining dwelling is an A-^ listed dwelling. As noted previously the proposed outdoor living area/ workshop is considered to impact on the built form of the adjoining heritage dwelling. Notwithstanding the setback variations, the proposed 'Widow's watch' does require Council's discretion with regard to height. The 'Widow's watch' is considered out of scale with the traditional form of the area. It is agreed with TPAP that the proposed 'Widow's watch' should be deleted from the plans. A condition has been included in the Officer's Recommendation to delete the 'Widow's watch' from the amended plans to be submitted to Council. Further conditions have been included to amend the plans, to reduce the impact to the adjoining neighbour and streetscape.

**3.7.8 Roof Form and Pitch**

Acceptable Development Provisions 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 pitch of the dwelling is 27°. While the proposed additions to the main dwelling are considered appropriate with regard to this policy variation, a redesign is recommended to the outdoor living area/ workshop roof so as to minimise the impact on the adjoining heritage dwelling. It is recommended the pitch be reduce further or a potential skillion roof be incorporated so as to reduce building bulk and be compatible with the adjoining dwelling, thereby minimising the impact to the heritage dwelling and the streetscape.

**3.7.17 Precinct Requirements  
Building Height, Form, Scale and Bulk**

The Performance Criteria states:

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

The proposed 'Widow's watch' is inconsistent with the form, bulk and scale to traditional development in the immediate locality. The traditional dwelling for is two storey. The proposed 'Widow's watch' is in contrast to the prevailing streetscape and is considered inconsistent with the adjoining heritage dwelling. The proposed height of the 'Widow's watch' is:

<u>Height:</u>	Required	Proposed	Status	Discretion required
Wall	5.6m	8.5m (max)	D	2.9m
Roof	8.1m	9.2m (max)	D	1.1m

The TPAP do not support the addition of the viewing platform, as it is seen as a discordant and over-height element of the proposal. The planning Officer agrees with the Panel's assessment. The proposed 'Widow's watch' is not considered to comply with the ADP or the PC of 3.7.17 of the RDG or Element 6.7.1 Building Height of the R-Codes.

**Clause 10.2 of TPS3 - Matters to be Considered by Local Government**

The proposed development conflicts with the provisions of the Town of East Fremantle Town Planning Scheme No. 3 Clause 10.2 (a), (c), (g), (j), (o), and (p).

- (a) *the aims, objectives and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme area (including the Metropolitan Region Scheme);*
- (c) *the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;*
- (g) *any Local Planning Policy adopted by the local government under clause 2.4 or effective under clause 2.6, any heritage policy statement for a designated heritage area adopted under clause 7.2.2, and any other plan or guideline adopted by the local government under the Scheme;*
- (j) *the compatibility of a use or development with its setting;*
- (o) *the preservation of the amenity of the locality;*

- (p) *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*

It is not considered the proposed development complies with the orderly and proper planning of the area. The proposed development also requires Council discretion with regard to height setback, scale and bulk of the locality. It is considered the proposed development has a significant impact on the neighbour to the south and east and the proposed 'Widow watch' will impact on the streetscape, therefore the proposal does not conform to the orderly and proper planning of the area.

It is considered the proposed additions and alterations would detrimentally impact upon the amenity of the area based on the current application. The proposed development is considered to negatively impact on neighbouring properties and the wider locality, specifically but not limited to bulk, height and scale of the development. It is considered the proposed development cannot be supported in its current form, therefore it is recommended the development be deferred pending a redesign as outlined in the Officer's Recommendation.

### CONCLUSION

It is considered the current proposal does not meet the relevant provisions of the Town's RDG and the R-Codes, the aims of the Town Planning Scheme and the various provisions of the Scheme including Clause 10.2 of the Scheme. The scale and form of the additions and alterations are considered to impact on the adjoining property and on the streetscape. The extent of the additions and alterations are not supported by the TPAP. Accordingly the proposed design is not supported in its current form. The application has been recommended to be deferred to enable the applicant address Council's concerns.

It is considered appropriate that amended plans be submitted to Council. While consideration was given to a recommendation for a conditional approval, once the recommended conditions (considered necessary) are reflected in the redesign, it was considered the extent of the redesign required is substantial and may impact on the requirements of the RDG and the R-Codes. The variations required will also alter possible impacts upon neighbours. It is therefore considered that the proposal should be deferred pending a redesign before reconsideration by Council.

### RECOMMENDATION

That determination of the proposal for additions and alterations, comprising first-floor addition to the existing 2-storey residence and viewing loft, situated at 1 (Lot 239) View Terrace, East Fremantle be deferred pending the submission of revised plans which address the following:

- (a) Proposed 'Widow's watch' be deleted from the proposed development.
- (b) The proposed outdoor living area/ workshop are setback a minimum of 1.0metres from the southern boundary.
- (c) Setback to first floor additions to eastern boundary is setback 1.9 metres as required under the Acceptable Development Provisions of Element 6.3.1 of the Residential Design Codes.
- (d) Proposed roof of the outdoor living area/ workshop be modified to Skillion or a reduced pitch to minimise the impact the proposed roof form has on the streetscape.
- (e) Parapet wall of the proposed carport to be illustrated on the plans.
- (f) Access/ Egress truncation from View Terrace to be illustrated on the amended plans.

### RECOMMENDATION TO COUNCIL

#### Cr Rico – Cr Nardi

**That determination of the proposal for additions and alterations, comprising first-floor addition to the existing 2-storey residence and viewing loft, situated at 1 (Lot 239) View Terrace, East Fremantle be deferred pending the submission of revised plans which address the following:**

- (a) Proposed 'Widow's watch' be deleted from the proposed development.
- (b) The proposed outdoor living area/ workshop are setback a minimum of 1.0metres from the southern boundary.
- (c) Setback to first floor additions to eastern boundary is setback 1.9 metres as required under the Acceptable Development Provisions of Element 6.3.1 of the Residential Design Codes.
- (d) Proposed roof of the outdoor living area/ workshop be modified to Skillion or a reduced pitch to minimise the impact the proposed roof form has on the streetscape.
- (e) Parapet wall of the proposed carport to be illustrated on the plans.
- (f) Access/ Egress truncation from View Terrace to be illustrated on the amended plans. CARRIED

**T38. CONFIDENTIAL BUSINESS**  
Nil.

**T39. URGENT BUSINESS WITHOUT NOTICE BY PERMISSION OF THE MEETING**  
Nil.

**T40. CLOSURE OF MEETING**  
There being no further business the meeting closed at 8.40pm.

*I hereby certify that the Minutes of the meeting of the **Town Planning & Building Committee** of the Town of East Fremantle, held on **2 April 2013**, Minute Book reference **T29. to T40.** were confirmed at the meeting of the Committee on*

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**Presiding Member**